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Yankwitt LLP Untangles Procedural Jumble to Show Client Was Not Properly Served

Civil litigation is fraught with procedural requirements and rules that can end a case before it begins. Yankwitt LLP's command of the New York Civil Practice Law and Rules was on full display in a recent case in which the Supreme Court of the State of New York, New York County, found that Yankwitt LLP's client, a bar in SOHO, was never properly served with the complaint, and thus not a party to the action.

The plaintiff filed a complaint against the bar, a media company promoting an event at the bar, and the host at the event for assault, battery, and false imprisonment. From the outset, the plaintiff failed to comply with New York's rules on service. His first attempt to serve the bar was found lacking, resulting in the court denying the plaintiff's motion for a default judgment against the bar and an order directing the plaintiff to serve the bar again.

Yankwitt LLP entered the fray after the plaintiff purportedly corrected the service issues and then moved for a second default judgment. After careful investigation, Yankwitt LLP determined that, once again, service had been improper: the bar was never served with the complaint; instead, the plaintiff had served a similarly named liquor store in Brooklyn, New York. Accordingly, Yankwitt LLP entered a limited appearance in the case to demonstrate that the bar was never properly served and the time to serve had expired. Importantly, because of the intervening time that had passed, the plaintiff would be barred by the statute of limitations from refileing against Yankwitt LLP's client.

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