

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Douglas v. The Ezralow Company LLC

Douglas · No. 2:24-cv-0331-KJM-CKD (PS) · Decided July 10, 2025

SUMMARY

The magistrate judge recommends dismissing the self-represented plaintiffs’ complaint without prejudice for failure to properly serve the defendants under Federal Rule of Civil Procedure 4(m). The recommendation follows multiple extensions of time and concludes that plaintiffs failed to demonstrate good cause for the service failure.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 10, 2025
DOCKET	2:24-cv-0331-KJM-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal of the complaint without prejudice for failure to timely and properly serve defendants.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- service of process civil procedure commercial litigation

PRACTICE AREAS

- civil procedure commercial litigation

QUESTIONS PRESENTED

1. Whether the complaint should be dismissed without prejudice under Federal Rule of Civil Procedure 4(m) because plaintiffs failed to properly serve defendants within the required period despite multiple extensions.

2. Whether plaintiffs' self-represented status established good cause for their failure to complete service.

HOLDINGS

1. The complaint should be dismissed without prejudice because plaintiffs failed to properly serve the defendants despite multiple extensions of time.
2. Self-represented status alone does not establish good cause for failure to properly serve defendants.

KEY QUOTATIONS

“Plaintiff[s] shall complete service of process on all defendants named in the complaint within 90 days from the date of this order.” (at 1)

“However, pro se status is not sufficient to show good cause for failure to serve.” (at 2)

“Pro se litigants must follow the same rules of procedure that govern other litigants.” (at 2)

FACTUAL BACKGROUND

Plaintiffs Cheryl Lynn Douglas and Andrew Grant Haymore proceeded without counsel and filed a complaint against The Ezralow Company LLC and other defendants. Although the court issued summonses and warned that service had to be completed within the Rule 4 period, plaintiffs did not properly serve the defendants. After quashing service, the court granted a 21-day extension and additional extensions, but the record still did not show proper service or good cause for the failure.

PROCEDURAL HISTORY

Plaintiffs filed the complaint on January 29, 2024, and were issued summonses for service on June 7, 2024. The court granted multiple extensions after finding that service had not been properly completed and had previously quashed service. Because the record still did not show proper service and plaintiffs had not demonstrated good cause, the magistrate judge recommended dismissal without prejudice and closure of the case, subject to objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Eriksen v. Washington State Patrol, 2006 WL 994750, at *1 (E.D. Wash. Apr. 7, 2006)
- Moore v. Agency for International Development, 994 F.2d 874 (D.C. Cir. 1993)
- Townsel v. Contra Costa County, 820 F.2d 319, 320 (9th Cir. 1987)
- King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CHERYL LYNN DOUGLAS, et al., No. 2:24-cv-0331-KJM-CKD (PS) 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS TO DISMISS FOR FAILURE TO
SERVE 14 THE EZRALOW COMPANY LLC, et al., 15 Defendants. 16 17 Plaintiffs Cheryl Lynn
Douglas and Andrew Grant Haymore proceed without counsel on a 18 complaint filed on January
29, 2024.

This matter is before the undersigned pursuant to Local Rule 19 302(c)(21). See 28 U.S.C. §
636(b)(1). After payment of the filing fee, plaintiffs were issued 20 summons by the Clerk of
Court to serve the defendants on June 7, 2024. (ECF No. 5.)

On the 21 same date, the court issued an initial scheduling order informing plaintiffs that, pursuant
to Rule 22 4, “Plaintiff[s] shall complete service of process on all defendants named in the
complaint within 23 90 days from the date of this order.” (ECF No. 6 at 2.)

The court cautioned plaintiffs that under 24 Rule 4(m) of the Federal Rules of Civil Procedure,
“this case may be dismissed if service of 25 process is not accomplished within 90 days. (Id.) 26
On January 24, 2025, the court found plaintiffs had not properly served the defendants 27 under
Rule 4 of the Federal Rules of Civil Procedure and quashed service. (ECF No. 33 at 8.)

Sua 28 1 sponte, the court granted an extension of time of 21 days from the date of that order for
plaintiffs 2 to effectuate service of process on the defendants. (Id.) On February 20, 2025, and
again on April 3 3, 2025, the court granted further extensions of time for service of process.¹ (ECF
Nos. 36, 37.) 4 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 5 plaintiff—must dismiss the action without prejudice
against that defendant or order that service be made within a specified time.

6 But if the plaintiff shows good cause for the failure, the court must extend the time for service
for an appropriate period. 7 8 Fed. R. Civ. P. 4(m). 9 Despite the court granting plaintiffs multiple
extensions of time for plaintiffs to serve the 10 defendants, the record does not indicate proper
service of process. Self-represented plaintiffs are 11 given latitude in prosecuting their cases, given
their unfamiliarity with the legal system and 12 federal rules.

See, e.g., *Eriksen v. Washington State Patrol*, 2006 WL 994750, at *1 (E.D. Wash. 13 Apr. 7, 2006)
 (“Generally pro se litigants are allowed more latitude than litigants represented by 14 counsel to
correct defects in service of process and pleadings.”) (quoting *Moore v. Agency for 15 Intern.*
Development, 994 F.2d 874 (D.C. Cir. 1993)).

However, pro se status is not sufficient to 16 show good cause for failure to serve. *Townsel v.*
Contra Costa County, 820 F.2d 319, 320 (9th 17 Cir. 1987) (noting that ignorance of or confusion

about service requirements does not constitute 18 “good cause” for failure to serve). Given plaintiffs’ failure to serve and lack of good cause, this 19 case should be dismissed.

See Fed. R. Civ. P. 4(m); see also *King v. Atiyeh*, 814 F.2d 565, 567 20 (9th Cir. 1987) (“Pro se litigants must follow the same rules of procedure that govern other 21 litigants.”). 22 //// 23 //// 24 //// 25 //// 26 27 1 The court also appointed counsel for plaintiffs for the limited purpose of representing plaintiffs at a settlement conference. (ECF No. 36.)

Limited purpose counsel was released on July 3, 2025, 28 after plaintiffs failed to contact assigned counsel as they were ordered to do. (ECF No. 38.) 1 In accordance with the above, IT IS RECOMMENDED as follows: 2 1. Plaintiffs’ complaint be dismissed without prejudice; and 3 2.

The Clerk of Court be directed to close this case. 4 These findings and recommendations are submitted to the United States District Judge 5 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) 6 || days after being served with these findings and recommendations, any party may file written 7 || objections with the court.

Such a document should be captioned “Objections to Magistrate 8 | Judge’s Findings and Recommendations.” A reply to objections may be filed within seven (7) 9 || days thereafter. The parties are advised that failure to file objections within the specified time 10 || may waive the right to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 11 | (9th Cir.

1998); *Martinez v. Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 12 | Dated: July 10, 2025 / a □□ / a Ly a 13 CAROLYN K DELANEY 14 UNITED STATES MAGISTRATE JUDGE 15 16 |B dous2devOsstat 17 18 19 20 21 22 23 24 25 26 27 28