

No. 1-12-1713

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

BAC HOME LOANS SERVICING, LP, f/k/a)	Appeal from the
COUNTRYWIDE HOME LOANS SERVICING, LP,)	Circuit Court of
)	Cook County.
Plaintiff-Appellee,)	
)	
v.)	
)	
KIM E. MITCHELL,)	No. 2009 CH 43660
)	
Defendant-Appellant,)	
)	
(AMERIFIRST HOME IMPROVEMENT FINANCE)	
FINANCE CO.; UNKNOWN HEIRS and LEGATEES)	
OF KIM E. MITCHELL, IF ANY; UNKNOWN)	
OWNERS and NONRECORD CLAIMANTS,)	Honorable
)	Laura C. Liu,
Defendants.))	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held:* After defendant's residence was foreclosed on and a judicial sale held, defendant moved to quash the order approving the report of sale based on the circuit court lacking personal jurisdiction over her. We affirmed the denial of defendant's motion to quash because defendant voluntarily submitted to the court's jurisdiction and waived any objection by failing to comply with the requirements of section 2-301 of the Code of Civil Procedure

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and section 15-1505.6 of the Illinois Mortgage Foreclosure Law for challenging the court's jurisdiction over her person.

¶ 2 This appeal arises from a mortgage foreclosure action in which the circuit court entered an order of default against defendant, Kim E. Mitchell, and a judgment of foreclosure and sale, and later, an order approving report of sale and distribution. Defendant moved to vacate the order approving report of sale asserting several grounds, but withdrew the motion upon its presentation. Defendant then filed a motion to quash the order approving report of sale, which was stricken without prejudice by the circuit court. Defendant then filed another motion to quash the order approving report of sale, which the circuit court denied on May 24, 2012. Defendant appeals the May 24, 2012, order. We affirm.

¶ 3 Defendant was the owner of a residence located at 9648 South Perry Avenue in Chicago. On March 9, 2005, defendant executed a mortgage and note with Countrywide Home Loans, Inc., pursuant to which defendant agreed to pay \$75,400. On November 15, 2009, plaintiff, BAC Home Loans Servicing, LP, f/k/a Countrywide Home Loans Servicing, LP, filed a complaint to foreclose the mortgage.

¶ 4 The affidavit of the special process server stated that defendant was served on November 14, 2009, *via* substitute service on defendant through Michelle Foreman. The affidavit stated that Michelle Foreman is defendant's daughter and resides at 9648 South Perry Avenue in Chicago.

¶ 5 On April 9, 2010, plaintiff filed a motion for an order of default against defendant. The motion stated that 60 days had expired since the date of service, and that no motion or answer was filed by defendant. On June 3, 2010, plaintiff again filed a motion for order of default against defendant, as well as a motion for a judgment for foreclosure and sale and a motion for the

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appointment of a selling officer. The record indicates notice for the June 3, 2010, motions was mailed to defendant at 9648 South Perry Avenue on May 21, 2010.

¶ 6 On June 9, 2010, the circuit court entered an order of default against defendant. On that same day, the court also entered a judgment for foreclosure and sale and an order to appoint a selling officer.

¶ 7 The record indicates notice of the judicial sale was mailed to defendant at 9648 South Perry Avenue on August 20, 2010. On September 13, 2010, a judicial sale was held.

¶ 8 On August 2, 2011, plaintiff filed a motion for an order approving the selling officer's report of sale and distribution and for possession. The record indicates that on August 30, 2011, defendant was mailed notice that on September 14, 2011, plaintiff would move the court for entry of an order approving the foreclosure report of sale and distribution and order for possession. On September 14, 2011, the circuit court entered the approval order.

