

Gonzalez v Dodig

2026 NY Slip Op 30140(U)

January 9, 2026

Supreme Court, New York County

Docket Number: Index No. 150828/2024

Judge: Christopher Chin

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

PRESENT: HON. CHRISTOPHER CHIN PART 22

Justice

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INDEX NO. 150828/2024

LUIS F. SCATAREGGI GONZALEZ,

MOTION DATE 05/08/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

ZRINO DODIG, FULGER TRANSPORT, INC. AND
ROBIN STUART THOMAS,

Defendants.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26

were read on this motion to/for DISMISS.

Upon the foregoing documents, submitted after oral argument, it is

ORDERED that this pre-answer motion by defendant Robin Stuart Thomas pursuant to CPLR § 3211(a)(8) to dismiss plaintiff’s complaint for lack of personal jurisdiction and cross-motion by plaintiff pursuant to CPLR § 306-b for an extension of time to allow service on defendants Zrino Dodig, Fulger Transport, Inc. (“Fulger Transport”), and Robin Stuart Thomas with the summons and verified complaint, are decided as provided below.

This is an action to recover damages for personal injuries allegedly sustained by plaintiff Luis F. Scattareggi Gonzalez, in a motor vehicle accident that occurred on January 29, 2021. The accident happened on the westbound Brooklyn/Queens expressway, in Brooklyn New York.

Plaintiff alleges that he was driving a motor vehicle and was struck in the rear, in a collision involving four (4) motor vehicles.

The action was timely commenced by the filing of the summons and verified complaint on January 29, 2024. Plaintiff failed, however, to serve defendants with the summons and verified complaint within 120 days from the date of filing the summons and verified complaint as required (*see* CPLR § 306-b).

Defendant Robin Stuart Thomas now moves to dismiss plaintiff's complaint for lack of personal jurisdiction due to plaintiff's failure to serve the pleadings. In response, plaintiff cross-moved pursuant to § 306-b, for an extension of time to serve defendants, in the interest of justice, due to alleged law office failure in failing to send the complaint to a process server for service of process.

Under CPLR § 306-b, “[i]f service [of a summons and complaint] is not made upon a defendant within [120 days after the commencement of an action], the court, upon motion, shall...upon good cause shown or in the interest of justice, extend the time for service.”

The Court of Appeals has held that “good cause shown” and “interest of justice” are two (2) distinct and separate standards and that under the “interest of justice” standard, a showing of reasonable diligence or “good cause” is not a “gatekeeper” but is simply one (1) of many relevant factors to be considered by the court (*Leader v. Maroney*, 97 NY2d 95, 104 [2001]). “[T]he interest of justice standard [is] a broader and more flexible provision which could

encompass a mistake or oversight as long as there was no prejudice to the defendant” (*id.* at 102). In making a determination in the interest of justice, “the court may consider diligence, or lack thereof, along with any other relevant factor...including the expiration of the Statue of Limitations, the meritorious nature of the cause of action, the length of delay in service, the promptness of a plaintiff’s request for the extension of time, and prejudice to the defendant” (*id.* at 105-06; *see also Galindo v. Doherty*, 234 AD3d 571 [1st Dept 2025]).

Here, in its discretion and in the in interest of justice, the court grants plaintiff’s cross-motion to extend plaintiff’s time to serve defendants. Significantly, there has been no showing of prejudice to defendants who, it is undisputed, were timely advised of plaintiff’s claim via claim letters to defendants and/or their insurance companies dated February 17, 2021 and February 24, 2021, within one (1) month of the accident (NYSDEF Doc. Nos12-14; *see Sutter v. Reyes*, 60 AD3d 448, 449 [1st Dept 2009] [court granted an extension of time to serve the defendant in the interest of justice, despite little diligence in serving the defendant and the request for an extension was not prompt, since the defendant failed to demonstrate it would be prejudiced by an extension]; *de Vries v. Metropolitan Transit Auth.*, 11 AD3d 312 [1st Dept 2004] [extension granted in the interest of justice where pleadings were timely filed and there was no prejudice to the defendant]; *Kaufman v Bauer*, 36 AD3d 481, 484 [1st Dept 2007] [the mere passage of time is insufficient to create prejudice]). Moreover, the expiration of the statute of limitations here, also weighs in favor of extending plaintiff’s time to serve; without an extension, plaintiff will be precluded from commencing a further action for his sustained injuries (*see Spath v. Zack*, 36 AD3d 410 [1st Dept 2007] [extension of time warranted where, *inter alia*, statute of limitations

had expired]). Additionally, plaintiff has supplied an affidavit showing there is merit to the action.

Accordingly, it is

ORDERED that this motion by defendant Robin Stuart Thomas pursuant to CPLR 3211 to dismiss plaintiff's complaint for lack of personal jurisdiction is denied; it is further

ORDERED that the cross-motion by plaintiff pursuant to CPLR 306-b to allow an extension of time to serve defendants Zrino Dodig, Fulger Transport, Inc., and Robin Stuart Thomas with the summons and verified complaint is granted; and it is further

ORDERED that plaintiff shall served defendants with the pleadings, within 60 days of entry of this order.

1/9/2026
DATE



CHRISTOPHER CHIN, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE