

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Yudelka Martinez v. Dubai Lounge & Restaurant LLC, et al.

25 Civ. 8692 (JPC) (S.D.N.Y. Dec. 5 2025) (S.D. N.Y. 2025) · No. 25 Civ. 8692 (JPC) · Decided December 5, 2025

SUMMARY

The United States District Court for the Southern District of New York ordered Plaintiff Yudelka Martinez to re-serve Defendant Dubai Lounge & Restaurant LLC with the Summons, Complaint, and the Order. The court found that the process server’s affidavit did not identify which documents were delivered and required proof of proper personal service on an authorized company representative by December 23, 2025.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	John P. Cronan
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	December 5, 2025
DOCKET	25 Civ. 8692 (JPC)
DISPOSITION	other
PROCEDURAL POSTURE	After Plaintiff filed a complaint and an affidavit purporting to show service on Defendant Dubai Lounge & Restaurant LLC, the court reviewed the affidavit sua sponte and ordered Plaintiff to effect service again because the affidavit did not identify the summons and complaint delivered.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- service of process

QUESTIONS PRESENTED

1. Whether the process server's affidavit established that Defendant Dubai Lounge & Restaurant LLC had been properly served when the affidavit did not specify which summons and complaint were delivered.
2. What remedial steps were required to eliminate doubts concerning the propriety of service.

HOLDINGS

1. The affidavit of service was insufficient to establish proper service because it did not specify which summons and complaint were delivered to the registered agent of the Secretary of State.
2. Plaintiff was required to serve the summons, complaint, and order by personally delivering them to a person authorized to accept service on behalf of Dubai Lounge & Restaurant LLC and to file proof describing the recipient and the basis for believing the recipient was qualified to accept service.

KEY QUOTATIONS

“In federal litigation, “all doubts must be resolved in favor of . . . ensur[ing] that to the extent possible, disputes are resolved on their merits.””

“To alleviate any doubts about the propriety of service, Plaintiff must serve copies of the Summons, Complaint, and this Order on Defendant Dubai Lounge & Restaurant LLC by personally delivering them to a person authorized to accept service on behalf of the company.”

FACTUAL BACKGROUND

Yudelka Martinez filed a putative collective or class action against Dubai Lounge & Restaurant LLC and other defendants. A process server's affidavit stated that the company was served through an authorized agent of the New York Secretary of State, but the affidavit did not contain the summons or complaint that it purported to annex and did not identify which documents were delivered. Because the record did not establish that proper service had occurred, the court required renewed service.

PROCEDURAL HISTORY

Plaintiff filed the complaint on October 21, 2025. On October 24, 2025, Plaintiff filed a process server's affidavit stating that service was made on an authorized agent of the New York Secretary of State, but the affidavit did not include the purportedly annexed summons and complaint or specify which documents were delivered. The court ordered Plaintiff to personally deliver the summons, complaint, and order to a person authorized to accept service and file proof of service by December 23, 2025.

DISPOSITION

other

REMAND INSTRUCTIONS

None. Plaintiff was ordered to personally deliver copies of the summons, complaint, and order to a person authorized to accept service for Dubai Lounge & Restaurant LLC and file compliant proof of service no later than December 23, 2025.

CASES CITED

- Old Republic Ins. Co. v. Pac. Fin. Servs. of Am., Inc., 301 F.3d 54, 57 (2d Cir. 2002)
- New York v. Green, 420 F.3d 99, 104 (2d Cir. 2005)
- Fashion Page, Ltd. v. Zurich Ins. Co., 406 N.E.2d 747, 751 (N.Y. 1980)

OPINION

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----- X YUDELKA MARTINEZ, individually and on
behalf of: others similarly situated,: Plaintiff,,: 25 Civ. 8692 (JPC) -v-: ORDER DUBAI
LOUNGE & RESTAURANT LLC, et al.,: Defendants.: -----
----- X JOHN P. CRONAN, United States District Judge: Plaintiff Yudelka Martinez
initiated this case by filing a Complaint on October 21, 2025.

Dkt. 1 (“Complaint”). On October 24, 2025, Plaintiff filed an affidavit from a process server who purports to have served Defendant Dubai Lounge & Restaurant LLC by delivering an “annexed Summons... and Complaint” to an authorized agent of the New York Secretary of State. Dkt. 10; see N.Y. Ltd. Liab. Co. Law § 303(a) (allowing for service upon a limited liability company by “[p]ersonally delivering to and leaving with... any person authorized by the secretary of state to receive such service... copies of such process together with the statutory fee”).

There was, however, no Summons or Complaint annexed to the process server’s affidavit. Although “a process server’s affidavit of service establishes a prima facie case of the account of the method of service,” Old Republic Ins. Co. v. Pac. Fin. Servs. of Am., Inc., 301 F.3d 54, 57 (2d Cir. 2002), that affidavit of service leaves unclear whether the method of service upon Defendants was proper.

In particular, the affidavit of service on Dubai Lounge & Restaurant LLC does not specify which Summons and Complaint were delivered to the registered agent of the Secretary of State. In federal litigation, “all doubts must be resolved in favor of... ensur[ing] that to the extent possible, disputes are resolved on their merits.” New York v. Green, 420 F.3d 99, 104 (2d Cir.

2005). To alleviate any doubts about the propriety of service, Plaintiff must serve copies of the Summons, Complaint, and this Order on Defendant Dubai Lounge & Restaurant LLC by personally delivering them to a person authorized to accept service on behalf of the company. See N.Y. C.P.L.R. § 311-a(a). Plaintiff’s affidavit of service should describe the individual who accepts delivery, including facts showing why it is reasonable for the server to believe that that individual is qualified to accept service on behalf of Defendant.

See, e.g., Fashion Page, Ltd. v. Zurich Ins. Co., 406 N.E.2d 747, 751 (N.Y. 1980) (“Delivering the summons to a building receptionist, not employed by the defendant, without any inquiry as to

whether she is a company employee, would not be sufficient.”). Proof of service in accordance with this Order should be filed on the docket no later than December 23, 2025.

SO ORDERED. Dated: December 5, 2025 Vibe Lee ® 7B New York, New York JOHN P. CRONAN United States District Judge

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