¶ 9 On October 12, 2011, counsel for defendant entered an appearance in this case and filed a motion to vacate the September 14, 2011, order approving the report of sale and distribution and for possession. Defendant argued, "[t]o the best of her knowledge," she was never served with summons in this case, never received notice of the motion for default, was told by plaintiff that her loan modification had been completed and approved, and never received notice of the September 14, 2011, order. Accordingly, defendant argued, it was in "the interest of justice" that the court vacate the September 14, 2011, order. No other relief was requested. The motion to vacate did not specify it was brought pursuant to any particular section of the Code of Civil Procedure.

¶ 10 On November 16, 2011, the motion to vacate was withdrawn by defendant.

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¶ 11 On November 18, 2011, defendant filed a "Motion to Quash the [September 14, 2011,] Order Approving Foreclosure Report of Sale and Distribution and Order for Possession and Deed or, in the Alternative, Petition for Relief from Judgment Pursuant to 735 ILCS 5/2-1401 and 735 [ILCS] 5/15-1508." This motion essentially repeated the allegations of the October 12, 2011, motion to vacate.

¶ 12 On December 8, 2011, the motion to quash was "stricken without prejudice."

¶ 13 On December 9, 2011, defendant refiled her "Motion to Quash the [September 14, 2011] Order Approving Foreclosure Report of Sale and Distribution and Order for Possession and Deed or, in the Alternative, Petition for Relief from Judgment Pursuant to 735 ILCS 5/2-1401 and 735 [ILCS] 5/15-1508." The motion to quash again repeated the allegations of the October 12, 2011, motion to vacate regarding her failure to receive summons in this case.

¶ 14 On April 10, 2012, plaintiff filed its response to the motion to quash. The response stated that defendant was served via substitute service on November 14, 2009; plaintiff attached the affidavit of service as an exhibit. The affidavit of service stated that substitute service was made on defendant by:

"[L]eaving a copy of this process at his/her usual place of abode with: Michelle Foreman (Relationship) Daughter, a person residing therein who is of the age of 13 years or upwards and informed that person of the contents thereof and that further mailed a copy of this process in a sealed envelope with postage paid addressed to the defendant at his/her usual place of abode on 11-17-09."

¶ 15 Defendant filed a reply in support of her motion to quash, stating that the substitute service was defective because she does not have a daughter; her only child is a son named William Mitchell.

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Defendant further stated she does not know any person named Michelle Foreman. In support, defendant attached an affidavit in which she averred that she does not have a daughter, that her only child is a son named William Mitchell, and she does not know any person by the name of Michelle Foreman.

¶ 16 On May 24, 2012, the circuit court entered an order denying defendant's motion to quash, ruling that defendant voluntarily submitted to the court's jurisdiction and waived any objection when she filed her initial motion to vacate on October 12, 2011. The order also stated that defendant's alternative section 2-1401 and 15-1508 petitions were denied "as no arguments were made to provide the court with grounds to vacate the judgment or order approving sale." Defendant appeals, contending the circuit court erred in denying her December 9, 2011, motion to quash and her section 2-1401 petition; defendant makes no specific arguments regarding the circuit court's denial of her section 15-1508 petition and accordingly that issue is waived. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 17 Initially, plaintiff argues we lack appellate jurisdiction to entertain defendant's appeal. Illinois Supreme Court Rule 303(a)(1) provides that a notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from, or, if a timely post-judgment motion directed against the judgment is filed, then within 30 days after the entry of the order disposing of the last pending post-judgment motion. Ill. S. Ct. R. 303(a)(1) (eff. June 4, 2008). "A motion not filed within 30 days after the judgment (or any extension allowed) is not 'timely' within the meaning of that word as used in Rule 303(a); and an untimely motion, or one not directed against the judgment, neither stays the judgment nor extends the time for appeal." *Sears*

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v. *Sears*, 85 Ill. 2d 253, 259 (1981).

