

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Paul T. Mak v. Theodore R. Dunham Jr., et al.

Mak v. Dunham Jr. · No. CIV-24-248-SLP · Decided March 9, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma dismissed without prejudice Plaintiff Paul T. Mak’s claims against Arc, Inc. and Liam McCarthy for failure to serve them within the time required by Federal Rule of Civil Procedure 4(m). The court found that Plaintiff had neither requested an extension nor demonstrated good cause for extending the service deadline.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Scott L. Palk
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	March 9, 2026
DOCKET	CIV-24-248-SLP
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court considered Plaintiff’s response to an order to show cause why his claims against Arc, Inc. and Liam McCarthy should not be dismissed for failure to effect service of process within ninety days after filing the Amended Complaint.
STANDARD OF REVIEW	The court applied Federal Rule of Civil Procedure 4(m) to determine whether dismissal was required for failure to serve defendants within ninety days and whether an extension was warranted for good cause.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Paul T. Mak v. Theodore R. Dunham Jr., Arc, Inc., Liam McCarthy

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- service of process

QUESTIONS PRESENTED

1. Whether Plaintiff's claims against Arc, Inc. and Liam McCarthy should be dismissed without prejudice under Federal Rule of Civil Procedure 4(m) because they were not served within ninety days after the Amended Complaint was filed.
2. Whether the court should extend the time for service based on a request for an extension or a showing of good cause.

HOLDINGS

1. When Arc, Inc. and Liam McCarthy were not served within ninety days after the filing of the Amended Complaint, and Plaintiff did not establish grounds for extending the service period, dismissal of the claims against those defendants without prejudice was required under Rule 4(m).

KEY QUOTATIONS

“If a defendant is not served within 90 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant.” (Order)

FACTUAL BACKGROUND

Arc, Inc. and Liam McCarthy were identified as former John Doe defendants and were named for the first time in Plaintiff's Amended Complaint. Plaintiff represented that he had been unable to serve either defendant by January 21, 2026. Although the court had previously granted multiple extensions concerning service on the John Doe defendants, Plaintiff neither sought another extension nor demonstrated good cause for extending the service period.

PROCEDURAL HISTORY

The court previously directed Plaintiff to show cause regarding service on Arc, Inc. and Liam McCarthy. Plaintiff acknowledged that he had been unable to serve those defendants as of January 21, 2026, did not request an extension of time, and did not demonstrate good cause for an extension. The court dismissed the claims against those defendants without prejudice.

DISPOSITION

dismissed

CASES CITED

- Espinoza v. United States, 52 F.3d 838, 841 (10th Cir. 1995)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA) PAUL T. MAK,) Plaintiff,)) v.) Case No. CIV-24-248-SLP THEODORE R.

DUNHAM JR.,)) et al.,) Defendants.) O R D E R The Court is in receipt of Plaintiff Paul T. Mak's Response to Order to Show Cause [Doc. No. 55].

On January 7, 2026, the Court issued an Order [Doc. No. 52] directing Plaintiff to show cause why the claims against Defendants Arc, Inc. and Liam McCarthy should not be dismissed for failure to effect service of process within ninety days from filing of the Amended Complaint.

In his Response, Plaintiff represents that he was unable to serve Arc, Inc. nor Liam McCarthy as of January 21, 2026. Because Defendants Arc, Inc. and Liam McCarthy were not served within 90 days of the filing of Plaintiff's Amended Complaint, the claims against those particular Defendants must be dismissed pursuant to Fed. R. Civ. P. 4(m).¹ See Fed. R. Civ.

P. 4(m) ("If a defendant is not served within 90 days after the complaint is filed, the court... must dismiss the action without prejudice against that defendant."). Furthermore, Plaintiff has also not requested an extension of time to serve the referenced Defendants nor demonstrated good cause for the 1 As noted by Plaintiff, the Court permitted extensions to serve the John Doe Defendants, now identified as Defendants Arc., Inc. and Liam McCarthy, on multiple occasions.

See [Doc. Nos. 30 and 37]. Defendants Arc., Inc. and Liam McCarthy were named for the first time as Defendants in the Amended Complaint. See [Doc. No. 39]. Court to extend the time to serve Defendants Arc., Inc. and Liam McCarthy. See *id.*; *Espinoza v. United States*, 52 F.3d 838, 841 (10th Cir. 1995). IT IS THEREFORE ORDERED that Plaintiff's claims against Defendants Arc, Inc. and Liam McCarthy are DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED this 9th day of March, 2026. SCOTT L. PALK UNITED STATES DISTRICT JUDGE