

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Daniil Solovev v. Ekaterina Sapogova

Solovev · No. 25-2537-KHV · Decided April 7, 2026

SUMMARY

The United States District Court for the District of Kansas granted the defendant’s unopposed motion to dismiss for insufficient service of process under Federal Rules of Civil Procedure 12(b)(5) and 4(m). The court dismissed the plaintiff’s copyright infringement complaint without prejudice because service by email was insufficient and the plaintiff neither showed good cause nor requested an extension.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Kathryn H. Vratil
JURISDICTION	United States District Court for the District of Kansas
DECIDED	April 7, 2026
DOCKET	25-2537-KHV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(5) and Rule 4(m) to dismiss the copyright-infringement complaint for insufficient service of process. The plaintiff did not oppose the motion.
STANDARD OF REVIEW	The court considered the unopposed motion under Federal Rules of Civil Procedure 12(b)(5) and 4(m), and applied the rule allowing dismissal without prejudice or a permissive extension when service is not completed within 90 days and good cause is not shown.
PRECEDENTIAL VALUE	Unpublished district court memorandum and order; generally persuasive rather than binding precedent.

TOPICS

- service of process
- motions to dismiss
- copyright infringement
- civil procedure

PRACTICE AREAS

- civil procedure
- intellectual property
- copyright infringement

QUESTIONS PRESENTED

1. Whether the complaint should be dismissed under Federal Rule of Civil Procedure 12(b)(5) and Rule 4(m) for insufficient service of process.
2. Whether the court should extend the service deadline when plaintiff failed to show good cause or request an extension.

HOLDINGS

1. The court sustained defendant's motion and dismissed the complaint without prejudice because plaintiff failed to properly serve defendant within the time required by Rule 4(m).
2. Plaintiff's attempted service by email was insufficient under the applicable federal and Kansas service rules.

KEY QUOTATIONS

“If plaintiff shows good cause for the failure to serve defendant within 90 days, the Court will extend the time for service.” (at 1)

“Absent a showing of good cause, the Court may still grant a permissive time extension or dismiss the case without prejudice.” (at 1)

“Under both federal and Kansas law, plaintiff’s attempt to accomplish service through email is insufficient.” (at 2)

FACTUAL BACKGROUND

Daniil Solovev filed a pro se copyright-infringement action against Ekaterina Sapogova on September 12, 2025. Plaintiff attempted service by email through an individual who claimed to be his legal representative, but did not complete service within 90 days, did not respond to the motion to dismiss, and did not request an extension.

PROCEDURAL HISTORY

Plaintiff filed the complaint on September 12, 2025. Defendant filed a special appearance and motion to dismiss on February 5, 2026. Plaintiff did not respond by the applicable deadline or request an extension, so the court treated the motion as unopposed and dismissed the complaint without prejudice.

DISPOSITION

dismissed

CASES CITED

- James v. Wadas, 724 F.3d 1312, 1315 (10th Cir. 2013)
- Garrett v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005)
- McLain v. Sedgwick Co. Sheriff's Off., No. 25-4036-JWB-BGS, 2025 WL 1454626, at *3 (D. Kan. May 21, 2025)

OPINION

Solovev

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

DANIIL SOLOVEV,)

) Plaintiff,) CIVIL ACTION) v.) No. 25-2537-KHV)

EKATERINA SAPOGOVA,)

) Defendants.) _____)

MEMORANDUM AND ORDER

On September 12, 2025, Daniil Solovev filed suit pro se against Ekaterina Sapogova. See Complaint For Copyright Infringement (Doc. #1). This matter is before the Court on Defendant's Special Appearance And Motion To Dismiss For Insufficient Service Of Process Pursuant To Fed. R. Civ. P. 12(b)(5) And 4(m) (Doc. #6) filed February 5, 2026. For reasons stated below, the Court sustains defendant's motion. Plaintiff had until February 26, 2026 to respond to defendant's motion. See D. Kan. Rule 6.1(d)(1). Plaintiff did not file a response and defendant's motion is therefore unopposed. A party who fails to file a responsive brief or memorandum within the time specified waives the right to later do so, and the Court will consider and decide the motion as uncontested. D. Kan. Rule 7.1(c). Ordinarily, the Court will grant the motion without further notice.¹ Id. For this reason and substantially the reasons stated in Defendant's Special Appearance And Motion To Dismiss For Insufficient Service Of Process Pursuant To Fed. R. Civ. P. 12(b)(5) And 4(m) (Doc. #6), the Court affords a pro se plaintiff some leniency and liberally construes his filings. See *James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013). Although the Court holds a pro se litigant's filings to a less stringent standard than formal pleadings drafted by attorneys, a pro se party must follow the same rules of procedure as all other litigants. See *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Court sustains defendant's motion and dismisses plaintiff's complaint.² Plaintiff had 90 days from filing the complaint to serve defendant with the summons and complaint. Fed. R. Civ. P. 4(m). If plaintiff shows good cause for the failure to serve defendant within 90 days, the Court will extend the time for service. Id. Absent a showing of good cause, the Court may still grant a permissive time extension or dismiss the case without prejudice. See id. Because plaintiff has not filed a response to defendant's motion or otherwise requested an extension of the deadline in Rule 4(m), the Court declines to extend the deadline for service. IT IS THEREFORE ORDERED that Defendant's Special Appearance And Motion To Dismiss For Insufficient Service Of Process Pursuant To Fed. R. Civ. P. 12(b)(5) And 4(m) (Doc. #6) filed February 5, 2026 is SUSTAINED. Under Rule 4(m) of the Federal Rules of Civil Procedure, the Court dismisses without prejudice plaintiff's Complaint For Copyright Infringement (Doc. #1) filed September 12, 2025. Dated this 6th day of April, 2026 at Kansas City, Kansas. s/ Kathryn H. Vratil

KATHRYN H. VRATIL

United States District Judge 2 Defendant notes that plaintiff attempted service by email through an individual who claimed to be plaintiff's "legal representative." Defendant's Special Appearance And Motion To Dismiss For Insufficient Service Of Process Pursuant To Fed. R. Civ. P. 12(b)(5) And 4(m) (Doc. #6) filed February 5, 2026 at 2. Under both federal and Kansas law, plaintiff's attempt to accomplish service through email is insufficient. See Fed. R. Civ. P. 4(e)(2) (permitting service by delivery of summons and complaint to individual personally, leaving copy at dwelling or usual place of abode or delivering copy to authorized agent); *McLain v. Sedgwick Co. Sheriff's Off.*, No. 25-4036-JWB-BGS, 2025 WL 1454626, at *3 (D. Kan. May 21, 2025) (M.J. Severson) (no provision in Federal Rules or Kansas statutes allows service by email). -2-