¶ 18 Our supreme court has held:

"A second post-judgment motion (at least if filed more than 30 days after judgment) is not authorized by either the Civil Practice Act or the rules of this court and must be denied. [Citation.] There is no provision in the Civil Practice Act or the supreme court rules which permits a losing litigant to return to the trial court indefinitely, hoping for a change of heart or a more sympathetic judge. Permitting successive post-judgment motions would tend to prolong the life of a lawsuit—at a time when the efficient administration of justice demands a reduction in the number of cases pending in trial courts—and would lend itself to harassment. There must be finality, a time when the case in the trial court is really over and the loser must appeal or give up. Successive post-judgment motions interfere with that policy. And justice is not served by permitting the losing party to string out his attack on a judgment over a period of months, one argument at a time, or to make the first motion a rehearsal for the real thing the next month. In the interests of finality, and of certainty and ease of administration in determining when the time for appeal begins to run, we [hold] that successive post-judgment motions are impermissible when the second motion is filed more than 30 days after the judgment or any extension of time allowed for the filing of the post-judgment motion." *Id.*

¶ 19 Plaintiff argues that in the instant case, the judgment of foreclosure and sale became final and appealable on September 14, 2011, when the circuit court entered the order approving report of sale and distribution. Within 30 days thereof, on October 12, 2011, defendant filed a motion to vacate

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the order approving report of sale and distribution. However, defendant withdrew that motion on November 16, 2011. Two days later, on November 18, 2011, defendant filed a new motion seeking relief from the judgment. More than 30 days had elapsed between September 14, 2011, when the circuit court entered its final and appealable order, and November 18, 2011, when defendant filed her second post-judgment motion attacking the order approving the report of sale. After defendant's second post-judgment motion was stricken without prejudice by the circuit court on December 8, 2011, defendant filed a third post-judgment motion on December 9, 2011. Again, more than 30 days had elapsed between the circuit court's final order of September 14, 2011, and the filing of defendant's third post-judgment motion on December 9, 2011. It is from the denial of the third post-judgment motion on May 24, 2012, which defendant appeals.

¶ 20 Plaintiff argues that defendant's October 12, 2011, first post-judgment motion to vacate the order approving report of sale and distribution was the only post-judgment motion timely filed within 30 days of the September 14, 2011, final judgment, and that after defendant withdrew said motion on November 16, 2011, she should have filed her notice of appeal within 30 days thereof (*i.e.*, by December 16, 2011). As defendant did not file her notice of appeal until June 6, 2012, after the circuit court's disposition of her untimely third post-judgment motion, plaintiff contends we lack jurisdiction to hear defendant's appeal.

¶ 21 However, as defendant's third post-judgment motion sought relief, in the alternative, under section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2010)), we must consider whether we have jurisdiction pursuant to Illinois Supreme Court Rule 304(b)(3), which permits a notice of appeal to be filed within 30 days of a "judgment or order granting or denying any

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of the relief prayed in a petition under section 2-1401 of the Code of Civil Procedure." Ill. S. Ct. R. 304(b)(3) (eff. Feb. 26, 2010). Section 2-1401 provides a procedure by which final orders, judgments, and decrees may be vacated after 30 days from their entry. See 735 ILCS 5/2-1401 (West 2010). Generally, a section 2-1401 petition must be filed no later than two years after entry of the order of judgment and must set forth a meritorious defense or claim, due diligence in presenting that defense or claim to the circuit court and due diligence in filing the petition. *Dovalina v. Conley*, 2013 IL App (1st) 103127, ¶ 10; *Protein Partners, LLP v. Lincoln Provision, Inc.*, 407 Ill. App. 3d 709, 715 (2010). The filing of a section 2-1401 petition constitutes a new proceeding, not a continuation of the original cause of action. *Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 102 (2002); *Mills v. McDuffa*, 393 Ill. App. 3d 940, 946 (2009). A ruling on such a petition is deemed a final order, appealable pursuant to Illinois Supreme Court Rule 304(b)(3) (Ill. S. Ct. R. 304(b)(3) (eff. Feb. 26, 2010)), and is subject to the 30-day time limit and restrictions provided in Illinois Supreme Court Rule 303. Ill. S. Ct. R. 303 (eff. June 4, 2008). See *Sarkissian*, 201 Ill. 2d at 102.

