IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Aimee Makowski, Appellant	:	
v.	:	No. 712 C.D. 2025
Keith J. Munson, Nanticoke Fireman's Relief Association of the State of Pennsylvania, and City of Nanticoke	:	Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH FILED: November 9, 2026

Aimee Makowski (Appellant) appeals from a judgment entered in the Court of Common Pleas of Luzerne County (trial court) on January 8, 2025, sustaining the Preliminary Objections (POs) of Appellees, Keith J. Munson, Nanticoke Fireman's Relief Association of the State of Pennsylvania, and City of Nanticoke (jointly, Appellees) to Appellant's Writ of Summons, and dismissing this motor vehicle tort action. Upon review, we affirm.

I. Background

On August 1, 2022, Appellant was involved in a motor vehicle accident and suffered serious injuries. She initiated the instant motor vehicle tort action by filing on July 31, 2024, one day before the expiration of the statute of limitations, a *Praecipe* for Writ of Summons (Writ)[1] naming Appellees as defendants.[2] (Reproduced Record (R.R.) at R.1-R.5.)[3] However, she did not serve the Writ on Appellees within 30 days as required by the Pennsylvania Rules of Civil Procedure. *See* Pa.R.Civ.P. 401(a) ("original process shall be served within the Commonwealth within 30 days after issuance of the writ or the filing of the complaint").

On August 29, 2024, Appellant filed a request to reissue the Writ pursuant to Pa.R.Civ.P. 401(b)(1), (2),[4] and on September 27, 2024, she again requested that the Writ be reissued. *Id.* at R.6-R.9. On October 31, 2024, the trial judge assigned to the case issued an order scheduling a conference to ascertain its status. During the approximately three-month period between the initial filing of the *Praecipe* for the Writ on July 31, 2024, and the trial court's October 31, 2024 order scheduling the status

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[1] Under Pennsylvania Rule of Civil Procedure 1007, an action may be commenced by filing with the prothonotary a *praecipe* for a writ of summons (Pa.R.Civ.P. 1007). This is one of two methods available to a plaintiff to start a civil action — the other being the direct filing of a complaint. The writ of summons is prescribed by Pa.R.Civ.P. 1351, which provides that the writ shall be directed to the defendant and shall notify them that the named plaintiff or plaintiffs have commenced an action against them (Pa.R.Civ.P. 1351). This formal notice function is central to the writ's purpose, as it alerts the defendant that litigation has been initiated even before a complaint detailing the specific claims is filed.

[2] 42 Pa.C.S. § 5524(2) sets forth a two-year statute of limitations for civil negligence actions.

[3] Pennsylvania Rule of Appellate Procedure 2173 requires that the Reproduced Record be paginated using Arabic numerals followed by a small "a."

[4] A plaintiff may reissue the writ pursuant to Pa.R.Civ.P. 401(b) at any time and any number of times to allow for proper service. *Hammond v. Coulehan* (Pa. Cmwlth., No. 910 C.D. 2024, filed October 31, 2025), slip op. at 3.

conference, Appellant made no attempt to serve the Writ on Appellees. Appellees only became aware of the lawsuit when the trial court sent Appellees notice of the scheduled status conference in November of 2024. On November 12, 2024, Appellant once again filed a *Praecipe* to reissue the Writ, having not yet attempted to serve the Writ on Appellees. *Id.* at R.10-R.12.

On November 22, 2024, Appellees filed POs pursuant to Pa.R.Civ.P. 1028(a)(1) alleging that (1) Appellant never served them with the Writ and no Affidavit of Service was ever filed, and (2) Appellant failed to reinstate the Writ within 30 days of the Writ's September 27, 2024 reissuance, as required by Pa.R.Civ.P. 401(b)(4) & 401(a). *Id.* at R.14-R.15. In their POs, Appellees requested that Appellant's Writ be dismissed with prejudice because Appellant had not made a good-faith effort to serve Appellees as required by *Lamp v. Heyman*, 366 A.2d 882, 889 (Pa. 1976) ("a writ of summons shall remain effective to commence an action only if the plaintiff then refrains from a course of conduct which serves to stall in its track the legal machinery [s]he has just set in motion"). (R.R. at R.15- R.16.)

On November 25, 2024, Appellant retained counsel. *Id.* at R.25. The trial court held oral argument to consider the POs. On December 12, 2024, Appellant again filed a *Praecipe* to reissue the Writ. *Id.* at R.23-R.24. On January 7, 2025, Appellant's counsel filed a response and brief in opposition to the POs arguing that the trial court should not dismiss her lawsuit because Appellant never "intended" to stall the judicial machinery and Appellees were not prejudiced by her failure to serve them with the Writ. *Id*. at R.29. On January 7, 2025, the trial court held oral argument on the POs, after which, on January 8, 2025, it entered an order sustaining the POs and dismissing Appellant's lawsuit. Appellant timely filed an appeal[5] and her court-ordered Concise

[5] Appellant initially appealed to the Superior Court, which transferred the matter to this Court on June 10, 2025. *See* 42 Pa.C.S. § 762 (Commonwealth Court's exclusive appellate jurisdiction is
(Footnote continued on next page…)

Statement of Errors Complained of on Appeal. The trial court entered an opinion in support of its order on April 4, 2025. *See* Pa.R.A.P. 1925 (a)-(b).

In its 1925(a) opinion, the trial court summarized the legal principles set forth in the relevant caselaw. It noted that in Pennsylvania, a plaintiff is required to make a good-faith effort to effectuate notice of the commencement of an action, citing *Farinacci v. Beaver County Industrial Development Authority*, 511 A.2d 757, 759 (Pa. 1986). (Trial Ct. Op. at 3.) Citing *McCreesh v. City of Philadelphia*, 888 A.2d 664 (Pa. 2005), it stated that despite the duty to make a "good-faith effort" to serve the defendant, "a plaintiff's procedural[ly] defective service may be excused where defendant has **actual notice** of the commencement of litigation and **is not otherwise prejudiced**." (Trial Ct. Op. at 3) (emphasis added). The trial court added that, in *Gussom v. Teagle*, 247 A.3d 1046 (Pa. 2021), the Pennsylvania Supreme Court more recently held that:

> the [p]laintiff carries the burden to prove that she made a good-faith effort to ensure that either the writ or complaint was filed within thirty days of issuance. [*Gussom*,] 247 A.3d [ ][at] 1057 [ ]. A plaintiff can meet her evidentiary burden of a good-faith attempt at service by presenting credible evidence that she made attempt at service. *Id.* Failure to present such credible evidence fails to meet the evidentiary burden of a good-faith attempt, regardless of whether her actions (or inaction) were intentional, unintentional, or otherwise. *Id*. at [1057].

(Trial Ct. Op. at 3-4.)

Applying this precedent, the trial court noted that "[t]he record is completely devoid of any evidence" that Appellant ever attempted to effectuate service of the Writ but instead, merely repeatedly filed a *praecipe* for its reissuance. *Id.* at 4.

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implicated when a local government entity or the Commonwealth is sued in tort); *see also* Pa.R.A.P. 751.

In response to Appellant's assertion that her lack of attempts to serve process on Appellees was due to her previous *pro se* status, the trial court stated:

> [*Pro* se] litigants are subject to the same rules of procedure[] as represented litigants. Whether a plaintiff acts in a good[-]faith effort to serve legal process is decided on a case-by-case basis and lies in the sound discretion of the trial court. Here, there is no evidence to show that [Appellant] made any good[-]faith attempts at service of the Writ of Summons or any of the reissuances of same until counsel was retained four months after the initial filing. [Appellees] did not get actual notice of the case until the trial court issued an Order [and] scheduled a status conference for the same. While the trial court does not find that Plaintiff was "intentionally attempting to stall the judicial machinery or otherwise prejudice" by failing to properly serve [Appellees], clearly [Appellant] failed to present evidence that she attempted to serve [Appellees] and therefore did not satisfy the good-faith mandate.

(Trial Ct. Op. at 5.) (citations omitted).

II. Issues

The issue before this Court is whether the trial court committed an error of law or abused its discretion when it dismissed Appellant's lawsuit based on its finding that she had failed to prove that she made a good-faith effort to serve the Writ on Appellees. Appellant admits that she never properly served the Writ on Appellees. However, relying on our Supreme Court's decision in *McCreesh*, she argues that the trial court abused its discretion in dismissing her lawsuit because "[o]nly those claims where plaintiffs have demonstrated an intent to stall the judiciary machinery or where plaintiffs' failure to comply with the Rules of Civil Procedure has prejudiced the defendant" should be dismissed. *McCreesh*, 888 A.2d at 674. Appellant asserts that her failure to serve the Writ should be excused because: (1) Appellees did not suffer

any undue prejudice; and (2) there is no evidence in the record that she intended to stall the judicial system by failing to serve the Writ. (Appellant's Br. at 7.)

In response, Appellees assert that in *Gussom*, 247 A.3d 1046, our Supreme Court refined the "good-faith" standard when it held that an action may be dismissed if: (1) a plaintiff fails to prove he or she made diligent attempts to serve the defendant with original process; and (2) the defendant did not have actual notice of the action within the statute of limitations, regardless of the plaintiff's intent. Appellees point out that Appellant's efforts to ensure the Writ was reissued are irrelevant. Under *Gussom*, unless a plaintiff can establish pursuant to *McCreesh* that the plaintiff's efforts to serve the defendant have provided actual notice to the defendant, a plaintiff still must demonstrate that she has met her evidentiary burden of establishing that she made a good-faith effort to serve the defendant. Here, Appellees claim that neither test is met because "[t]he record does not support any claim of diligence or actual notice." (Appellees' Br. at 4-5.)

III. Discussion[6]

Pennsylvania law requires that a civil action in negligence must be commenced within two years. 42 Pa.C.S. § 5524(2). The Pennsylvania Rules of Civil Procedure allow a plaintiff to initiate a civil action by filing either a writ of summons or a complaint. Pa.R.Civ.P. 1007. A plaintiff must then serve the defendant with

[6] "Where a trial court dismisses a complaint based on preliminary objections, our review is limited to determining whether the trial court committed an error of law or an abuse of discretion." *Kittrell v. Watson*, 88 A.3d 1091, 1095 (Pa. Cmwlth. 2014). In addition, "[w]hether a court may disregard a litigant's defective service of process . . . is vested within the sound discretion of that court." *Konya v. District Attorney of Northampton County*, 669 A.2d 890, 892 (Pa. 1995). "An abuse of discretion is not a mere error of judgment; rather, it occurs only where the trial court's conclusion overrides or misapplies the law, or where the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias, or ill-will." *Musser v. Southeastern Pennsylvania Transportation Authority*, 354 A.3d 593, 599 n.4 (Pa. Cmwlth. 2026).

original process within 30 days after the issuance of the writ or the filing of a complaint. Pa.R.Civ.P. 401(a). If the plaintiff does not do so, she can request reissuance of the writ or reinstatement of the complaint. Pa.R.Civ.P. 401(b)(1). Pa.R.Civ.P. 401(b)(2) provides, in pertinent part, that "[a] writ may be reissued . . . at any time or any number of times." However, pursuant to Pa.R.Civ.P. 401(b)(4) "[a] reissued, reinstated, or substituted writ . . . shall be served within the applicable time prescribed by subdivision (a) of this rule . . . ." Subdivision (a), in turn, provides that after the writ is reissued "[o]riginal process shall be served within the Commonwealth within 30 days after the issuance of the writ or the filing of the complaint." Pa.R.Civ.P. 401(a).

"Service of process is a mechanism by which a court obtains jurisdiction of a defendant, and therefore, the rules concerning service of process must be strictly followed." *Ferraro v. Patterson-Erie Corp.*, 313 A.3d 987, 999 (Pa. 2024). Service of process also notifies the defendant that it is a party to a lawsuit and must defend itself. *Id.* Thus, "[t]he purpose of a statute of limitations . . . is to protect defendants from stale claims." *Gussom*, 247 A.3d at 1048. As the trial court noted, our Supreme Court held in *Gussom*:

> a trial court has the discretion to dismiss a complaint when a plaintiff fails to offer proof that she diligently attempted to serve process on a defendant in a timely manner and there is no evidence to indicate that the defendant had actual notice of the commencement of the action in the relevant time frame, regardless of whether the plaintiff acted or failed to act intentionally.

Id.

In *Gussom*, the plaintiff and the defendant were involved in an automobile accident on July 25, 2016, and the plaintiff filed a complaint against the defendant on April 26, 2018, within the two-year statute of limitations. On May 4, 2018, the plaintiff attempted to serve the complaint on the defendant but discovered the defendant had

moved to another state. On August 22, 2018, the plaintiff filed a *praecipe* to reinstate her complaint. On September 10, 2018, the defendant filed POs, claiming that the trial court should dismiss the complaint because the plaintiff failed to serve it properly. The defendant acknowledged that the plaintiff had made one attempt to serve the complaint in May, but argued that overall she did not make "good-faith efforts" to serve the complaint. The plaintiff did not respond to the POs, nor did she otherwise attempt to prove that she had made a good-faith effort to serve the complaint in a timely manner. On September 28, 2018, she again filed a *praecipe* to reinstate her complaint. Thereafter, the trial court entered an order sustaining the defendant's POs and dismissing the plaintiff's complaint due to her failure to make good-faith efforts to serve the complaint on defendant. On appeal, the Superior Court affirmed the trial court's decision. *See Gussom v. Teagle* (Pa. Super., No. 3245 EDA 2018, filed September 26, 2019), 2019 WL 4739233.

Our Supreme Court in *Gussom*, like the Superior Court, affirmed the trial court's dismissal of the plaintiff's complaint, stating that "the law required [the p]laintiff to act diligently in serving process on [the d]efendant so as not to undermine the policies that animate the statute of limitations." 247 A.3d at 1057. It noted that during the nearly four months between the time the complaint was filed on April 26, 2018, and the time the plaintiff requested to reinstate the complaint on August 22, 2018, the trial court docket reflected only one attempt had been made at service of process. *Id.* Because she failed to prove that she acted diligently in attempting to serve defendant with notice that she filed her complaint against him, our Supreme Court found no abuse of discretion in the trial court's decision to dismiss the plaintiff's complaint.

