

**FILED**

**IN THE CHANCERY COURT, STATE OF WYOMING**

**2025 WYCH 6**

Daniel Ayres,

Plaintiff

v.

La Beliza Resort LLC and Justin  
Lambert,

Defendants.

Case No. CH-2024-0000017

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**Order Dismissing Case for Failure to Prosecute**

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[¶1] This matter came before the court for a status conference on June 26, 2025. That conference, and the associated joint status case report (FSX No.76525613), confirmed the court’s concern that plaintiff has not diligently prosecuted this action and has no intention of doing so. Plaintiff is neither prepared to meet imminent case deadlines nor able to proceed to the bench trial scheduled to begin in fewer than 40 days, even though plaintiff, together with the court and defendant, established that schedule months ago. Given plaintiff’s failure to prosecute this case, and for the reasons more fully explained below, the court dismisses this action under W.R.C.P.Ch.C. 41(b)(2).

**INTRODUCTION**

[¶2] Greek mythology warns of Sisyphus, who was condemned for eternity to push a boulder up a hill, only to watch it roll back each time he neared the summit. A plaintiff who invokes the court’s jurisdiction and compels another party to respond assumes the duty to move the case forward, and cannot condemn the defendant to endless futility. *Corley v. Wyoming Rents, LLC*, 2024 WY 51, ¶ 30, 547 P.3d 333, 339 (Wyo. 2024) (“The law places the duty of expediting the case chiefly with the plaintiff.”) (cleaned up). When the plaintiff ceases to move the case forward, the weight of litigation falls unfairly on the defendant and the court. But unlike Sisyphus, neither is condemned to push a stalled case uphill indefinitely. Dismissal becomes the remedy in such cases.

## BACKGROUND

[¶3] This is a dispute about vacation property ownership and limited liability company membership. Plaintiff, Daniel Ayres, a Texas resident, asserts that in 2006 he purchased an individual condominium unit in a complex in Belize; that in 2019, a Wyoming limited liability company, La Beliza Resort LLC, positioned itself as the complex's equivalent of a homeowners association; and that in 2022, that company reorganized the association and ownership. *Plf.'s Case Mgmt. Rpt.* ¶ 1 (FSX No. 75933363); *Comp.*, ¶¶ 1, 8-35 (FSX No. 73737401). This reorganization allegedly assigned ownership of the individual dwelling units to the company and made each unit owner a member of the company. *Comp.*, ¶¶ 16-21. Ayres asserts that he did not agree to the transfer or retitle of his individual dwelling unit to La Beliza Resort LLC, nor did he agree to membership in the company. *Plf.'s Case Mgmt. Rpt.* ¶ 1; *Comp.*, ¶¶ 16-22.

[¶4] Ayres filed suit in July 2024, seeking protection from tax liability and other consequences of what he considers unauthorized actions by defendants. His complaint names La Beliza Resort LLC and an individual, Justin Lambert, whom Ayres alleges acted as the company.

[¶5] Since its filing, service issues have plagued this case. The case came before the court for a default judgment hearing on January 16, 2025. At that hearing, the court denied plaintiff's motion for default judgment, citing deficiencies in the attempted constructive service on both defendants. That bench ruling was followed by a written order detailing the service defects and referencing the governing rules and procedures. *Ord. re Default J. Hrg.* (FSX No. 75470410).

[¶6] A month later, plaintiff filed proof of personal service on Justin Lambert in Florida. *Aff. of Personal Service* (FSX No. 75663607). Plaintiff has not filed proof of service on the entity defendant.

[¶7] After Lambert answered the complaint, the court set a case management and scheduling conference and directed the parties to meet and confer and file a joint report by March 24, 2025. *Order Setting Case Mgmt. Scheduling Hrg.* (FSX No. 75894286). Plaintiff missed the deadline and filed his own report (not a joint report) one day late. *Plf.'s Case Mgmt. Rpt.* (FSX No. 75933363). Defendant filed a separate, also late, submission. *Def.'s Case Mgmt. Rpt.* (FSX No. 75937704). The reports included competing proposals and a disagreement over whether service on the entity defendant had been accomplished through service on Lambert. To encourage participation in developing a workable schedule, the court granted the parties additional time to confer and file a joint report proposing deadlines leading to a trial on August 6, 2025. *Ord. re Case Mgmt. Conf.* (FSX No. 75944475). That order also encouraged resolution of the service issue and directed plaintiff—if disagreement persisted—to file a motion supported by evidence showing proper service on the LLC under the appropriate rules. *Id.* That motion was due March 28, 2025. *Id.*

[¶8] The parties timely filed a joint report. *Joint Case Mgmt. Rpt.* (FSX No. 75954541). Plaintiff did not file the documentation showing proper service on the entity defendant. Instead, in the joint report, plaintiff stated that service filings would be made by April 2, 2025. *Id.*

[¶9] Based on the joint report, the court entered a comprehensive case management and scheduling order (CMSO) establishing deadlines for discovery, pretrial submissions, settlement conference participation, and regular status conferences, with joint reports required ahead of each status conference. *CMSO* (FSX No. 75963565).