¶ 22 Our supreme court has held that the general rules for filing a section 2-1401 petition do not apply to petitions challenging a judgment as void. *Id.* at 104. "Petitions brought on voidness grounds need not be brought within the two-year time limitation. Further, the allegation that the judgment or order is void substitutes for and negates the need to allege a meritorious defense and due diligence." *Id.*

¶ 23 In the present case, defendant's section 2-1401 petition effectively alleged that the circuit court's orders against her were void for lack of jurisdiction because she was never properly served

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with summons and, thus, the section 2-1401 petition need not have been brought within the two-year limitation. We further note that even if the section 2-1401 petition had not been brought on voidness grounds, defendant timely filed her section 2-1401 petition on December 9, 2011, which was within two years of entry of the September 14, 2011, final judgment. Defendant timely filed her notice of appeal on June 6, 2012, within 30 days of the circuit court's denial of her section 2-1401 petition on May 24, 2012. Accordingly, we have jurisdiction over defendant's appeal.¹

¶ 24 Plaintiff argues, though, that jurisdiction over defendant's appeal is lacking here because defendant did not give notice of the section 2-1401 petition in accordance with the applicable supreme court rules. "A party seeking relief under section 2-1401 must give notice to opposing parties according to supreme court rules. Supreme Court Rule 106 (134 Ill. 2d R. 106), directs the moving party to provide notice via the methods set forth in Supreme Court Rule 105 (134 Ill. 2d R. 105), which provides that notice must be directed to the party and must be served either by summons, prepaid registered mail, or by publication. If the notice is invalid, the trial court lacks jurisdiction and its subsequent orders are likewise invalid." *Mrugala v. Fairfield Ford, Inc.*, 325 Ill. App. 3d 484, 488 (2001).

¶ 25 Plaintiff argues that defendant simply mailed the petition to plaintiff's counsel, as opposed

¹We recognize that in *U.S. Bank National Association v. Prabhakaran*, 2013 IL App (1st) 111224, this court held that section 2-1401 petitions generally are barred by section 15-1509 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1509 (West 2008)) after judicial confirmation of the sale of the property. However, *Prabhakaran* is distinguishable, as it did not involve a section 2-1401 petition based solely on a lack of jurisdiction concerning service of process, as did defendant's petition here. See *OneWest Bank, FSB v. Topor*, 2013 IL App (1st) 120010, ¶ 12, n. 1 and *MB Financial Bank, N.A. v. Ted and Paul, LLC*, 2013 IL App (1st) 122077, ¶ 17, n. 3 (distinguishing *Prabhakaran* in the same manner).

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to serving plaintiff by summons, prepaid registered mail, or by publication. Accordingly, plaintiff contends the circuit court lacked jurisdiction to hear defendant's petition and that we, therefore, lack appellate jurisdiction to consider defendant's appeal.

¶ 26 Plaintiff's argument lacks merit, as we held in *Mrugala* that there are two exceptions to the rule that a party seeking relief under section 2-1401 must give notice to opposing parties according to supreme court rules. One of those exceptions is "when an opposing party appears and argues the merits of a section 2-1401 petition despite failure of receipt of proper notice"; in such a case, "a court will deem him to have waived the jurisdictional defect and will treat his appearance as a general appearance as to the section 2-1401 proceeding." *Id.*

¶ 27 In this case, counsel for plaintiff appeared at the May 24, 2012, hearing in opposition to defendant's section 2-1401 petition, despite not receiving proper notice under the supreme court rules. The record does not indicate plaintiff objected at that time. Accordingly, plaintiff waived the jurisdictional defect and we will consider defendant's appeal on the merits.

