

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

PENN NATIONAL INSURANCE,)	
as Subrogee of its)	
Insured, Asphalt Concrete)	
& Demolition & Cutting,)	
and ASPHALT CONCRETE &)	
DEMOLITION & CUTTING,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.
v.)	2:21cv571-MHT
)	(WO)
JACQULYN MILLER,)	
)	
Defendant.)	

OPINION

Plaintiffs filed this action bringing claims for negligence and wantonness and respondeat superior on August 27, 2021. Federal Rule of Civil Procedure 4(m) provides that a defendant must be served within 90 days of the filing of a complaint or else be dismissed without prejudice. On September 30, 2021, the summons mailed to defendant Jacquelyn Miller was returned unexecuted. See Summons Returned Unexecuted (Doc. 15). On January 26, 2022, the United States Magistrate Judge

entered an order (Doc. 22) directing plaintiffs to effectuate service of process on defendant Miller on or before February 23, 2022. The magistrate judge later granted plaintiffs' motion for an extension of time to serve Miller (Doc. 23), giving them until March 23, 2022, to complete service. See Order (Doc. 24). An alias summons for Miller (Doc. 25) was issued by the clerk of court on March 10, 2022, but plaintiffs filed nothing thereafter. On April 15, 2023, the magistrate judge entered an order requiring plaintiffs, by April 22, 2023, to either (1) effectuate service or (2) file a notice regarding the status of service of process and show cause as to why the case should not be dismissed without prejudice under Federal Rule of Civil Procedure 4(m). Plaintiffs never responded. The court concludes that this case should be dismissed without prejudice under Rule 4(m).

An appropriate judgment will be entered.

DONE, this the 16th day of March, 2023.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE