



**JEFF ANDERSON & ASSOCIATES PA**  
REACHING ACROSS TIME FOR JUSTICE

February 22, 2024

The Honorable Lewis A. Kaplan  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Jeanne Bellino v. Steven Victor Tallarico a/k/a Steven Tyler*  
Case No. 1:24-CV-00712 (LAK)

Dear Judge Kaplan:

We represent the Plaintiff in the above-referenced matter. It was brought to our attention yesterday that Defendant filed a Motion to Dismiss on February 2, 2024 (ECF Doc. No. 5) and that the Court granted the Motion on February 21, 2024 (ECF Doc. No. 7). We write to inform the Court that Plaintiff was not served with Defendant's underlying Motion, despite defense counsel's certification that the Motion was electronically served on February 2, 2024. As a result, Plaintiff was not aware of the Motion and did not timely file an opposition.

Upon learning of yesterday's decision, our office contacted the Court's Clerk's office and subsequently the ECF Help Desk. Both reviewed the filing receipts for the Motion and Order and confirmed that the Defendant's Motion was not served. Our understanding is that this was a result of a technical error when the Notice of Appearance was filed, which we are working on rectifying. We immediately brought this to the attention of Counsel for Defendant and advised them of our intention to contact the Court to request curative action. Defendant has refused to consent to our request despite knowledge that its Motion was not served on Plaintiff.

Pursuant to your Chambers' direction, by this letter we wish to make the Court aware that Defendant did not properly serve its Motion and as a result, Plaintiff did not have the opportunity to oppose it. Pursuant to the Southern District of New York's Case Filing Rules and Instructions, attorneys "who are not Filing or Receiving Users must be served with a paper copy of any electronically filed pleading or other document" and "service must be documented by electronically filing proof of service." Southern District of New York's Case Filing Rules and Instructions, Rule 9.2, [https://nysd.uscourts.gov/sites/default/files/pdf/ecf\\_rules/ECF%20Rules%20020119%20Final%20v3%20new%20links.pdf](https://nysd.uscourts.gov/sites/default/files/pdf/ecf_rules/ECF%20Rules%20020119%20Final%20v3%20new%20links.pdf). Despite claiming to do so via ECF, Defendant

**VIA ECF**

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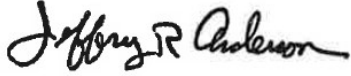
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did not serve its Motion on Plaintiff. As such, we request that the underlying Motion and subsequent Order be stricken.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jeffrey R. Anderson". The signature is written in a cursive style with a large, stylized initial "J".

Jeffrey R. Anderson

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cc: counsel of record via ECF