IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JACK LEE HUDSON, JR.,

Plaintiff,

v. Case No. 26-1200-JWB

LUCIAN BUTTEL, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is before the court on Magistrate Judge Brooks Severson's Report and Recommendation (R&R) (Doc. 18) that this matter be dismissed for lack of subject matter jurisdiction. After review, the court ADOPTS the R&R and DISMISSES this action.

I. Facts and Procedural History

On July 6, 2026, Plaintiff, who is proceeding pro se, filed his amended complaint against the Defendants Lucian Buttel, John Chance, and Chance Home Remodeling. (Doc. 14.) Plaintiff asserts claims under Kansas law for failure to pay wages, unlawful eviction, fraudulent misrepresentation, and intentional infliction of emotional distress. Defendants are all alleged to be residents of Sedgwick County, Kansas. (Doc. 2.) Plaintiff's amended complaint makes one passing reference to the "FLSA," presumably a reference to the Fair Labor Standards Act.[1] (Doc. 14 at 5.)

Plaintiff also moved for leave to proceed in forma pauperis. (Doc. 3.) Magistrate Judge Severson granted Plaintiff's motion to proceed in forma pauperis. (Doc. 15.) After screening the complaint under 28 U.S.C. § 1915(e)(2), Magistrate Judge Severson held that Plaintiff's

[1] The original complaint did purport to state a claim under the FLSA. However, Plaintiff has now filed an amended complaint which is the operative pleading in this matter.

allegations failed to sufficiently allege federal question jurisdiction in this matter as the reference to the FLSA did not plausibly allege a claim against Defendants under that statute. Further, there is not complete diversity among the parties. As a result, Plaintiff was ordered to file an amended complaint or show cause why the matter should not be dismissed for lack of subject matter jurisdiction. (Doc. 16 at 9.) The show cause order was mailed to Plaintiff's address of record but it was later returned as undeliverable. (Doc. 17.) Plaintiff has not updated the court with a new address.

After reviewing the returned mail and Plaintiff's failure to file a timely response to the show cause order, Magistrate Judge Severson issued an R&R recommending that the court dismiss this matter on the basis that Plaintiff failed to respond to court order and prosecute this matter and that the court lacks subject matter jurisdiction. A review of the docket shows that the R&R was returned as undeliverable. (Doc. 20.)

II. Standard

"In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985)). Under Federal Rule of Civil Procedure 41(b), a district court may dismiss an action *sua sponte* if "the plaintiff fails to prosecute or to comply with these rules or a court order." *See also Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003).

Pro se pleadings are construed liberally, but a district court cannot assume the role of an advocate. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). And pro se plaintiffs must follow the same rules of procedure that govern represented litigants. *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

III. Analysis

Magistrate Judge Severson recommends dismissal of Plaintiff's complaint for failure to prosecute and for lack of subject matter jurisdiction. A review of the amended complaint shows that Plaintiff has alleged state law claims against Defendants who are not diverse parties. Plaintiff's reference to the FLSA in passing is not sufficient to plausibly allege a claim under that statute. Although Plaintiff could potentially amend his complaint to state a claim under the FLSA, Plaintiff has failed to update the court as to his address. Therefore, the court finds that the complaint is subject to dismissal for lack of subject matter jurisdiction.

IV. Conclusion

Magistrate Judge Severson's R&R (Doc. 18) is ADOPTED and Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED. Dated this 7th day of October 2026.

s/ John Broomes
JOHN W. BROOMES
CHIEF UNITED STATES DISTRICT JUDGE