Unlike the plaintiff in *Gussom*, who made a single attempt at service, which was found insufficient to prove a good-faith effort had been made, here, Appellant made **no attempt to serve** Appellees with the Writ. Instead, Appellant

requested that the Writ be reissued on August 29, 2024, and September 27, 2024. She made no attempts to serve process on Appellees, even though nearly two months passed since the statute of limitations had run and the original Writ was issued.[7] When Appellees filed their POs on November 22, 2024, nearly four months after the original Writ was issued and the statute of limitations passed, the trial court found that "[**t]he record is completely devoid of any evidence that Plaintiff attempted to effectuate service of the Writ . . . .**" (Trial Ct. Op. at 4) (emphasis added). The trial court also found that Appellees did not receive actual notice of the case until the trial court notified Appellees of the scheduling of a status conference related to a lawsuit against them. *Id.* at 5. Based on these facts, the trial court sustained the POs and dismissed the action. It held that while it did not find that Appellant was intentionally attempting to stall the judiciary machinery or otherwise prejudice Appellees, "clearly [Appellant] failed to present evidence that she attempted to serve [Appellees] and therefore did not satisfy the good-faith mandate." *Id.*

Appellant avers that the trial court erred by ignoring the fact that Appellees were not prejudiced despite the procedural shortcomings of Appellant in properly serving the Writ, citing *McCreesh*. However, Appellant's reliance on *McCreesh* is misplaced. In *Gussom*, our Supreme Court made clear that *McCreesh* did not eliminate a plaintiff's burden to affirmatively demonstrate a good-faith effort to serve process. Importantly, in this case, Appellant has not proved that she made **any efforts** to serve process on Appellees. In *McCreesh*, the Supreme Court stated:

> We observe that in every case applying *Lamp* . . . the plaintiff eventually complied with the Rules of Civil Procedure and formally served the defendant with process. Indeed, **without this eventual service jurisdiction could never attach**, and

[7] At this point, Appellant failed to have the Writ reissued on or before October 27, 2024, as required by the Rules of Civil Procedure. *See* Pa.R.Civ.P. 401(b)(4) (providing that a reissued, reinstated, or substituted writ or complaint shall be served within 30 days after its issuance).

> any particular case would never be litigated through the courts. The question in these cases is whether a plaintiff's claim will be dismissed because the plaintiff's initial attempts at service do not technically comply with the rules. **We do not address the situation where a plaintiff never complies with the Rules of Civil Procedure relating to service.**

McCreesh, 888 A.2d at 666 n.1 (citation omitted) (emphasis added).

Clearly, the *McCreesh* court exempted the situation at hand from its holding when it stated that it was not addressing a situation where ". . . a plaintiff **never** complies with the Rules of Civil Procedure relating to service." *Id.* (emphasis added). The trial court correctly noted that *Gussom* upheld the *McCreesh* requirement that a plaintiff make a good-faith attempt to make service on the defendant and stated it would excuse a plaintiff's good faith but "procedurally defective service where the defendant has actual notice of the commencement of litigation and is not otherwise prejudiced." *McCreesh*, 888 A.2d at 666. Our Supreme Court stated in *Gussom* that

> [A] trial court should not punish a plaintiff by dismissing her complaint where she is able to establish that **her improper but diligent attempts at service resulted in the defendant receiving actual notice of the commencement of the action**, unless the plaintiff's failure to serve process properly evinced an intent to stall the judicial machinery or otherwise prejudiced the defendant.

Gussom, 247 A.3d at 1057 (emphasis added).

As noted, here Appellant made no effort at service let alone a good-faith effort. Appellant has not shown that she provided Appellees with any notice of the lawsuit whatsoever. Appellees only received notice of Appellant's intent to file a claim against them when they were informed of Appellant's Writ by the trial court in November of 2024, more than three months after Appellant filed her *Praecipe* for the Writ.

IV. Conclusion

For the above-stated reasons, we discern no error of law or abuse of discretion by the trial court in sustaining Appellees' POs and dismissing Appellant's action. Accordingly, we affirm.

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PATRICIA A. McCULLOUGH, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Aimee Makowski, Appellant	:	
v.	:	No. 712 C.D. 2025
Keith J. Munson, Nanticoke Fireman's Relief Association of the State of Pennsylvania, and City of Nanticoke	:	

ORDER

AND NOW, this 9th day of November, 2026, the January 8, 2025 order of the Court of Common Pleas of Luzerne County is AFFIRMED.

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PATRICIA A. McCULLOUGH, Judge