

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

Danh Cong Le v. General Motors Company, et al.

Civil Action No. H-25-209 (S.D. Tex. Apr. 13, 2026) · No. Civil Action No. H-25-209 · Decided April 13, 2026

SUMMARY

The Southern District of Texas granted General Motors's motion to dismiss Danh Cong Le's third amended complaint. The court dismissed the action with prejudice under Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6), finding that Le repeatedly failed to properly serve General Motors and failed to plausibly plead negligence, gross negligence, and breach-of-warranty claims. The court concluded that further amendment would be futile.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of Texas,<br>Houston Division                                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Lee H. Rosenthal                                                                                                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | United States District Court for the Southern District of Texas,<br>Houston Division                                                                                                                                                                                                                                                                                                              |
| DECIDED               | April 13, 2026                                                                                                                                                                                                                                                                                                                                                                                    |
| DOCKET                | Civil Action No. H-25-209                                                                                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Plaintiff filed a third amended complaint after removal from state court and after the court granted prior motions to dismiss and allowed one final opportunity to amend. General Motors moved to dismiss under Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6).                                                                                                                           |
| STANDARD OF REVIEW    | On a Rule 12(b)(5) motion, the court evaluates the legal sufficiency of service of process, and the party making service bears the burden of demonstrating its validity once service is challenged. On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and determines whether the complaint states a plausible claim for relief under Rules 8(a) and 12(b)(6). |
| PRECEDENTIAL VALUE    | unpublished district court memorandum opinion; generally persuasive rather than precedential                                                                                                                                                                                                                                                                                                      |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                   |

## PARTIES

Danh Cong Le v. General Motors Company, et al.

## TOPICS

service of process

motions to dismiss

civil procedure

negligence

products liability

## PRACTICE AREAS

civil procedure

products liability

negligence

contracts

consumer protection

## QUESTIONS PRESENTED

1. Whether the action should be dismissed under Rule 12(b)(5) because Le failed to properly serve General Motors with the summons and operative complaint.
2. Whether dismissal with prejudice was warranted after Le failed to comply with the court's prior service instructions and had been given a final opportunity to amend.
3. Whether the third amended complaint plausibly stated negligence or gross-negligence claims against General Motors.
4. Whether the third amended complaint plausibly stated a breach-of-warranty claim despite failing to allege pre-suit notice.

## HOLDINGS

1. Service was ineffective because Le, as a party, could not personally serve General Motors, and he otherwise failed to show proper service of the operative third amended complaint. Emailing the complaint to General Motors's local counsel was also insufficient.
2. Dismissal with prejudice was warranted because Le repeatedly failed to properly serve General Motors, failed to show good cause, and failed to comply with the court's prior order despite a final opportunity to amend.
3. The third amended complaint failed to plausibly plead negligence or gross negligence against General Motors. The negligence allegations concerned repairs by independent dealerships and did not allege General Motors's involvement or control; the complaint also lacked nonconclusory allegations establishing gross negligence.
4. The breach-of-warranty claim failed because Le did not allege that he provided General Motors with the required pre-suit notice.

## KEY QUOTATIONS

*"Again, because Le is a party, he cannot personally serve the opposing party."* (5)

*"This case is dismissed, with prejudice, for failure to properly serve General Motors under Rule 12(b)(5), for failure to state a claim under Rule 12(b)(6), and for failure to follow this court's orders."* (10)

## FACTUAL BACKGROUND

Le alleged that General Motors was responsible for problems involving a 2024 GMC Sierra 2500HD, including a defective computer module, faulty brakes, oil-valve damage, and allegedly mishandled repairs. His third amended complaint asserted negligence, gross negligence, breach of warranty, product-liability-related allegations, defamation, and unfair-business-practice claims. The repair work reflected in the complaint's exhibits was performed by independent General Motors dealerships, and the complaint did not allege facts showing that General Motors itself controlled or participated in those repairs. Le attempted to serve General Motors himself, including by certified mail and by emailing the third amended complaint to General Motors's local counsel.

