

ATTORNEY FOR APPELLANT
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In the
Indiana Supreme Court

No. 49S05-1311-CT-759



GERSH ZAVODNIK,

Appellant (Plaintiff below),

v.

MICHELA RINALDI, et al.,

Appellees (Defendants below).

Appeal From the Marion Superior Court
The Honorable Patrick L. McCarty, Judge
Cause No. 49D03-1006-CT-27798

On Petition to Transfer from the Indiana Court of Appeals, No. 49A05-1211-CT-595

November 18, 2013

Per Curiam.

Gersh Zavodnik filed a complaint against Michela Rinaldi and entities that are either related or aliases (together "Rinaldi"). The issue in this appeal is whether Zavodnik has shown he has made successful service of his complaint on Rinaldi, who is a resident of Italy.

On August 29, 2012, the trial court held a hearing and issued an order stating:

2. There are various documents in the file which the Plaintiff purports to be proof of service but they are apparently in Italian, without translation.

3. At the hearing the Plaintiff failed to show to the Court's satisfaction that service has been perfected on the Defendants.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this matter is dismissed per Trial Rule 41(E).

On appeal, the Court of Appeals agreed with Zavodnik that the forms were in both Italian and English, contrary to the trial court's finding. The Court of Appeals nevertheless affirmed, citing Zavodnik's failure to support his argument that he had served Rinaldi with sufficient citations to or quotations from relevant law. Zavodnik seeks transfer.

Under the unique circumstances presented, the Court concludes that the trial court's order of dismissal should be reversed. We grant transfer of jurisdiction, reverse the order of dismissal, and remand to the trial court for further proceedings, without prejudice to dismissal under Trial Rule 41(E) if warranted after further consideration.

All Justices concur.