

STATE OF MAINE  
CUMBERLAND, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. RE 19-222

FEDERAL NATIONAL MORTGAGE ASSOC

v.

ORDER

JOHN BELLINO, *et. al.*

REC'D CUMB CLERKS OFC  
APR 21 '20 PWS:44

Before the court is Plaintiff's Motion to Retain Matter on the Docket. The Complaint was docketed on November 12, 2019. After more than 90 days had passed without filing of a return of service, the Court ordered on March 2, 2020 that the case will be dismissed without prejudice without further notice without a motion to retain on the docket. On March 12, 2020, Plaintiff filed a motion to retain on the docket and allow additional time to complete service.

Plaintiff has 90 days to file a return of service. M.R.Civ.P. 3. The Plaintiff's motion comes after the expiration of the deadline. Therefore, in order to extend the deadline, the plaintiff must show "excusable neglect." *Dyer, Goodall & Federle, LLC v. Proctor*, 2007 ME 145, ¶ 17. Excusable neglect requires a showing of "extraordinary circumstances that work an injustice." *Id.* ¶ 18. A mistake by a law firm does not constitute excusable neglect. *Gregory v. City of Calais*, 2001 ME 82, ¶ 8; *Oppenheim v. Hutchinson*, 2007 ME 73, ¶¶ 2-3.

Here, there is no claim of illness or a death in the family as in *Gregory* or *Solomon's Rock Trust v. Davis*, 675 A.2d 506, 509 (Me. 1996). Instead, the deadline to file a return of service was lost in the transition of staff. Although there is no prejudice to the Defendant, there is also not a showing of "extraordinary circumstances that work an injustice."

Therefore, the court orders as follows:

1. Plaintiff's Motion to Retain Matter on the Docket and Enlarge Time to File Return of Service is DENIED.
2. Pursuant to the Court's Order dated March 2, 2020, Plaintiff's Complaint is dismissed *without* prejudice.

This Order is incorporated on the docket by reference pursuant to M.R.Civ.P. 79(a).

DATE: April 17, 2020

  
JUSTICE SUPERIOR COURT