¶ 28 On appeal, defendant contends the substituted service of plaintiff's complaint to foreclose on her mortgage was defective and therefore the circuit court lacked jurisdiction to enter the default judgment, the judgment of foreclosure, the order of sale, and the order of possession. Section 2-203 of the Code governs the mode of substituted service and provides in pertinent part:

"Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally, or (2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that

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person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode ***. The certificate of the officer or affidavit of the person that he or she has sent the copy in pursuance of this Section is evidence that he or she has done so." 735 ILCS 5/2-203 (West Supp. 2012).

¶ 29 "Illinois case law has long acknowledged that the return of the officer or other authorized person making service of a summons on a defendant by delivering a copy to another person, that is, by substituted service, must show strict compliance with every requirement of the statute authorizing such substituted service, since the same presumption of validity that attaches to a return reciting personal service does not apply to substituted service." *State Bank of Lake Zurich v. Thill*, 113 Ill. 2d 294, 309 (1986). " '[W]here [the] return is challenged by affidavit and there are no counter-affidavits, the return itself is not even evidence, and, absent testimony by the deputy, the affidavits must be taken as true and the purported service of summons quashed.' " *Sterne v. Forrest*, 145 Ill. App. 3d 268, 274 (1986) (quoting *Harris v. American Legion John T. Shelton Post No. 838*, 12 Ill. App. 3d 235, 237 (1973)).

¶ 30 In the present case, the affidavit of the special process server shows substitute abode service on defendant via her alleged daughter, Michelle Foreman. However, defendant filed a supplemental affidavit attached to her reply in support of her second post-judgment motion to quash, in which she avers that she does not have a daughter and does not know anyone by the name of Michelle Foreman. Defendant argues that as plaintiff failed to file a counter-affidavit, defendant's supplemental affidavit "summarily destroys the return of service and the purported service of summons should have been

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quashed." Defendant argues that in the absence of valid service of summons, the circuit court lacked jurisdiction to enter any of the following: (1) a default judgment; (2) a judgment of foreclosure; (3) an order of sale; and (4) an order of possession.

¶ 31 Plaintiff does not contest that the substitute service here failed to comply with section 2-203 of the Code; rather, plaintiff argues that, notwithstanding the improper substitute service, defendant submitted to the circuit court's jurisdiction on October 12, 2011, when defendant's counsel entered an appearance and filed the first post-judgment motion to vacate the September 14, 2011, order approving the report of sale and distribution and for possession. Plaintiff contends defendant thereby waived any objections to the circuit court's personal jurisdiction over her pursuant to section 2-301 of the Code. 735 ILCS 5/2-301 (West 2010).

¶ 32 Section 2-301 of the Code governs challenges to personal jurisdiction. Section 2-301 states, in pertinent part:

"(a) Prior to the filing of any other pleading or motion other than a motion for an extension of time to answer or otherwise appear, a party may object to the court's jurisdiction over the party's person, either on the ground that the party is not amenable to process of a court of this State or on the ground of insufficiency of process or insufficiency of service of process, *by filing a motion to dismiss the entire proceeding or any cause of action involved in the proceeding or by filing a motion to quash service of process.* Such a motion may be made singly or included with others in a combined motion, but the parts of a combined motion must be identified in the manner described in section 2-619.1. Unless the facts that constitute the basis for the objection are apparent from papers already on file in the case, the

motion must be supported by an affidavit setting forth those facts."

(a-5) If the objecting party files a responsive pleading or a motion (other than a motion for an extension of time to answer or otherwise appear) prior to the filing of a motion in compliance with subsection (a), that party waives all objections to the court's jurisdiction over the party's person." (Emphasis added.) 735 ILCS 5/2-301(a), (a-5) (West 2010).

