

The Appellate Advocate:

A Recap of Recent Decisions by NJ's Appellate Courts



Pinnacle Federal Credit Union v. Chandler No. A-0793-23

When you're a plaintiff and the defendant is not participating in the case, the road is never as smooth as you want it to be. You still must prove your claims, even if the defendant has been defaulted for failing to timely answer the complaint. You also must prove that the defendant should have been defaulted in the first place, typically by pointing to an affidavit of service—authored by a process server who you will never meet—that says the defendant was served with the complaint. Because proof of service often hinges on fine print or form language in the affidavit, issues and discrepancies can arise. Which is exactly what happened in this case.

This case, Pinnacle Federal Credit Union v. Aaron Chandler, traces back to a modest home equity loan taken out in 2005. Aaron Chandler and his wife borrowed over \$30,000, secured by a mortgage on their Carteret, New Jersey home. By 2014, payments had stopped. Pinnacle filed suit and, with no answer from Chandler, obtained a default judgment for roughly \$32,800 in 2015. For eight years, that judgment sat quietly on the books, unnoticed by Chandler—at least according to him.

In 2023, now living in Colorado, Chandler received an information subpoena and says it was his first awareness of the judgment. He moved to vacate it, claiming he had never been served. What followed was a muddle of paperwork, including two conflicting versions of the same affidavit of service: one indicating he was served, another saying service was unsuccessful. Chandler accused the plaintiff's counsel of altering the affidavit. Meanwhile, the sheriff's department, whose officer had retired and whose records had since been destroyed, couldn't confirm what had actually happened in 2014.

The trial court denied Chandler's motion without holding a hearing, accepting the plaintiff's version of events and concluding that Chandler had not shown excusable neglect.

The Appellate Division took a different view, emphasizing that the factual dispute over service was central and unresolved. Without clear evidence that Chandler had been properly served, the trial court lacked personal jurisdiction over him. And without jurisdiction, the judgment itself may be void.

The appellate court underscored New Jersey's long-standing principle that courts should show leniency in vacating default judgments, especially when due process may be at stake. It noted that service of process is the legal system's gateway to fairness—parties must know a case is being brought against them to have any hope of defending themselves. The existence of two contradictory affidavits, the absence of definitive sheriff's records, and the lack of meaningful scrutiny by the trial court meant the case had not been handled with the rigor due process requires. The court vacated the denial and remanded the matter for a plenary hearing to determine whether Chandler had ever actually been served with the summons and complaint.

I often tell people that default proceedings are like a basketball “shootaround.” Sure, there is no defense and you can be a little more relaxed as a result. But you still have to get the ball in the hoop. This requires attention to all the necessities of personal jurisdiction and proof of service, to ensure that all the work is worthwhile and will withstand motions to vacate coming years later from defendants in Colorado (or wherever else your adversary may be residing after leaving the Garden State).

About Thomas Cotton

Thomas Cotton is a litigation partner at Schenck Price, representing clients in trial and appellate courts throughout the United States. In addition to his practice, he authors *The Appellate Advocate*, a semi-weekly blog offering thoughtful yet accessible commentary on recent appellate rulings.



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