

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA

Darrell Foxx v. Michael Douglas, et al.

Foxx · No. 1:23CV205 · Decided February 19, 2026

SUMMARY

The magistrate judge recommends dismissing Darrell Foxx's action without prejudice because he failed to serve any defendant within the time required by Federal Rule of Civil Procedure 4(m), despite receiving notice and an opportunity to respond. The recommendation also notes that Foxx appeared to assert claims on behalf of corporate and limited liability entities that cannot proceed pro se in federal court.

CASE DETAILS

COURT	United States District Court for the Middle District of North Carolina
JURISDICTION	United States District Court for the Middle District of North Carolina
DECIDED	February 19, 2026
DOCKET	1:23CV205
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed a federal action but failed to serve any defendant. After the court notified him of the failure and allowed 14 days to respond, he did not respond. The magistrate judge recommended dismissal without prejudice under Federal Rule of Civil Procedure 4(m).
PRECEDENTIAL VALUE	nonprecedential recommendation

TOPICS

service of process

civil procedure

limited liability companies

corporate law

PRACTICE AREAS

civil procedure

corporate law

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because plaintiff failed to serve any defendant within the period required by Federal Rule of Civil Procedure 4(m), despite notice and an opportunity to

respond.

2. Whether a pro se plaintiff may assert claims in federal court on behalf of corporations or limited liability companies without licensed counsel.

HOLDINGS

1. Because plaintiff failed to serve any defendant within the time allowed by Rule 4(m), even after receiving notice and an opportunity to respond, dismissal without prejudice was warranted and was recommended.
2. Corporations and limited liability companies may not appear pro se in federal court and must proceed through licensed counsel.

KEY QUOTATIONS

“If a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”

“It has been the law for the better part of two centuries ... that a corporation may appear in the federal courts only through licensed counsel.”

FACTUAL BACKGROUND

Darrell Foxx filed the action in 2023 but never served any of the defendants. The court notified him that service had not been made as required by Rule 4(m), gave him 14 days to respond, and warned that the action could be dismissed. Foxx did not respond or notify the court that service had been completed. The complaint also appeared to assert claims on behalf of Dunbar Development Co., LLC and Paul L. Dunbar Group, Inc., although Foxx was proceeding pro se.

PROCEDURAL HISTORY

Plaintiff filed the action in 2023 and did not serve any defendant. The court sent notice of the failure to serve and warned that nonresponse could result in dismissal. Plaintiff filed no response, and the magistrate judge issued a recommendation that the case be dismissed without prejudice.

DISPOSITION

other

CASES CITED

- Rowland v. California Men's Colony, 506 U.S. 194, 201-02 (1993)
- Honour Tech. Grp., Inc. v. United States, 326 F. App'x 141 (4th Cir. 2009)
- U.S. Commodity Futures Trading Comm'n v. OTC Invs. LLC, No. 1:15-cv-00081, 2015 WL 3397066, at *1 (W.D.N.C. May 26, 2015)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF NORTH CAROLINA
DARRELL FOXX,)) Plaintiff,)) Vv.) 1:23CV205) MICHAEL DOUGLAS, et al,))
Defendants.))) RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE Plaintiff
Darrell Foxx filed this case in 2023, but never served any of the Defendants.

The Court sent Plaintiff a letter recently, notifying him of his failure to make service as required by Federal Rule of Civil Procedure 4(m), and giving him 14 days to respond. 'That letter specifically warned Plaintiff that failure to respond may result in dismissal of the action. Plaintiff did not file any response and did not give any notification that service had been made.

Federal Rule of Civil Procedure 4(m) provides that: If a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time. ' Plaintiff Darrell Foxx is proceeding pro se.

He also appears to be attempting to assert claims on behalf of Dunbar Development Co., LLC and Paul L. Dunbar Group, Inc. However, corporations and limited liability companies may not appear pro se in federal court. See *Rowland v. California Men's Colony*, 506 U.S. 194, 201- 02 (1993) ("It has been the law for the better part of two centuries... that a corporation may appear in the federal courts only through licensed counsel."); *Honour Tech.*

Grp., Inc. v. United States, 326 F. App'x 141 (4th Cir. 2009) (noting that "a corporation may not proceed pro se in federal court"); *U.S. Commodity Futures Trading Comm'n v. OTC Invs. LLC*, No. 1:15-cv-00081, 2015 WL 3397066, at *1 (W.D.N.C. May 26, 2015) ("It is well-established that corporate entities and other non-human entities, such as limited liability companies, can appear in federal court only through counsel.").

Here, Plaintiff has failed to serve any of the Defendants within the time allowed under Rule 4(m), even after notice from the Court that the case would be dismissed. Therefore, the Court will recommend that the case be dismissed without prejudice under Rule 4(m) for failure to setve. IT IS THEREFORE RECOMMENDED that this case be dismissed without prejudice under Federal Rule of Civil Procedure 4(m) for failure to setve.

This, the 19" day of February, 2026. Lat sete nited States Magistrate Judge