

**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

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

