

UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF NEW YORK

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**WAYNE SMALLS**, *as Executor of the Estate of  
 William Smalls*,

Plaintiff,

– against –

**WILLIAM FANIEL**, *as Administrator of the Estate  
 of Bessie Smalls*,

Defendant.

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**ANN M. DONNELLY**, United States District Judge:

On August 24, 2021, the plaintiff brought this action against the defendant. (ECF No. 1.) Under Federal Rule of Civil Procedure 4(m), the plaintiff was required to serve the defendant by November 22, 2021. However, the plaintiff did not file a proposed summons until February 16, 2022 (ECF No. 7), which was issued on February 18, 2022. (ECF No. 8.) On February 22, 2022, Magistrate Judge Lois Bloom ordered the plaintiff to show cause by March 1, 2022, why service was not made by November 22, 2021; otherwise Judge Bloom would “recommend that this action should be dismissed against defendant without prejudice.” (February 22, 2022 Order.) The plaintiff did not respond to the order to show cause, and on March 17, 2022, Judge Bloom issued a *sua sponte* Report and Recommendation, recommending that the action be dismissed without prejudice pursuant to Rule 4(m). (ECF No. 9.)

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis*

*v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)).

I have reviewed Judge Bloom's Report and Recommendation and find no error. Accordingly, I adopt the Report and Recommendation in its entirety. The case is dismissed without prejudice.

**SO ORDERED.**

s/Ann M. Donnelly

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ANN M. DONNELLY  
United States District Judge

Dated: Brooklyn, New York  
April 5, 2022