

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Steve Calderone v. Nationwide Fund Recovery

Calderone · No. H-25-3943 · Decided January 22, 2026

SUMMARY

The United States Magistrate Judge recommends dismissing Steve Calderone’s case against Nationwide Fund Recovery without prejudice for failure to serve the defendant. Plaintiff was ordered to complete service by December 5, 2025, but did not do so and provided no evidence of attempted service or good cause. The recommendation relies on Federal Rule of Civil Procedure 4(m) and explains the fourteen-day period for filing objections.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Peter Bray
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	January 22, 2026
DOCKET	H-25-3943
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff filed a civil action but failed to serve the defendant within the time ordered by the court. The magistrate judge issued a Memorandum and Recommendation recommending dismissal without prejudice under Federal Rule of Civil Procedure 4(m).
STANDARD OF REVIEW	Objections to the Memorandum and Recommendation were due within fourteen days. Failure to object timely would preclude appellate review of factual findings or legal conclusions except for plain error.
PRECEDENTIAL VALUE	unknown
PARTIES	Steve Calderone v. Nationwide Fund Recovery

TOPICS

- service of process
- civil procedure
- appellate procedure
- standard of review

PRACTICE AREAS

civil procedure

service of process

appellate procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to serve the defendant within the time required by Federal Rule of Civil Procedure 4(m) and the court's service order.
2. Whether the scheduled conference should be canceled in light of the recommended dismissal.

HOLDINGS

1. Because Plaintiff failed to serve Defendant by the court-ordered deadline and did not show good cause for the failure, the court recommended dismissal of the action without prejudice under Federal Rule of Civil Procedure 4(m).
2. Failure to file timely objections would preclude appellate review of factual findings or legal conclusions, except for plain error.

KEY QUOTATIONS

"The court recommends that this case be DISMISSED without prejudice for failure to serve the Defendant."
(at 7)

"Thus, pursuant to Rule 4(m), the court recommends that the case be DISMISSED without prejudice for failure to serve the defendant." (at 7)

FACTUAL BACKGROUND

Steve Calderone filed his complaint on August 20, 2025. The court ordered him to serve Nationwide Fund Recovery by December 5, 2025. Calderone did not comply, and the docket contained no indication that he attempted service or had good cause for failing to serve the defendant.

PROCEDURAL HISTORY

Calderone filed the complaint on August 20, 2025. After a November 19, 2025 hearing, the court ordered him to serve Nationwide Fund Recovery by December 5, 2025 and warned that noncompliance would result in a recommendation of dismissal without prejudice. No proof or other docket information showed that service was attempted or that good cause existed, so the magistrate judge recommended dismissal and cancellation of the scheduled conference.

DISPOSITION

remanded

REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended that the district court dismiss the case without prejudice for failure to serve the defendant. The January 22, 2026 conference was canceled, and the parties were permitted fourteen days to file objections.

CASES CITED

- Thomas v. Arn, 474 U.S. 140, 147-49 (1985)
- Rodriguez v. Bowen, 857 F.2d 275, 276-77 (5th Cir. 1988)

OPINION

UNITED STATES DISTRICT COURT January 22, 2026 SOUTHERN DISTRICT OF TEXAS
Nathan Ochsner, Clerk HOUSTON DIVISION Steve Calderone, § Plaintiff, § § v. § Civil Action
H-25-3943 § Nationwide Fund Recovery, § Defendant. § § MEMORANDUM AND
RECOMMENDATION The court recommends that this case be DISMISSED without prejudice
for failure to serve the Defendant. Plaintiff Steve Calderone filed his complaint on August 20,
2025.

ECF No. 1. On November 19, 2025, the court held a hearing and ordered that Plaintiff shall serve the Defendant by December 5, 2025. ECF No. 6. The court stated in its order that failure to comply “will result in a recommendation that this case be dismissed without prejudice for failure to serve the defendant.” Id. Plaintiff did not comply. There is no filing or other information on the docket indicating that Plaintiff attempted to serve Defendant.

There is no filing or other information on the docket showing good cause for the failure. Under the federal rules, If 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). The court ordered that service be made by December 5, 2025. ECF No. 6. Plaintiff has not complied.

Thus, pursuant to Rule 4(m), the court recommends that the case be DISMISSED without prejudice for failure to serve the defendant. The conference set for January 22, 2026, is CANCELED. The parties have fourteen days from service of this Memorandum and Recommendation to file written objections. 28 U.S.C. § 686(b)(1); Fed. R. Civ. P. 72. Failure to timely file objections will preclude appellate review of factual findings or legal conclusions, except for plain error.

See Thomas v. Arn, 474 U.S. 140, 147-49 (1985); Rodriguez v. Bowen, 857 F.2d 275, 276-77 (5th Cir. 1988). Signed at Houston, Texas on January 21, 2026. Peter Bray 7 United States Magistrate Judge

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