

**Manhattan Occupational Physical & Speech
Therapies, PLLC v Steinmann**

2025 NY Slip Op 33474(U)

September 12, 2025

Supreme Court, New York County

Docket Number: Index No. 650645/2024

Judge: Nicholas W. Moyne

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. NICHOLAS W. MOYNE PART 41M

Justice

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INDEX NO. 650645/2024

MANHATTAN OCCUPATIONAL PHYSICAL AND SPEECH
THERAPIES, PLLC D/B/A HH4K THERAPY,

MOTION DATE 04/23/2024

Plaintiff,

MOTION SEQ. NO. 001

- v -

ALYSIA STEINMANN, FRED STEINMANN,

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10, 11, 12

were read on this motion to/for DISMISSAL.

Upon the foregoing documents, it is

Plaintiff, Manhattan Occupational Physical and Speech Therapies, PLLC d/b/a HH4K Therapy (“HH4K”), commenced this action against defendants, Alysia Steinmann and Fred Steinmann, to recover amounts allegedly owed for therapy services provided by plaintiff to the defendants’ minor children. In its’ complaint, HH4K has alleged the following causes of action: (1) breach of contract; (2) unjust enrichment; (3) quantum meruit; and (4) account stated.

In Motion Sequence 001, the *pro se* defendants move pursuant to CPLR § 3211(a)(8), to dismiss the complaint on grounds that service of process was insufficient as the method used did not comply with the requirements of CPLR § 308. For the reasons set forth below, the motion is denied.

Discussion:

The defendants move to dismiss the complaint alleging that the plaintiff failed to effectuate proper service under CPLR § 308. CPLR § 3211(a)(8) provides that a party may move

to dismiss one or more causes of action asserted against them on the grounds that the court lacks “jurisdiction of the person of the defendant.” “Service of process is carefully prescribed by the Legislature, which affords litigants ample methods for serving natural persons. Regularity of process, certainty and reliability for all litigants and for the courts are highly desirable objectives to avoid generating collateral disputes” (*Dorfman v Leidner*, 76 NY2d 956, 958 [1990]). As the defendants in this action are natural persons, service must be completed in accordance with one of the statutorily prescribed methods provided under CPLR § 308. As set forth under CPLR § 308(2), personal service may be made by “deliver and mail”: delivering the summons to a person of suitable age and discretion at the actual dwelling or place of abode and by mailing the summons to the person to be served at his or her last known residence. “Personal jurisdiction is not acquired pursuant to CPLR 308(2) unless both the delivery and mailing requirements have been complied with” (*Williams v MTA Bus Co.*, 224 AD3d 467, 468 [1st Dept 2024]).

In their motion, defendants assert that service was improper as HH4K did not serve the defendants in person, but instead left the documents with a third party, specifically a doorman, at the home of the defendants. Defendants seem to contend this is improper considering that someone responsible was at home. Defendants also assert that the plaintiff relied on inconspicuous delivery methods, including that HH4K did not properly address or mark the envelope, noting the failure to include any markings such “Time Sensitive”, “Urgent”, “Important Legal Documents”, or “Open Immediately”, and were presented similarly to other unsolicited or junk mail. They assert that due to this failure to properly serve, the court lacks personal jurisdiction over defendants and thus, dismissal of the complaint is warranted.

However, contrary to these assertions, service of process for the defendants was proper under CPLR § 308(2), as plaintiff has provided proof that the pleadings were left with a person

of suitable age and discretion at the residence, and copies were then mailed to the same address (*Thompson v Nelson*, 237 AD3d 575, 576 [1st Dept 2025]). More specifically, the affidavits of service filed by HH4K demonstrate that on March 18, 2024, the process server served the defendants with the summons and complaint for the action by delivering and leaving the papers with an individual identified as “Lameek (Doorman/Concierge)”, and noted that “Defendant resides in a secure building and visitors are not permitted inside without express invitation from Tenant-Defendant. All packages and communications for the tenants, all deliveries including those requiring signature are received and signed for by concierge downstairs and sorted for each Tenant” (NYSCEF Doc. No. 2; 3). The affidavits of service also indicate that on March 20, 2024, the same were mailed to the defendants at the same address (*Id.*). These affidavits of service constitute prima facie proof of proper service on the individual defendants (*Franpo Realty, LLC v Power Furniture Inc.*, 213 AD3d 604 [1st Dept 2023]).

