

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
MISSISSIPPI, SOUTHERN DIVISION

Deborah Powe v. Lana Ah-Young Shin, et al.

Powe · No. 1:25-cv-291-HSO-BWR · Decided March 2, 2026

SUMMARY

The United States District Court for the Southern District of Mississippi dismissed without prejudice Deborah Powe’s claims against fictitious defendants John and Jane Does 1-10. The court relied on Federal Rule of Civil Procedure 4(m) for failure to timely serve the defendants and alternatively on Rule 41(b) for failure to prosecute and comply with the court’s show-cause order.

CASE DETAILS

|                       |                                                                                                                                                                                                                                |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of Mississippi, Southern Division                                                                                                                                       |
| WRITING FOR THE COURT | Halil Suleyman Ozerden                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Southern District of Mississippi, Southern Division                                                                                                                                       |
| DECIDED               | March 2, 2026                                                                                                                                                                                                                  |
| DOCKET                | 1:25-cv-291-HSO-BWR                                                                                                                                                                                                            |
| DISPOSITION           | dismissed                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Order dismissing without prejudice the remaining claims against fictitious defendants sua sponte after plaintiff failed to serve them or respond to an order to show cause.                                                    |
| STANDARD OF REVIEW    | The court exercised its authority under Federal Rule of Civil Procedure 4(m) and, alternatively, its inherent authority and Rule 41(b) to dismiss sua sponte for failure to prosecute and failure to comply with court orders. |
| PRECEDENTIAL VALUE    | Unpublished district court order; precedential status is unknown.                                                                                                                                                              |
| PARTIES               | Deborah Powe v. Lana Ah-Young Shin, The Hertz Corporation, John and Jane Does 1-10                                                                                                                                             |

TOPICS

- service of process
- civil procedure
- sanctions

## PRACTICE AREAS

civil procedure

service of process

dismissal for failure to prosecute

## QUESTIONS PRESENTED

1. Whether the claims against John and Jane Does 1-10 should be dismissed without prejudice under Federal Rule of Civil Procedure 4(m) because they were not timely served and plaintiff did not show good cause.
2. Whether the claims should alternatively be dismissed under Federal Rule of Civil Procedure 41(b) and the court's inherent authority for failure to prosecute and failure to comply with a court order.

## HOLDINGS

1. Claims against defendants who were not served within the time allowed by Rule 4(m) may be dismissed without prejudice when the plaintiff, after notice, neither effects service nor shows good cause for the failure.
2. A federal district court may dismiss claims sua sponte under Rule 41(b) and its inherent authority when a plaintiff fails to prosecute the action or comply with the court's orders.

## KEY QUOTATIONS

*"The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m)."*

*"This case lingers on the Court's docket with no named Defendants remaining."*

## FACTUAL BACKGROUND

Plaintiff filed the complaint on June 26, 2025, naming Lana Ah-Young Shin, The Hertz Corporation, and John and Jane Does 1-10. More than eight months after filing, there was no indication that any fictitious defendant had been identified or served. Plaintiff also failed to respond to the court's February 20, 2026, order to show cause or request additional time.

## PROCEDURAL HISTORY

Plaintiff filed the action in the Circuit Court of Harrison County, Mississippi, and defendants removed it to the United States District Court for the Southern District of Mississippi. After the claims against the named defendants were resolved, only claims against John and Jane Does 1-10 remained. The court ordered plaintiff to show cause why those claims should not be dismissed under Federal Rule of Civil Procedure 4(m); plaintiff did not respond, seek additional time, or show good cause, so the court dismissed the claims without prejudice.

## DISPOSITION

dismissed

## CASES CITED

- McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988)
- Link v. Wabash R.R. Co., 370 U.S. 626, 629-30 (1962)

## OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI SOUTHERN DIVISION DEBORAH POWE § PLAINTIFF § § v. § Civil No. 1:25-cv-291-HSO-BWR § § LANA AH-YOUNG SHIN, et al. § DEFENDANTS ORDER DISMISSING PLAINTIFF’S CLAIMS AGAINST DEFENDANTS JOHN AND JANE DOES 1-10 WITHOUT PREJUDICE On June 26, 2025, Plaintiff Deborah Powe filed a Complaint [1-1] in the Circuit Court of Harrison County, Mississippi, Second Judicial District, against Defendants Lana Ah-Young Shin, The Hertz Corporation, and John and Does 1-10.

The case was removed to this Court on September 29, 2025, and the only claims remaining are Plaintiff’s claims against John and Jane Does 1-10. See Orders [20], [21]. On February 20, 2026, the Court entered an Order [22] to Show Cause why Plaintiff’s claims against Defendants John and Jane Does 1-10 should not be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

See Order [22]. Because Plaintiff has not responded, asked for additional time to respond, or shown good cause for her failure to timely serve John and Jane Does 1- 10, her claims against these fictitious Defendants should be dismissed without prejudice. “The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m).” Fed.

R. Civ. P. 4(c)(1). Under Rule 4(m), [i]f 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 plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). Moreover, this Court has inherent authority to dismiss any claim sua sponte for failure to prosecute and failure to comply with Orders of the Court. See Fed. R. Civ. P. 41(b); McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988). Such a “sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars” of the Court.

Link v. Wabash R.R. Co., 370 U.S. 626, 629-30 (1962). This action was filed over eight months ago, see Compl. [1-1], and has been pending in this Court over five months, see Notice [1]. The only claims remaining are against Defendants John and Jane Does 1-10, but there is no indication in the record that any John and Jane Does 1-10 have been named or served with process.

See Fed. R. Civ. P. 4(m). Plaintiff did not respond to the Court’s Order [22] to Show cause why her claims against them should not be dismissed without prejudice, and she has not requested

additional time to do so. This case lingers on the Court's docket with no named Defendants remaining.

The Court will therefore dismiss Plaintiff's claims against the fictitious Defendants under Rule 4(m), or alternatively for failure to prosecute under Rule 41(b). See *id.*; Fed. R. Civ. P. 41(b); *McCullough*, 835 F.2d at 1127. IT IS, THEREFORE, ORDERED AND ADJUDGED that, Plaintiff Deborah Powe's claims against Defendants John and Jane Does 1-10 are DISMISSED WITHOUT PREJUDICE.

SO ORDERED this the 2nd day of March, 2026. s/ Halil Suleyman Ozerden HALIL SULEYMAN OZERDEN CHIEF UNITED STATES DISTRICT JUDGE