

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JOHN D. GOELZ,
Plaintiff-Appellant,

v.

THE PAUL REVERE LIFE INSURANCE
COMPANY,
Defendant-Appellee,

and

PROVIDENT COMPANIES,
INCORPORATED, a/k/a The Paul
Revere Life Insurance Company;
PROVIDENT LIFE & ACCIDENT
INSURANCE COMPANY; PROVIDENT
COMPANIES, INCORPORATED, their
agents and assigns,

Defendants.

No. 01-1136

Appeal from the United States District Court
for the Western District of North Carolina, at Charlotte.
Graham C. Mullen, Chief District Judge.
(CA-99-413-3-MU)

Submitted: May 31, 2001

Decided: June 20, 2001

Before LUTTIG and TRAXLER, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

John D. Goelz, Appellant Pro Se. Erna Avari Patrick Womble, WOMBLE, CARLYLE, SANDRIDGE & RICE, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION**PER CURIAM:**

John D. Goelz appeals the district court's order dismissing his breach of contract action for failure to prosecute. Because Goelz failed to challenge the basis for the district court's ruling in his appellate brief, he failed to preserve this issue for review. *See* 4th Cir. Local R. 34(b). Goelz's only issue on appeal concerns his challenge to the removal of his case from state to federal court. This court previously advised Goelz that he could challenge the removal of his case to federal court when the district court entered a final order. Instead of proceeding with his case in good faith, he deliberately refused to participate in any proceedings in the district court. Although this court has an obligation to review jurisdictional issues regardless of whether they are raised by the parties, *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986), it is the court—and not the litigants—that determines how cases will be handled. *See National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 642 (1976). Because Goelz has attempted to circumvent this court's direction that the removal issue be reviewed only on appeal from a final order on the merits by refusing to participate in the district court action, and because he failed to comply with the district court's order directing him to respond to discovery requests and otherwise refused to participate in district court proceedings, we affirm the dismissal for failure to prosecute. We dispense with oral argument because the facts and

legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED