

DOCKET NO: FBT-CV23-5053501-S

JOY CEHOVSKY

V.

DAVID FOGARTY

SUPERIOR COURT  
OFFICE OF THE CLERK  
SUPERIOR COURT J.D. OF BRIDGEPORT

2024 MAY 16 P 3:03 AT BRIDGEPORT

JUDICIAL DISTRICT MAY 16, 2024  
OF BRIDGEPORT

**CORRECTED MEMORANDUM OF DECISION**

**DEFENDANT'S MOTION TO DISMISS**

The defendant brings this motion to dismiss based on lack of personal jurisdiction claiming the abode service was not at his usual address. Return of service indicates the marshal left the summons and complaint at 774 Reef Road, Fairfield, CT. The defendant filed an affidavit stating that was not his usual place of abode at the time of service and that he has never resided there. The defendant owns the property and rents it out to tenants.

The plaintiff counters that the Fairfield Town Clerk records show the property located at 774 Reef Road, Fairfield, CT is owned by the defendant and is listed as owner occupied.

“For the purposes of effective abode service, an address on file with a government agency, in and of itself, could not establish a party’s usual place of abode.” *Jimenez v. DeRosa*, 109 Conn. App. 332, 338 (2008); *Hibner v. Bruening*, 78 Conn. App. 456 (2003). “Abode service is not effective if it is left at an address that is not the usual address of the party to be served, and an action commenced by such improper service must be dismissed.” *Jimenez* at 463. *Collins v. Schulz*, 344 Conn. Supp. 501, 506 (1976).

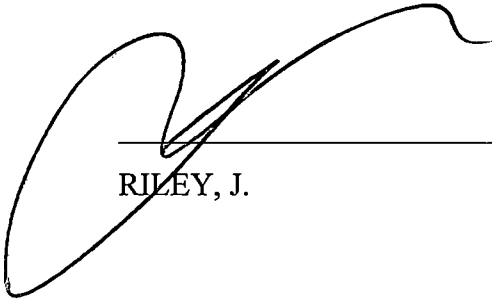
Here, the defendant has filed an affidavit stating that he has never resided at 774 Reef Road. The plaintiff did not provide affidavits or exhibits to support her position. As a pro se litigant, however, she was allowed latitude in sharing out of court statements from the Fairfield

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Town Clerk and holding up on screen documents from the Town Clerk, at the remote oral argument. In any event, “the usual place of abode” presumptively is the defendant’s home at the time when service is made. *Jimenez* at 339.

In light of the defendant’s affidavit, the motion to dismiss is granted.



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RILEY, J.