

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GUSTAVO RESENDIZ,

Plaintiff,

v.

SPARTANNASH ASSOCIATES,

Defendant.

8:22CV173

ORDER

On September 30, 2022, defendant SpartanNash Associates (“SpartanNash”) filed a Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(5) (Filing No. 11), arguing pro se plaintiff Gustavo Resendiz (“Resendiz”) failed to properly serve process under Federal Rule of Civil Procedure 4. In particular, SpartanNash faulted Resendiz for “failing to deliver the summons to an authorized individual at SpartanNash and” for “attempting to serve process as a party in this litigation.”

On December 8, 2022, the Court decided SpartanNash’s arguments had merit yet denied the motion to allow Resendiz “a reasonable opportunity to properly serve SpartanNash under Rule 4” (Filing No. 16). Giving Resendiz forty days, the Court warned him that failing to do so “could result in the dismissal of this case without further notice.”

Despite that warning and ample opportunity to comply with Rule 4, Resendiz failed to perfect service and file a proof of service as required. Accordingly, this case is dismissed without prejudice.

IT IS SO ORDERED.

Dated this 18th day of January 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", written in a cursive style.

Robert F. Rossiter, Jr.
Chief United States District Judge