

ANSWER TO QUESTIONS PRESENTED:

1. DEFENDANT IS ENTITLED TO JUDGMENT ON THE PLEADINGS ON COUNT 1 OF PLAINTIFF'S AMENDED COMPLAINT.
2. DEFENDANT IS NOT ENTITLED TO JUDGMENT ON THE PLEADINGS ON COUNT 2 OF PLAINTIFF'S AMENDED COMPLAINT.

DISCUSSION:

1. DEFENDANT IS ENTITLED TO JUDGMENT ON THE PLEADINGS ON COUNT 1 OF PLAINTIFF'S AMENDED COMPLAINT.

Plaintiff's original Complaint seeking relief for unlawful termination named only Timothy and Miranda Redka (for whom she never worked), did not name Little Learner's Institute LLC (for whom she actually worked), and was never properly served (merely mailed). Thus, the Court cannot find that Plaintiff's original Complaint named the proper party, nor that Plaintiff made a good faith effort to serve the original Complaint.

The settled law of this Commonwealth is that the filing of original process is not sufficient to toll the applicable statute of limitation, unless the plaintiff makes a good faith effort to serve the process consistent with the Pennsylvania Rules of Civil Procedure.

Generally, a plaintiff's actions must amount to good faith in order to toll the statute of limitations on an action when proper service has not been effectuated. *Lamp, supra*. To qualify this general proposition, our court has also held:

[I]t is not necessary [that] the plaintiff's conduct be such that it constitutes some bad faith act or overt attempt to delay before the rule of *Lamp* will apply. [citation omitted] Simple neglect and mistake to fulfill the responsibility to see that requirements for service are carried out may be sufficient to bring the rule in *Lamp* to bear. [citation omitted] Thus, conduct that is unintentional that works to delay the defendant's notice of the action may constitute a lack of good faith on the part of the plaintiff.

Shackelford v. Chester Count Hospital, 456 Pa.Super. 356, 363-364, 690 A.2d 732, 736 (Pa.Super. 1997), citing *Rosenberg v. Nicholson*, 408 Pa.Super. 502, 509-10, 597 A.2d 145, 148 (1991) (emphasis added).

The Amended Complaint alleges that Plaintiff was terminated on January 9, 2025, as a result of her report of an incident which occurred on January 8, 2025. Thus, Plaintiff has actual notice of her claim on the date of her termination, January 9, 2025.

43 P.S. Section 1424(a) provides as follows:

A person who alleges a violation of this act may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief or damages, or both, within 180 days after the occurrence of the alleged violation.

Because Plaintiff did not name her former employer in her original Complaint, and because the Plaintiff did not make a good faith effort to serve her original Complaint, the Court must consider the date of filing of her claim to be the date of filing of her Amended Complaint, on February 2, 2026. That date is more than one year after January 9, 2025, and far beyond the 180-day limitation set forth in 43 P.S. Section 1424(a). For that reason, Defendant's Motion for Judgment on the Pleadings on Count 1 of the Amended Complaint will be granted.

2. DEFENDANT IS NOT ENTITLED TO JUDGMENT ON THE PLEADINGS ON COUNT 2 OF PLAINTIFF'S AMENDED COMPLAINT.

At the hearing conducted on June 3, 2026, Plaintiff advised the Court that Count 2 of her Amended Complaint was intended to assert a claim of unlawful termination for violation of public policy, pursuant to Pennsylvania common law. That claim is not untimely, Defendant's Motion for Judgment on the Pleadings on Count 2 of the Amended Complaint will be denied.

ORDER

AND NOW, this 3rd day of June, 2026, for the reasons more fully set forth above, Defendant's Motion for Judgment on the Pleadings is granted as to Count 1 of the Amended Complaint, and denied as to Count 2 of the Amended Complaint.

BY THE COURT,

WILLIAM P. CARLUCCI, JUDGE

cc: Court Administrator
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