

Willard v. Park Industries CV-97-581-M 12/18/97  
UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Timothy Willard

v.

Civil No. 97-581-M

Park Industries, Inc.

**O R D E R**

Defendant moves to dismiss on grounds that the removed state writ is not properly indorsed (RSA 509:8) and service of process under New Hampshire's long-arm statute was defective (RSA 510:4).

Plaintiff counters by pointing out that the absence of indorsement was mere oversight, and that he moved in state court to amend the writ to add counsel's indorsement. That motion was not ruled on due to the case's removal to this court. This court, sua sponte, grants the motion to amend writ as if it had been filed in this court in compliance with applicable local rules. See Garvins v. Legery, 61 N.H. 153 (1881). Accordingly, the writ is deemed properly indorsed, nunc pro tunc.

As for defendant's improper service of process claim, plaintiff shall, on or before January 16, 1998, file a complaint in federal form and, if defendant will not promptly waive any claimed defects in service, shall serve the complaint in accordance with applicable Federal Rules of Civil Procedure (See e.g. Rule 4(d)(2) and (5)).

Costs and fees will be imposed as provided by rule for unreasonable failure to waive service.

Motion to dismiss (document no. 3) is denied.

**SO ORDERED.**

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Steven J. McAuliffe  
United States District Judge

December 18, 1997

cc: Robert I. Morgan, Esq.  
Charles P. Bauer, Esq.