[¶10] The first status conference was held in April. The parties filed a joint report beforehand. *Joint Case Mgmt. Rpt. for Apr. 21, 2025* (FSX No. 76099131). At the conference, the court again raised the unresolved issue of service on the entity defendant. Plaintiff assured the court that service would be completed promptly.

[¶11] Following the April conference, defendant Lambert filed a motion to dismiss. *Mot. to Dismiss Lambert* (FSX No. 76117606). Plaintiff never responded to that motion.

[¶12] The CMSO set another status conference for June 20, 2025, with a joint status report due three days prior. The parties did not meet this reporting requirement. The court issued an order noting the missed deadline, vacating and resetting the conference, reiterating the expectation for compliance with the CMSO, and warning of sanctions for continued noncompliance. *Ord. Vacating & Resetting Status Conf.* (FSX No. 76497754).

[¶13] That order also directed plaintiff to file a written statement, in advance of the rescheduled conference, showing good cause for the failure to timely serve *La Beliza Resort LLC*, and to be prepared to address service at the conference. *Id.*

[¶14] The parties filed a joint report in advance of the status conference reset from June 20 to June 26. *Case Mgmt. Rpt.* (FSX No. 76525613). That report laid bare plaintiff's lack of due diligence. It acknowledged that no initial disclosures had been exchanged, that plaintiff had not propounded any discovery, and that plaintiff's counsel was having difficulty maintaining contact with his client and was unsure whether plaintiff would respond to outstanding discovery requests from defendant.

[¶15] The June 26 conference repeated the tenor of the troubling joint report. Defendant Lambert expressed frustration that Ayres had filed suit and then disengaged, leaving the burden of case progression on defendant, the court, and plaintiff's counsel. Plaintiff's counsel acknowledged his client's non-responsiveness, likely inability to meet pretrial deadlines, and the distinct possibility of dismissal for non-adherence to court orders, carefully balancing candor to the court with his duties

to his client. Plaintiff had no excuse for missing deadlines and provided no reason for the court to believe he would ever be prepared to proceed.

## LAW

[¶16] A court enjoys inherent authority to manage its docket and prevent unnecessary or wasteful delay. *Nw. Bldg. Co., LLC v. Nw. Distrib. Co.*, 2012 WY 113, ¶ 20, 285 P.3d 239, 244 (Wyo. 2012). This authority carries the power to impose sanctions, including dismissal. *See Corley*, ¶¶ 27–28, 547 P.3d at 338-39. The chancery court rules reflect this dismissal authority. Under Rule 41(b)(2), the court “may dismiss, without prejudice, any action not prosecuted or brought to trial with due diligence.”

[¶17] This dismissal authority is “the most severe of penalties,” and as a result, it should be “assessed only in the most extreme situations.” *Corley*, ¶ 27, 547 P.3d at 338 (quoting *Dollarhide v. Bancroft*, 2008 WY 113, ¶ 11, 193 P.3d 223, 226 (Wyo. 2008)). It must be used carefully because Wyoming law favors resolving disputes on the merits. *Id.* ¶¶ 27–28, 547 P.3d at 338-39. In deciding whether to dismiss for want of prosecution, the court must balance its obligation to manage its docket and prevent delay against the preference for deciding cases on their merits. *Id.* This balancing requires examination of the specific circumstances of each case. *Id.* ¶ 28, 547 P.3d at 339. There is no “precise rule” that defines which “circumstances truly justify” dismissal for lack of prosecution. *Id.*

[¶18] A lack of diligence is particularly problematic in the chancery court, which is statutorily designed for the “expeditious resolution of disputes.” Wyo. Stat. § 5-13-115(a). Expeditious resolution means resolving most cases within 150 days from entry of the case management scheduling order. Wyo. Stat. § 5-13-104(h); W.R.C.P.Ch.C. 1. Achieving that objective depends on the parties’ active participation and attention to deadlines.