Additionally, a doorman is considered a “person of suitable age and discretion” (2110-2118 ACBP *v Holland-Harden*, 118 AD3d 461 [1st Dept 2014]) and service by delivering the pleadings to the doorman of an apartment building is proper under CPLR § 308(2), especially in those instances where the process server is unable to reach the residence or is not permitted access to the building (*see Bank of Am., N.A. v Grufferman*, 117 AD3d 508, 508 [1st Dept 2014]; *Bezoza v Bezoza*, 83 AD3d 578, 579 [1st Dept 2011]; *Al Fayed v Barak*, 39 AD3d 371, 372 [1st Dept 2007]; *Charnin v Cogan*, 250 AD2d 513, 517 [1st Dept 1998]). Defendants have not disputed that the subject address is their residence or that the doorman was a person of suitable age and discretion (*HSBC Bank USA, N.A. v Proctor*, 232 AD3d 439, 440 [1st Dept 2024]).

Further, regarding the contention that there were insufficient markings on the envelope, the defendants have provided the envelope as an exhibit showing that it included the marking

“personal and confidential”, which is all that is required for residential mailings under CPLR § 308(2) (NYSCEF Doc. No. 6; *Olsen v Haddad*, 187 AD2d 375, 376 [1st Dept 1992]; *Zabari v Zabari*, 154 AD3d 613, 614 [1st Dept 2017]).

Finally, the motion was filed and/or signed by both *pro se* defendants. In her Affidavit in Support of the motion, Alysia Steinmann asserts that she “signed Fred Steinmann’s motion papers because [she’s] joining and adopting his motion” and indicating that the motion is a joint motion (NYSCEF Doc. No. 5). Additionally, in the papers accompanying the notice of motion, defendants have included a document labeled “Written Answer Consumer Credit Transaction” (NYSCEF Doc. No. 4 at 2).

While Alysia Steinmann may join in the motion and/or adopt the arguments made by Fred Steinmann therein, as set forth in Judiciary Law § 478, it is unlawful for a person to practice or appear as an attorney-at-law for a person other than himself or herself in a court of record or to render legal services, unless that person is licensed and admitted to practice law in the courts of record of this state. A person who is not licensed to practice law in the State of New York may not appear *pro se* on behalf of a litigant, nor may a party proceeding *pro se* represent other parties in the same action (*Abraham v Am. Gardens Co.*, 189 AD3d 741, 745 [2d Dept 2020]). This prohibition applies notwithstanding that the parties may be married, marriage does not permit a non-attorney to appear *pro se* on behalf of the spouse (*Discover Bank v Gilliam*, 199 AD3d 645 [2d Dept 2021]). Therefore, the court notes that as Fred Steinmann is not a licensed attorney admitted to practice law in New York, he may not appear on behalf of or otherwise represent Alysia Steinmann *pro se* in this action (*Gershon v Cunningham*, 135 AD3d 816, 817 [2d Dept 2016]).


Accordingly, it is hereby

ORDERED that Motion Sequence 001, the joint motion by defendants to dismiss the complaint, is DENIED; and it is further

ORDERED that the answer, included in the moving papers and labeled "Written Answer Consumer Credit Transaction" may be deemed the defendants' verified answer in this action and shall be considered served upon the plaintiff upon entry of this decision and order; and it is further

ORDERED that counsel for plaintiff and both the individual *pro se* defendants are directed to appear in Room 327, 80 Centre Street, for the preliminary conference scheduled in this matter for November 20, 2025, at 2:15 PM.

This constitutes the decision and order of the court.

<u>9/12/2025</u> DATE			 _____ NICHOLAS W. MOYNE, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> OTHER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT
			<input type="checkbox"/> REFERENCE