¶ 33 Similarly, section 15-1505.6 of the Illinois Mortgage Foreclosure Law states in pertinent part:

"(a) In any residential foreclosure action, the deadline for filing *a motion to dismiss the entire proceeding or to quash service of process that objects to the court's jurisdiction over the person*, unless extended by the court for good cause shown, is 60 days after the earlier of these events: (i) the date that the moving party filed an appearance; or (ii) the date that the moving party participated in a hearing without filing an appearance.

(b) In any residential foreclosure action, if the objecting party files a responsive pleading or a motion (other than a motion for an extension of time to answer or otherwise appear) prior to the filing of a motion in compliance with subsection (a), that party waives all objections to the court's jurisdiction over the party's person." (Emphasis added.) 735 ILCS 5/15-1505.6 (West Supp. 2011).

¶ 34 In the present case, defendant's first post-judgment motion, filed on October 12, 2011, did not pray that the entire proceeding or any cause of action involved in the proceeding be dismissed or that service of process be quashed. Instead, the motion was entitled, "Motion to Vacate Order Approving Foreclosure Report of Sale and Distribution and Order for Possession and Deed" and, in

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its prayer for relief, stated that defendant "respectfully requests that this Court vacate the Order Approving Foreclosure Report of Sale and Distribution and Order for Possession and Deed." The motion contained nothing whatsoever addressing the propriety of service of process on Michelle Foreman. By filing her motion to vacate *prior* to a motion to dismiss for lack of jurisdiction or to quash service of process, defendant failed to comply with the requirements of either section 2-301(a) of the Code or section 15-1505.6 of the Illinois Mortgage Foreclosure Law for challenging the court's personal jurisdiction over her.

¶ 35 We also note that defendant could have filed her motion to vacate in a combined section 2-619.1 motion with a motion to dismiss for lack of jurisdiction or to quash service of process (see 735 ILCS 5/20301(a) (West 2010)), but she failed to avail herself of this mechanism for challenging the circuit court's personal jurisdiction over her.

¶ 36 Defendant's failure to comply with the requirements of section 2-301(a) of the Code and section 15-1505.6 of the Illinois Mortgage Foreclosure Law to preserve her objection to the circuit court's jurisdiction resulted in a waiver of "all objections to the court's jurisdiction over the party's person." 735 ILCS 5/2-301(a-5) (West 2010); 735 ILCS 5/15-1505.6 (West Supp. 2011).

¶ 37 Defendant argues she need not strictly comply with section 2-301(a), and cites in support *Higgins v. Richards*, 401 Ill. App. 3d 1120 (2010). In *Higgins*, the plaintiff, Bruce Higgins, brought a negligence action against the defendant, David G. Richards, in September 2000. *Id.* at 1121. In January 2004, finding that defendant had been served with summons but failed to appear, the circuit court entered a default judgment against him. *Id.* at 1122. Defendant subsequently filed a combined motion to set aside the default judgment and to dismiss for lack of personal jurisdiction. *Id.* The

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circuit court granted defendant's motion to set aside the default judgment but denied his motion to dismiss for lack of personal jurisdiction. *Id.* Defendant filed a motion to reconsider the denial of his motion to dismiss for a lack of personal jurisdiction. *Id.* The circuit court denied the motion to reconsider, finding that the combined motion to set aside the default judgment and dismiss for a lack of personal jurisdiction failed to comply with section 2-619.1 of the Code because the motion was not filed in parts with each part specifying the statutory section under which each request for relief was being brought. *Id.* The circuit court therefore determined that the combined motion was not filed in compliance with section 2-301(a) and that, pursuant to section 2-301(a-5), defendant had waived his objections to the court's lack of personal jurisdiction. *Id.* at 1122-23.

¶ 38 The appellate court vacated the circuit court's judgment against defendant (*id.* at 1127), noting that defendant's motion to dismiss specifically stated it was being brought pursuant to section 2-301, and that his motion to set aside the default judgment specifically stated it was being brought pursuant to section 2-1301(e). *Id.* at 1126. The appellate court found that the circuit court had denied defendant's request for relief solely because his motion lacked headings; under these circumstances, the appellate court held that the denial of defendant's motion to reconsider the denial of his motion to dismiss for lack of personal jurisdiction was "unjust and unreasonable." *Id.* at 1126-27.