## ANALYSIS

[¶19] Rule 41(b) requires the court to balance its interest in managing its docket and avoiding delay against the policy preference for resolving cases on the merits. Plaintiff’s persistent pattern of idleness and delay tips the balance decidedly in favor of dismissal. Below, the court outlines the specific areas where plaintiff’s lack of due diligence is most apparent and leaves the court with no reasonable basis to conclude plaintiff will ever be prepared to try this case on the merits.

[¶20] ***Failure to Serve.*** Plaintiff has not served the entity defendant, La Beliza Resort LLC, despite assuring the court as early as January 2025 that service would be attempted. Plaintiff reaffirmed those assurances in April but took no meaningful action. In its June 19 order, the court directed plaintiff to show good cause in writing for the delay by June 24. Plaintiff filed no such writing and has not demonstrated good cause at any time. More than 340 days have passed since the complaint was

filed. Continued failure to serve all defendants, after repeated prompting from the court, may be the strongest sign of plaintiff's lack of due diligence. But it is not the only sign.

[¶21] ***Noncompliance with CMSO.*** Plaintiff's noncompliance extends beyond missing service deadlines to missing filing deadlines. Plaintiff did not timely file a joint case management report in March, and together with defendant, again failed to file a required joint status report ahead of a scheduled June 20 status conference. These failures compelled the court to vacate and reset the proceedings, thereby undermining the scheduling framework established with plaintiff's input. Plaintiff also missed his deadline to respond to defendant's motion to dismiss and, in the end, made no effort to respond to that motion.

[¶22] ***Lack of Discovery.*** More than missing deadlines, plaintiff is missing in action. Plaintiff has not served initial disclosures or propounded any discovery requests. Because discovery requests must be served in time to allow responses before the July 1 discovery cutoff date, plaintiff's inaction effectively ends his ability to participate in discovery and prepare for trial. Failing to propound discovery and take steps to prepare for trial is concerning in its own right; failing to respond to discovery served by the defendant that plaintiff brought into the case is even more so. Defendant propounded interrogatories in June. Yet, plaintiff has not communicated with his counsel and, as a result, is unlikely to respond to defendant's discovery requests.

[¶23] ***No Trial Preparation.*** Given the absence of discovery efforts, plaintiff does not appear prepared to proceed to trial. At the June 26 status conference, plaintiff offered no indication that he could meet the upcoming pretrial deadlines or be ready for trial in August. Considering plaintiff's continued lack of engagement, the court has no reasonable basis to believe those deadlines will be met. The approaching deadlines do not come as a surprise. Plaintiff helped craft the case schedule and was fully aware of the obligations it imposed.

[¶24] ***Lack of Settlement Participation.*** Plaintiff's lack of engagement cannot be excused by serious settlement efforts or any meaningful prospect of resolution. The court understands that plaintiff's counsel has no authority to convey a settlement offer and has had difficulty maintaining contact with plaintiff. Failing to engage in settlement efforts as ordered by the court further frustrates the parties' ability to advance the case toward resolution.

[¶25] These failures are especially consequential in chancery court, which is tasked by both statute and rule with the expeditious resolution of disputes. The court has afforded plaintiff every opportunity to benefit from this accelerated forum and has made plaintiff aware of the importance of adhering to the CMSO and the real risk of sanctions. The court stressed the importance of adherence during every case management and scheduling conference. And its June 19 order warned that sanctions would follow continued noncompliance. At the June 26 status conference, plaintiff's

counsel acknowledged that dismissal was a possible outcome of plaintiff's lack of engagement, confirming that plaintiff had reasonable notice of this potential outcome.

[¶26] The court does not take dismissal lightly and has considered whether a lesser sanction would suffice. But plaintiff's extended pattern of delay, noncompliance with court orders, and failure to engage leaves no reasonable alternative or reason to believe plaintiff will ever be prepared to litigate this matter on the merits.

### CONCLUSION

[¶27] The balance between avoiding delay and deciding matters on the merits favors dismissal. Plaintiff has not prosecuted this case with due diligence, and the weight of litigation now falls unfairly on others who are not required to push a stalled case uphill indefinitely. Under Rule 41(b)(2), and for the reasons stated above, the case is **DISMISSED** without prejudice. All pending deadlines, court settings, and the trial date are hereby vacated.

**SO ORDERED**

**Dated:** 06/30/2025

/s/ Benjamin M. Burningham  
CHANCERY COURT JUDGE