

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 23-1481**

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UNITED SOURCE ONE, INC.,

Plaintiff - Appellant,

v.

DOMINIC FRANK,

Defendant - Appellee.

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Appeal from the United States District Court for the District of Maryland, at Baltimore.  
James K. Bredar, Chief District Judge. (1:22-cv-02309-JKB)

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Submitted: March 12, 2024

Decided: March 14, 2024

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Before GREGORY, RICHARDSON, and BENJAMIN, Circuit Judges.

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Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

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**ON BRIEF:** Steven N. Leites, Pierce C. Murphy, SILVERMAN, THOMPSON, SLUTKIN & WHITE, Baltimore, Maryland, for Appellant. Dominic Frank, Appellee Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

United Source One, Inc. (“US1”), appeals the district court’s order denying US1’s motion for default judgment and sua sponte dismissing its complaint. On appeal, US1 solely argues that the district court erred in sua sponte dismissing the complaint without granting leave to amend.

Before a district court sua sponte dismisses a complaint, it “must . . . afford[] notice and an opportunity to amend the complaint or otherwise respond.” *Robertson v. Anderson Mill Elementary Sch.*, 989 F.3d 282, 291 (4th Cir. 2021) (internal quotation marks omitted). The district court did not follow this procedure, and the faults it found in the complaint are the type that could conceivably be remedied in an amended complaint. Moreover, had Appellee not been in default and filed his own motion to dismiss under Fed. R. Civ. P. 12(b)(6), US1 would have been entitled to amend its complaint as a matter of course. *See* Fed. R. Civ. P. 15(a)(1)(B). Thus, we conclude that the district court erred in dismissing US1’s complaint without granting leave to amend. Accordingly, we affirm the portion of the district court’s order denying US1’s motion for default judgment,\* vacate the portion of the order dismissing the complaint, and remand with instructions to allow US1 to file an amended complaint.

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\* We affirm this portion of the district court’s order because US1 does not challenge it in its opening brief. *See Grayson O Co. v. Agadir Int’l, LLC*, 856 F.3d 307, 316 (4th Cir. 2017).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART, VACATED IN PART, AND REMANDED*