

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

Kevin Brown v. Cornerstone Realtors, LLC, et al.

Brown · No. 4:25-cv-00192-MTS · Decided January 21, 2026

SUMMARY

The United States District Court for the Eastern District of Missouri denied defendants’ motion to dismiss Kevin Brown’s Fair Housing Amendments Act action for failure to prosecute. The Court held that the plaintiff’s missed deadlines did not establish the clear record of delay or contumacious conduct required for involuntary dismissal, but warned the plaintiff and counsel that future dilatory conduct could result in sanctions, including dismissal. The Court also vacated the prior ADR referral order, directed that a new referral order be issued, and denied the plaintiff’s extension motion as moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
WRITING FOR THE COURT	Matthew T. Schelp
JURISDICTION	United States District Court for the Eastern District of Missouri, Eastern Division
DECIDED	January 21, 2026
DOCKET	4:25-cv-00192-MTS
DISPOSITION	other
PROCEDURAL POSTURE	Defendants Cornerstone Realtors, LLC, LC Lafayette Partners, LLC, and The Hinrichs Group, Inc. moved under Federal Rule of Civil Procedure 41(b) to dismiss Plaintiff’s Fair Housing Act action for failure to prosecute. The court denied the motion, vacated a prior ADR referral order, issued a new ADR referral order, and denied Plaintiff’s motion for an extension of time as moot.
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) for failure to prosecute is reviewed under the proportionality requirement and is proper only upon a clear record of delay or contumacious conduct; before imposing dismissal, the court must consider whether a less severe sanction would remedy the effects of the conduct and any resulting prejudice.

PRECEDENTIAL VALUE	unknown
PARTIES	Defendants Cornerstone Realtors, LLC; LC Lafayette Partners, LLC; and The Hinrichs Group, Inc. v. Kevin Brown

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QUESTIONS PRESENTED

1. Whether Plaintiff's failure to meet several case-management and ADR deadlines warranted involuntary dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b).
2. Whether Plaintiff's counsel's explanation for missing expired deadlines constituted excusable neglect warranting an extension under Federal Rule of Civil Procedure 6(b)(1)(B).
3. Whether the court should vacate the prior ADR referral order and issue a new ADR referral order.

HOLDINGS

1. Dismissal was not warranted because, although Plaintiff's counsel's missed deadlines and inattention were improper, the record did not show the clear, sufficiently flagrant delay or contumacious conduct required for the drastic sanction of involuntary dismissal, and a lesser sanction was available.
2. Plaintiff's counsel did not establish excusable neglect because the asserted reasons—difficulty finding an expert, a busy professional calendar, and a trial schedule—were within counsel's reasonable control and did not justify extending the expired deadlines.
3. The court vacated the prior ADR referral order and corresponding deadlines and directed that a new ADR referral order be entered because the case remained appropriate for mediation or another agreed ADR process.

KEY QUOTATIONS

“The sanction imposed by the district court must be proportionate to the litigant’s transgression.”

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“The cases in the Eighth Circuit are numerous and unequivocal that ‘an attorney’s ignorance or carelessness does not constitute excusable neglect.’”

FACTUAL BACKGROUND

Plaintiff brought a Fair Housing Act action concerning alleged accessibility and usability violations at an apartment complex in St. Louis, Missouri. Plaintiff's counsel missed several case-management deadlines over

approximately two months, including deadlines for ADR coordination, an inspection request, expert designation, and amended pleadings. Counsel attributed the delays to difficulty finding an available expert and the press of other professional obligations. Defendants identified no failure to participate in discovery or refusal to answer discovery requests.

PROCEDURAL HISTORY

Plaintiff filed a Fair Housing Act action alleging that parties involved in an apartment complex violated accessibility and usability requirements. The court entered a case management order and an ADR referral order requiring deadlines for amended pleadings, expert designation, property inspection, and selection of a neutral. Plaintiff's counsel missed several deadlines, including the ADR deadline, and sought an extension after expiration of the deadline. Defendants then moved to dismiss for failure to prosecute. The court found the delays improper but insufficiently flagrant to warrant dismissal, denied dismissal, warned Plaintiff and counsel that similar future conduct could result in sanctions up to dismissal, vacated the prior ADR referral order, and ordered a new ADR referral.

DISPOSITION

other

CASES CITED

- Bergstrom v. Frascione, 744 F.3d 571, 574-75 (8th Cir. 2014)
- M.S. v. Wermers, 557 F.2d 170, 175 (8th Cir. 1977)
- Skelton v. Rapps, 187 F.3d 902, 908 (8th Cir. 1999)
- Clayton v. White Hall Sch. Dist., 778 F.2d 457, 460 (8th Cir. 1985)
- Garland v. Peebles, 1 F.3d 683, 686 (8th Cir. 1996)
- Reger v. Wilhite, 1:18-cv-00098, 2020 WL 3489356, at *1 (E.D. Mo. June 26, 2020)
- Arnold v. ADT Sec. Servs., Inc., 627 F.3d 716, 722 (8th Cir. 2010)
- Marvin v. C-VISN, 5:12-cv-05073-JLV, 2014 WL 4715716, at *8 (D.S.D. Sept. 22, 2014)
- Chorosevic v. MetLife Choices, 600 F.3d 934, 946 (8th Cir. 2010)
- Giles v. Saint Luke's Northland-Smithville, 908 F.3d 365, 368-69 (8th Cir. 2018)
- Warner v. Dillard's, Inc., 4:05-cv-00664-MLM, 2006 WL 27429, at *3 (E.D. Mo. Jan. 5, 2006)
- United States v. Puig, 419 F.3d 700, 702 (8th Cir. 2005)
- Williams v. Insomnia Cookies, LLC, 4:23-cv-00669-HEA, 2025 WL 2695262, at *3 (E.D. Mo. Sept. 22, 2025)
- Sutherland v. ITT Cont'l Baking Co., 710 F.2d 473, 475-77 (8th Cir. 1983)
- McLaughlin v. City of LaGrange, 662 F.2d 1385, 1387 (11th Cir. 1981) (per curiam)
- Hegwood v. Int'l Paper Co., 4:24-cv-00241, 2025 WL 895359, at *1 (E.D. Mo. Mar. 24, 2025)
- Nick v. Morgan's Foods, Inc., 270 F.3d 590, 596 (8th Cir. 2001)

