

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PRECEDENTIAL VALUE	Unpublished district court order; precedential status is unknown.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)

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