

MARGARET PEARSON et al.

v.

EMILY E. COURTOIS

Submitted on Briefs June 26, 2013
Decided July 2, 2013

Panel: SAUFLEY, C.J., and ALEXANDER, SILVER, MEAD, GORMAN, and
JABAR, JJ.

MEMORANDUM OF DECISION

Margaret and C. Wright Pearson appeal from a judgment entered by the Superior Court (York County, *Fritzsche, J.*) dismissing their complaint against Emily E. Courtois for failure to effectuate service of process and denying their motion to enlarge time in which to effectuate service. *See* M.R. Civ. P. 3, 4. Contrary to the Pearsons' contentions, their actions did not "constitute effective service of process pursuant to M.R. Civ. P. 4," and the court did not abuse its discretion in dismissing their complaint. *See Maguire Constr., Inc. v. Forster*, 2006 ME 112, ¶¶ 8-12, 905 A.2d 813 ("Here the facts are undisputed: no return of service for the original complaint was filed, within ninety days or thereafter, because the [defendant] did not acknowledge service, and [the plaintiff] did not serve them by another method."); *see also Jackson v. Borkowski*, 627 A.2d 1010, 1012 (Me. 1993). Furthermore, the court did not err or abuse its discretion in denying the Pearsons' motion to enlarge time after determining that their failure to effectuate service was not the result of mistake or excusable neglect. *See Gregory v. City of Calais*, 2001 ME 82, ¶¶ 7-8, 771 A.2d 383 ("A mere palpable mistake by counsel or counsel's staff does not constitute excusable neglect . . .").

The entry is:

Judgment affirmed.

On the briefs:

Peter L. Hatem, Esq., Scarborough, for appellants Margaret Pearson and C. Wright Pearson

Christopher C. Dinan, Esq., and Matthew K. Libby, Esq., Monaghan Leahy, LLP, Portland, for appellee Emily E. Courtois