

# Third District Court of Appeal

State of Florida, January Term, A.D. 2010

Opinion filed April 7, 2010.

Not final until disposition of timely filed motion for rehearing.

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No. 3D09-2646

Lower Tribunal No. 09-1106

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**David Seltzer and Ila Seltzer,**  
Appellants,

vs.

**Key West Bank, FSB,**  
Appellee.

An Appeal from a non-final order from the Circuit Court for Monroe County, David J. Audlin, Jr., Judge.

Coleman & Associates, P.A., Roderick F. Coleman and Cory S. Carano (Boca Raton), for appellants.

Moskowitz, Mandel, Salim & Simowitz, Arthur E. Lewis and Todd A. Armbruster (Fort Lauderdale), for appellee.

Before RAMIREZ, C.J., and SUAREZ and ROTHENBERG, JJ.

PER CURIAM.

We recently reiterated that “[a] return of service that is ‘regular on its face is presumed to be valid absent clear and convincing evidence presented

to the contrary.” Telf Corp. v. Gomez, 671 So. 2d 818, 818 (Fla. 3d DCA 1996). Additionally, “a defendant may not impeach the validity of the summons with a simple denial of service.” Id. at 819. See also SunTrust Bank v. Elec. Wireless Corp., 23 So. 3d 774, 776 (Fla. 3d DCA 2009).

Here, the return of service states that it was effected on Jerry Newton, a tenant/occupant residing with David Seltzer. Seltzer filed an affidavit signed by Jerry Newton, who does not deny that he was a tenant/occupant residing with David Seltzer, but states that his address is 25 Blue Bonnet Lane, Burnsville, North Carolina. A person can reside at one place and have a different mailing address.

We thus conclude that Seltzer failed to present clear and convincing evidence to invalidate the return of service which was regular on its face.

Affirmed.