

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ALABAMA, SOUTHERN DIVISION

Edward Caldwell v. Evernest LLC, et al.

No. 2:24-cv-148-HDM, United States District Court for the Northern District of Alabama, Southern Division
(March 20, 2026)

SUMMARY

The United States District Court for the Northern District of Alabama dismissed all claims against Lipscomb Construction Services, LLC, without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b) and the court’s inherent docket-management authority. The court also dismissed all claims against Justin Lipscomb without prejudice under Rule 4(m) because service was untimely and the plaintiff failed to show good cause. Claims against Evernest LLC, Justin Jones, and Jameson Gann were allowed to proceed.

CASE DETAILS

COURT	United States District Court for the Northern District of Alabama, Southern Division
JURISDICTION	United States District Court for the Northern District of Alabama, Southern Division
DECIDED	March 20, 2026
DOCKET	2:24-cv-148-HDM
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff's claims against Lipscomb Construction Services, LLC and Justin Lipscomb were dismissed without prejudice, sua sponte, for failure to prosecute and failure to timely effect service. Claims against the remaining defendants continued.
STANDARD OF REVIEW	The court applied the standards governing sua sponte dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b), including the requirement that dismissal with prejudice requires a clear record of delay or willful contempt and consideration of lesser sanctions. It applied Rule 4(m)'s good-cause and discretionary-extension standards to untimely service.
PRECEDENTIAL VALUE	unknown

PARTIES

Edward Caldwell v. Evernest LLC, Justin Jones, Jameson Gann,
Lipscomb Construction Services, LLC, Justin Lipscomb

TOPICS

service of process sanctions default judgment civil procedure commercial litigation

PRACTICE AREAS

civil procedure service of process default practice commercial litigation real estate litigation

QUESTIONS PRESENTED

1. Whether the court may sua sponte dismiss claims for failure to prosecute under Rule 41(b) and its inherent authority to manage its docket.
2. Whether Caldwell's failure to pursue default proceedings and failure to respond to a show-cause order warranted dismissal without prejudice of the claims against Lipscomb Construction Services, LLC.
3. Whether Justin Lipscomb's untimely service required dismissal under Rule 4(m) when Caldwell failed to show good cause or other circumstances warranting a discretionary extension.
4. Whether counsel's calendaring error, inaccurate address, process-server error, or the defendant's alleged actual notice established good cause or otherwise warranted an extension of the service deadline.

HOLDINGS

1. A federal court may sua sponte dismiss claims for failure to prosecute under Rule 41(b) pursuant to its inherent authority to manage its docket, even though Rule 41(b)'s text refers to a defendant's motion.
2. Caldwell's claims against Lipscomb Construction were properly dismissed without prejudice for failure to prosecute.
3. Counsel's calendaring error, an inaccurate address, and a process-server error did not constitute good cause for Caldwell's failure to serve Justin Lipscomb within ninety days.
4. No discretionary extension of time to serve Justin Lipscomb was warranted despite the possibility that some claims might be barred by the statute of limitations.

KEY QUOTATIONS

"A court may dismiss a case for failure to prosecute with prejudice only if (1) there is a clear record of delay or willful contempt and (2) lesser sanctions would not suffice."

"Good cause exists only when some outside factor, such as reliance on faulty advice, rather than inadvertence or negligence, prevented service,"

"It is immaterial whether the plaintiff ultimately accomplished service; if such service was late and there is no good cause to explain the delay, dismissal is proper."

FACTUAL BACKGROUND

Caldwell sued over a dispute involving an investment property in Fairfield, Alabama. He repeatedly failed to timely serve Lipscomb Construction, failed to respond to a show-cause order concerning that defendant's lack of a responsive pleading, and did not seek a clerk's entry of default after service. After amending the complaint to add Justin Lipscomb, Caldwell failed to serve him within ninety days; he eventually served him only after the court issued another show-cause order and attributed the delay principally to counsel's calendar error.

PROCEDURAL HISTORY

Caldwell filed suit in Alabama state court on December 28, 2023. Evernest, Justin Jones, and Jameson Gann removed the action to federal court on February 7, 2024, based on diversity jurisdiction. The court repeatedly extended the time for service on Lipscomb Construction, denied Caldwell's motion for default judgment as procedurally improper because he had not first obtained a clerk's entry of default, and permitted Caldwell to amend his complaint to add Justin Lipscomb. Caldwell ultimately served Lipscomb Construction late and served Justin Lipscomb approximately eight months after the Rule 4(m) deadline. After a fifth show-cause order, the court dismissed the claims against both defendants without prejudice while allowing the claims against Evernest, Jones, and Gann to proceed.

DISPOSITION

dismissed

CASES CITED

- Richardson v. Johnson, 598 F.3d 734, 738 (11th Cir. 2010)
- Zatta v. SCI Tech. Inc., No. 5:21-cv-1707, 2023 WL 11199375, at *6 (N.D. Ala. Apr. 26, 2023)
- Chambers v. NASCO, Inc., 501 U.S. 32, 49 (1991)
- Betty K Agencies, Ltd. v. M/V MONADA, 432 F.3d 1333, 1337-38 (11th Cir. 2005)
- Pearson v. Brooks, No. 2:25-cv-1014, 2026 WL 222530, at *1 (M.D. Ala. Jan. 28, 2026)
- Powell v. Siegal, 447 F. App'x 92, 93 (11th Cir. 2011) (per curiam)
- Lepone-Dempsey v. Carroll County Commissioners, 476 F.3d 1277, 1280-82 (11th Cir. 2007)
- Reis v. Commissioner of Social Security, 710 F. App'x 828, 829 (11th Cir. 2017) (per curiam)
- Schupeta v. Gwinnett County Public Schools, No. 24-11976, 2026 WL 184483, at *1 (11th Cir. Jan. 23, 2026) (per curiam)
- Charles v. Bradshaw, 782 F. App'x 991, 992 (11th Cir. 2019) (per curiam)
- Lindley v. City of Birmingham, 452 F. App'x 878, 880 (11th Cir. 2011) (per curiam)
- Harris v. Fort Pierce Police Department, No. 23-10727, 2023 WL 7153928, at *1 (11th Cir. Oct. 31, 2023) (per curiam)
- Albra v. Advan, Inc., 490 F.3d 826, 829 (11th Cir. 2007)
- Pardazi v. Cullman Medical Center, 896 F.2d 1313, 1317 (11th Cir. 1990)
- Bilal v. Geo Care LLC, 981 F.3d 903, 919 (11th Cir. 2020)
- Cambridge Mutual Fire Insurance Co. v. City of Claxton, 720 F.2d 1230, 1232 (11th Cir. 1983)
- Vento v. Patel, No. 23-11392, 2024 WL 775142, at *3 (11th Cir. Feb. 26, 2024) (per curiam)

