

DOCKET NO.: FST-CV24-6068024-S : **SUPERIOR COURT**
RALPH GIORGIO **JUDICIAL DISTRICT** : **JUDICIAL DISTRICT OF STAMFORD**
V. **2025 AUG 13 P 4: 32** : **AT STAMFORD**
PAUL SCHWARTZ, ET. AL. : **AUGUST 13, 2025**

The defendants moved to dismiss this action for lack of subject matter and personal jurisdiction because the plaintiff failed to timely commence this action, failed to timely serve the Summons and Complaint, and failed to timely return service to court.

FACTS AND PROCEDURAL HISTORY

On July 13, 2022, the plaintiff filed an initial summons and complaint, Docket No. FST-CV22- 6057408-S (“Initial Action”), alleging defamation and intentional infliction of emotional distress, with a return date of August 3, 2022. On July 13, 2022, the defendants' Reed Salvatore, Art Linares, Paul Schwartz, Lawrence Graev, John Milan, Sten Wilson, Sanjay Kamlani and the Federal Tax Authority (collectively “the defendants”) moved to dismiss the initial action for failure to comply with General Statute §§ 52-46 and 52-46a, and that the defects were not curable. On July 10, 2023, Judge Povodator granted the defendants’ motion to dismiss the initial action.

On July 11, 2024, the plaintiff filed the present action pursuant to Connecticut's Accidental Failure of Suit Statute, General Statute §52-592, with a return date of August 20, 2024. On November 19, 2024, the plaintiff filed a return of service. (D.E. No. 104.00). The plaintiff's return of service reflects that defendant Reed Salvatore was served on September 23, 2024, and defendants Art Linares, Paul Schwartz, Lawrence Graev, John Milan, Sten Wilson, Sanjay Kamlani, and Federal Tax Authority were served on September 25, 2024. See, D.E. No.

104.00. Neither of the purported service dates fall within one year of the determination date of the original action, i.e., July 10, 2024.

DISCUSSION

“The motion to dismiss shall be used to assert (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, and (5) insufficiency of service of process.” Practice Book § 10-31(a). “[T]he Superior Court . . . may exercise jurisdiction over a person only if that person has been properly served with process, has consented to the jurisdiction of the court or has waived any objection to the court’s exercise of personal jurisdiction.”

“[A]n action commenced by . . . improper service must be dismissed.” (Internal quotation marks omitted.) *Matthews v. SBA, Inc.*, 149 Conn.App. 513, 530, 89 A.3d 938, cert. denied, 312 Conn. 917, 94 A.3d 642 (2014). “Civil process” refers to the documents that must be served upon a defendant to properly initiate a civil action. If the process is defective, improperly served, or improperly returned to the court, it may be subject to dismissal due to lack of personal jurisdiction over the defendant(s).

General Statute §52-592(a) provides in relevant part: “If any action, commenced within the time limited by law, has failed one or more times to be tried on its merits because of insufficient service or return of the writ due to unavoidable accident or the default or neglect of the officer to whom it was committed, or because the action has been dismissed for want of jurisdiction . . . the plaintiff . . . may commence a new action . . . for the same cause at any time within one year after the determination of the original action or after the reversal of the judgment.” requires a new action be brought “within one year after the determination of the original action. . . .”

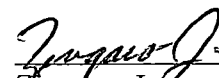
A plaintiff may initiate the same action within one year of the determination of the original action. An action is considered commenced when service is made upon the opposing party. "It is the service of the writ, that, in this state, is the commencement of an action." *Sanford v. Dick*, 17 Conn. 213, 215 (1845). "[T]he one year period in which to file a new action under Conn. Gen. Stat. § 52-593 begins when notice is issued that the original action has been terminated." *Russell v. Thomas O'Connor & Co.*, 42 Conn. App. 345, 347, 679 A.2d 420 (1996).

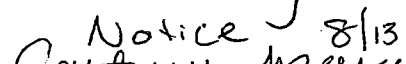
The Initial Action was dismissed on July 10, 2023. Under the Accidental Failure of Suit Statute, the plaintiff was required to commence the instant action by July 10, 2024. He failed to do so. The plaintiff's return of service filed by the Plaintiff reflects purported service of Reed Salvatore on September 23, 2024, and purported service on Art Linares, Paul Schwartz, Lawrence Graev, John Milan, Sten Wilson, Sanjay Kamlani, and Federal Tax Authority on September 25, 2024. The service dates do not fall within one year of the determination of the original action of July 10, 2024.

The defendants have demonstrated that the service of process was improper, and therefore, the action must be dismissed. The motion to dismiss is granted.

SO ORDERED

BY THE COURT


Zingaro, J.

Decision Entered in
accordance with the
foregoing, all parties
notified by JDO
3 Notice 8/13/25.

Catherine Sparano, Civil Caseflow
Coordinator