## PROCEDURAL HISTORY

Le initially sued General Motors in Texas state court concerning alleged defects and repair problems involving his 2024 GMC Sierra 2500HD. General Motors removed the action to federal court. The district court previously dismissed for lack of personal jurisdiction, later dismissed the second amended complaint for defective service and failure to state a plausible claim, and granted Le one final opportunity to amend and properly serve the defendants. After Le filed a third amended complaint, General Motors again moved to dismiss. The court granted the motion and dismissed the case with prejudice; ESIS, Inc. had previously been dismissed under Rule 41(a)(1)(A)(i).

## DISPOSITION

dismissed

## CASES CITED

- *Quinn v. Miller*, 470 F. App'x 321, 323 (5th Cir. 2012)
- *Holly v. Metropolitan Transit Authority*, 213 F. App'x 343, 344 (5th Cir. 2007)
- *Carimi v. Royal Caribbean Cruise Line, Inc.*, 959 F.2d 1344, 1346 (5th Cir. 1992)
- *Aetna Bus. Credit, Inc. v. Universal Decor & Interior Design*, 635 F.2d 434, 435 (5th Cir. 1981)
- *Harris v. HireRight LLC*, No. 3:23-CV-01679-E, 2024 WL 4805375, at \*2 (N.D. Tex. Nov. 15, 2024)
- *Crittendon v. Tex. Dep't of Health & Human Servs.*, Civ. Action No. H-19-1624, 2019 WL 5927261, at \*3 (S.D. Tex. Nov. 12, 2019)
- *Avdeef v. Royal Bank of Scot., P.L.C.*, 616 F. App'x 665, 672 (5th Cir. 2015)
- *Shabazz v. City of Hous.*, 515 F. App'x 263, 264 (5th Cir. 2013) (per curiam)
- *Craig v. Am. Honda Motor Co.*, Civ. Action No. 9:21-CV-043, 2021 WL 5501794, at \*2 (E.D. Tex. Oct. 26, 2021), report and recommendation adopted, 2021 WL 5493362 (E.D. Tex. Nov. 22, 2021)
- *Lane v. Halliburton*, 529 F.3d 548, 565 (5th Cir. 2008)
- *Sport Supply Grp., Inc. v. Columbia Cas. Co.*, 335 F.3d 453, 466 (5th Cir. 2003)
- *Mobil Oil Corp. v. Ellender*, 968 S.W.2d 917, 921 (Tex. 1998)
- *Murray v. Gen. Motors, L.L.C.*, 478 F. App'x 175, 181 (5th Cir. 2012) (per curiam)
- *Perez v. U.S. Xpress, Inc.*, No. 6:21-CV-00432-ADA, 2023 WL 3681714 (W.D. Tex. Mar. 10, 2023)
- *Madrid v. Galp Waters Ltd. P'Ship*, No. H-12-3252, 2014 WL 12539253, at \*3 (S.D. Tex. June 6, 2014)

- Phillips v. Super Servs. Holdings, LLC, 189 F. Supp. 3d 640, 654 (S.D. Tex. 2016)
- Bauer v. AGCO Corp., 770 F. Supp. 3d 957, 962 (W.D. Tex. 2025)
- Harris v. BMW of N. Am., No. 4:19-CV-00016, 2020 WL 7081808, at \*5 (E.D. Tex. Dec. 3, 2020)
- Orrson v. Sig Sauer, Inc., Civ. Action No. H-25-1776, 2026 WL 494129, at \*6 (S.D. Tex. Feb. 23, 2026)
- McKay v. Novartis Pharm. Corp., 751 F.3d 694, 706 (5th Cir. 2014)
- U.S. Tire-Tech, Inc. v. Boeran, B.V., 110 S.W.3d 194, 201-02 (Tex. App.-Houston [1st Dist.] 2003, pet. denied)
- Morgan v. Medtronic, 172 F. Supp. 3d 959, 970 (S.D. Tex. 2010)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)
- Hunsinger v. Valor Intelligent Processing, No. 3:25-cv-1880-X-BT, 2026 WL 271032, at \*2 (N.D. Tex. Jan. 13, 2026), report and recommendation adopted, 2026 WL 269365 (N.D. Tex. Jan. 30, 2026)
- Farguson v. MBank Houston, N.A., 808 F.2d 358, 359 (5th Cir. 1986)
- Fuller v. Texas, No. 6:25-cv-00364, 2026 WL 503584, at \*1 (E.D. Tex. Feb. 23, 2026)
- Slack v. McDaniel, 529 U.S. 473, 489 (2000)

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