¶ 39 In contrast to *Higgins*, in which the defendant there brought a motion for dismissal for lack of personal jurisdiction as required by section 2-301(a) of the Code, defendant here filed a post-judgment motion on October 12, 2011, which did not pray that the case be dismissed (nor did it request that service of process be quashed) as required by section 2-301(a) in order to challenge the

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circuit court's jurisdiction. Accordingly, *Higgins* is distinguishable on its facts.

¶ 40 "In applying statutes, courts are obligated to effectuate the intent of the legislature as revealed by the language used. [Citation.] In situations where the language is clear and unambiguous, the plain language must be given effect without exception." *Holtz v. Waggoner*, 377 Ill. App. 3d 598, 600 (2007). Here, the plain and unambiguous language of section 2-301 of the Code and section 15-1505.6 of the Illinois Mortgage Foreclosure Law provides that a defendant waives objections to the court's jurisdiction over her person where, as here, she files a responsive pleading or motion (other than a motion for an extension of time to answer or otherwise appear) prior to filing a motion to dismiss the cause of action or quash service of process. See *Deutsche Bank National Trust Co. v. Hall-Pilate*, 2011 IL App (1st) 102632 (holding that defendants did not comply with section 2-301 to preserve their objections to the trial court's jurisdiction where they filed a motion other than a motion for an extension of time to answer or otherwise appear prior to filing a motion to dismiss or quash service of process).

¶ 41 Next, defendant argues, even if she did submit to the circuit court's jurisdiction by the filing of her October 12, 2011, post-judgment motion, she only submitted to jurisdiction prospectively and thus did not validate the default judgment, judgment of foreclosure, order of sale, and order of possession entered prior thereto. Defendant cites *C.T.A.S.S. & U. Federal Credit Union v. Johnson*, 383 Ill. App. 3d 909 (2008)), which held that a person who submits to the circuit court's jurisdiction does so only prospectively, and does not retroactively validate orders entered prior to that date. In so holding, the *Johnson* court relied on *In re Marriage of Verdung*, 126 Ill. 2d 542 (1989). However, we have recently noted that *Verdung* did not consider the new text of section 2-301(a) and (a-5) (735

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ILCS 5/2-301(a), (a-5) (West 2010)), which was amended in 2000 to provide, in pertinent part, that a party waives "all objections to the court's jurisdiction over the party's person" when she files a responsive pleading or a motion (other than a motion for an extension of time to answer or otherwise appear) prior to the filing of a motion to dismiss for lack of jurisdiction or to quash service of process. See *GMB Financial Group, Inc. v. Marzano*, 385 Ill. App. 3d 978, 987 (2008); *Eastern Savings Bank, FSB v. Flores*, 2012 IL App (1st) 112979, ¶ 16. In *Marzano* and *Flores*, we held the clear language of current section 2-301 provides no temporal restriction on the waiver when, as here, a defendant files a motion (other than a motion for an extension of time to answer or otherwise appear) prior to moving to dismiss or quash service of process; such a waiver "works prospectively and retroactively." *Flores*, 2012 IL App (1st) 112979, ¶ 16 (quoting *Marzano*, 385 Ill. App. 3d at 987). "When a party waives objections to jurisdiction, it does so both prospectively and retroactively, and there is no issue of retroactive validation of orders and judgments once a party has waived jurisdiction." *Flores*, 2012 IL App (1st) 112979, ¶ 16. We continue to adhere to *Marzano* and *Flores*, and hold that defendant's waiver here worked prospectively and retroactively.

¶ 42 For the foregoing reasons, we affirm the circuit court.

¶ 43 Affirmed.