

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, SHERMAN DIVISION

Shereef Kamel v. Prosper-Parkside Homeowners Association Inc., et
al.

Kamel · No. 4:25-cv-221-JDK-KNM · Decided February 27, 2026

SUMMARY

The United States District Court for the Eastern District of Texas adopts a magistrate judge’s report and recommendation concerning insufficient service of process. The court denies the defendants’ motions to dismiss without prejudice, quashes the plaintiff’s prior service attempts, and permits refiling after the plaintiff’s 30-day period to properly effectuate service.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Sherman Division
JURISDICTION	United States District Court for the Eastern District of Texas, Sherman Division
DECIDED	February 27, 2026
DOCKET	4:25-cv-221-JDK-KNM
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation addressing defendants' motions to dismiss for failure to state a claim, insufficient process, and insufficient service of process.
STANDARD OF REVIEW	Because no objections were filed, the district court reviewed the magistrate judge's factual findings for clear error or abuse of discretion and reviewed legal conclusions to determine whether they were contrary to law.
PRECEDENTIAL VALUE	Unknown

TOPICS

- service of process
- personal jurisdiction
- motions to dismiss
- civil procedure
- real estate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the magistrate judge's determination that plaintiff's service attempts were insufficient was clearly erroneous, an abuse of discretion, or contrary to law.
2. Whether defendants' motions to dismiss under Rules 12(b)(4) and 12(b)(5) should be denied without prejudice and plaintiff's prior service attempts quashed.
3. Whether the court should reach defendants' Rule 12(b)(6) arguments when proper service had not been effectuated.

HOLDINGS

1. When no timely objections are filed to a magistrate judge's report and recommendation, the district court reviews factual findings for clear error or abuse of discretion and legal conclusions for whether they are contrary to law.
2. Because plaintiff's service attempts were insufficient, the motions to dismiss under Rules 12(b)(4) and 12(b)(5) were properly denied without prejudice to refiling after plaintiff's permitted period to effect proper service, and the prior service attempts were properly quashed.

KEY QUOTATIONS

"Defendants' motions to dismiss (Docket Nos. 18, 21-28, 32-35) are DENIED without prejudice to refiling following the expiration of Plaintiff's 30-day period to properly effectuate service."

"Plaintiffs prior insufficient service attempts are QUASHED."

FACTUAL BACKGROUND

Plaintiff attempted to serve the defendants, but the magistrate judge determined that those service attempts were insufficient. The district court had separately granted plaintiff leave to properly effectuate service within thirty days. Because proper service was lacking, the magistrate judge concluded that the court could not exercise personal jurisdiction over the defendants and did not reach the defendants' Rule 12(b)(6) arguments.

PROCEDURAL HISTORY

Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6). Magistrate Judge K. Nicole Mitchell recommended denying the Rule 12(b)(4) and 12(b)(5) motions without prejudice, quashing plaintiff's prior service attempts, and declining to reach the Rule 12(b)(6) arguments because proper service was lacking. No objections were filed, and the district court adopted the report and recommendation, denied the motions without prejudice, and quashed the prior service attempts.

DISPOSITION

other

CASES CITED

- *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)
- *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989)

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