

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
LOUISIANA

Cynthia Edwards v. Michelle Rogow et al.

Edwards · No. 25-2179 · Decided March 24, 2026

SUMMARY

The United States District Court for the Eastern District of Louisiana grants Michelle Rogow’s motion challenging service of process under Federal Rule of Civil Procedure 12(b)(5). The court finds that service at 3133 Royal Street was improper because Rogow resided at 3131 Royal Street, while the person accepting service was a tenant at the neighboring address. Rather than dismissing the claims, the court quashes the service and grants Plaintiff 30 days to properly serve Rogow.

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
JURISDICTION	United States District Court for the Eastern District of Louisiana
DECIDED	March 24, 2026
DOCKET	25-2179
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Michelle Rogow moved under Federal Rule of Civil Procedure 12(b)(5) to dismiss for insufficient service of process or, alternatively, to quash service. The court granted the motion, quashed the attempted service, and extended the time for service by 30 days.
STANDARD OF REVIEW	A Rule 12(b)(5) motion challenges the manner in which process was served. Once service is contested, the plaintiff bears the burden of establishing valid service; if the plaintiff makes that showing, the burden shifts to the defendant to provide strong and convincing proof of insufficient service. District courts have broad discretion in ruling on Rule 12(b)(5) motions.
PRECEDENTIAL VALUE	Unknown
PARTIES	Cynthia Edwards v. Michelle Rogow

TOPICS

- service of process
- motions to dismiss
- civil procedure

PRACTICE AREAS

civil procedure

process and service

QUESTIONS PRESENTED

1. Whether service on Rogow was valid under Federal Rule of Civil Procedure 4(e) when the summons was left at 3133 Royal Street with Rogow's tenant, while the evidence showed Rogow resided at 3131 Royal Street.
2. Whether the court should dismiss the claims against Rogow or quash the insufficient service and allow additional time for service under Rule 4(m).

HOLDINGS

1. Service was insufficient because the summons was left at 3133 Royal Street, the residence of Rogow's tenant, rather than at Rogow's dwelling or usual place of abode at 3131 Royal Street, and no other Rule 4(e) method of service was shown.
2. Although service was insufficient and the plaintiff had not shown service within Rule 4(m)'s 90-day period, the court exercised its discretion to quash the service and give the plaintiff 30 additional days to effect proper service rather than dismissing the claims without prejudice.

KEY QUOTATIONS

“Where, as here, “there is a ‘reasonable prospect that plaintiff ultimately will be able to serve defendant properly,’ the proper course of action is to quash service and allow the plaintiff another opportunity to effectuate service, as opposed to dismissing the case.”” (at 4)

FACTUAL BACKGROUND

Edwards was present when her companion, Gail Kelley, allegedly suffered injuries at a vacation rental property. During related state-court litigation, intercepted oral communications and video recordings involving Kelley and Edwards were filed in the public record. Edwards then sued Rogow and others under the Louisiana Electronic Surveillance Act, the federal Electronic Communications Privacy Act, and Louisiana Revised Statutes § 21:61. Edwards attempted to serve Rogow at 3133 Royal Street, where Rogow's tenant and neighbor accepted service, but the evidence showed Rogow lived at 3131 Royal Street.

PROCEDURAL HISTORY

Edwards filed federal claims against Rogow and others on October 22, 2025. Edwards attempted to serve Rogow by leaving the summons at 3133 Royal Street with Rogow's tenant and neighbor, Atina Morris, although the evidence showed that Rogow resided at 3131 Royal Street. The court found service insufficient but exercised its discretion under Rule 4(m) to allow an additional 30 days for proper service.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Plaintiff shall have 30 days from the March 24, 2026 order to properly effect service on Defendant Rogow.

CASES CITED

- Carimi v. Royal Caribbean Cruise Line, Inc., 959 F.2d 1344, 1346 (5th Cir. 1992)
- Windecker v. Hang Wei, No. 1:18-CV-00898-LY, 2020 WL 248689, at *1 (W.D. Tex. Jan. 16, 2020)
- People's United Equip. Fin. Corp. v. Hartmann, 447 F. App'x 522, 524 (5th Cir. 2011)
- Henderson v. Republic of Texas, 672 F. App'x 383, 384 (5th Cir. 2016)
- Kudu Co., Ltd v. Latimer, No. 4:10CV680, 2011 WL 938349, at *4 (E.D. Tex. Feb. 22, 2011)
- Sys. Signs Supplies v. U.S. Dep't of Justice, 903 F.2d 1011, 1013 (5th Cir. 1990)
- Yarbrough v. Swift, No. 18-100938, 2019 WL 2027178, at *5 (E.D. La. May 8, 2019)
- Williams v. Zordan, No. CV 21-1061, 2023 WL 6451111, at *7 (W.D. La. Sept. 29, 2023)