

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

---

CHAD LAKRIDIS, *Plaintiff/Appellant*,

*v.*

HOLLY UDY-MEEKIN, *Defendant/Appellee*.

No. 1 CA-CV 16-0699  
FILED 11-21-2017

---

Appeal from the Superior Court in Maricopa County  
No. CV2016-001399  
The Honorable Jo Lynn Gentry, Judge

**REVERSED AND REMANDED**

---

COUNSEL

Dean W. O'Connor PLLC, Phoenix  
By Dean W. O'Connor  
*Counsel for Plaintiff/Appellant*

Polsinelli PC, Phoenix  
By Jennifer J. Axel, Monica R. Thompson  
*Counsel for Defendant/Appellee*

---

**MEMORANDUM DECISION**

Judge Randall M. Howe delivered the decision of the Court, in which  
Presiding Judge James P. Beene and Judge Kent E. Cattani joined.

---

HOWE, Judge:

¶1 Chad Lakridis appeals the trial court's dismissal of his negligence claim as time-barred under A.R.S. § 12-542(1). For the following reasons, we reverse and remand.

### FACTS AND PROCEDURAL HISTORY

¶2 Lakridis, a professional dance instructor, suffered a fall while dancing in a showcase on February 22, 2014. Lakridis alleged that his dance partner slipped and fell, causing him to fall "primarily on his right shoulder and his head hit the floor violently." Lakridis further alleged that, "[f]ollowing the incident, his pain and discomfort was constant" and he "continue[d] to suffer from permanent injuries."

¶3 Lakridis sued Holly Udy-Meekin and several others on February 23, 2016, and amended his complaint in April 2016. Udy-Meekin moved to dismiss the amended complaint, arguing that Lakridis's claim was time-barred under A.R.S. § 12-542(1)'s two-year limitations period. Lakridis's counsel responded with an affidavit in which he avowed that but for an improper cover sheet, the complaint would have been timely filed on February 18, 2016. The affidavit explained that counsel had recently acquired a new runner and process server company, and the company did not advise counsel that the complaint had been rejected due to an improper cover sheet. Counsel further stated that if he had known of the error, the cover sheet would have been replaced or the process server would have been asked to file an appropriate form that same day. The trial court found that Lakridis filed his complaint one day late, granted Udy-Meekin's motion, and entered a final judgment pursuant to Arizona Rule of Civil Procedure 54(b). Lakridis timely appealed.

### DISCUSSION

¶4 Lakridis argues that the court erred by dismissing his complaint as untimely based on its rejection for an incorrect cover sheet. A statute of limitations defense may be raised in a motion to dismiss if the complaint conclusively shows the claim is time-barred. *Ross v. Ross*, 96 Ariz. 249, 252 (1964). The defense, however, is not favored. *Coulter v. Grant Thornton, LLP*, 241 Ariz. 440, 444 ¶ 7 (App. 2017). We review the dismissal of a complaint under Rule 12(b)(6) de novo. *Coleman v. City of Mesa*, 230 Ariz. 352, 355 ¶ 7 (2012).

¶5 A clerk's rejection of a complaint for failure to comply with procedural rules does not affect its timeliness for statute of limitations

LAKRIDIS v. UDY-MEEKIN  
Decision of the Court

purposes. *Whittaker Corp. v. Estate of King*, 25 Ariz. App. 356, 357 (1975). Udy-Meekin did not dispute Lakridis’s counsel’s statement that: (1) he tried to file the complaint before the limitations period expired, (2) the clerk’s office rejected it because of an “improper cover sheet,” and (3) he did not learn of its rejection until February 22, 2016. While Rule 8(g)(1)(A) requires plaintiffs to complete and submit civil cover sheets with most complaints, Udy-Meekin cites no authority, nor are we aware of any, suggesting that a defendant may prevail on statute of limitations grounds based solely on the plaintiff’s failure to meet that requirement. See *Rowland v. Kellogg Brown and Root, Inc.*, 210 Ariz. 530, 534–35 ¶¶ 10–16 (App. 2005) (concluding that a complaint rejected by the clerk’s office for technical deficiencies was “constructively filed” before the limitations period elapsed).

¶6 Udy-Meekin instead contends that dismissal was warranted under *Porter v. Spader*, 225 Ariz. 424 (App. 2010). In *Porter*, we affirmed summary judgment on statute of limitations grounds where the postal service returned a complaint to counsel for insufficient postage, causing it to be filed one day late. 225 Ariz. at 426 ¶¶ 1–3. *Porter* is distinguishable because the complaint was not rejected by the court clerk, nor was it rejected for procedural reasons. *Whittaker*, on the other hand, addressed a court clerk’s rejection of an otherwise timely complaint because it did not meet the civil action classification requirement of former Uniform Rule of Practice XII(d), the predecessor to the current civil cover sheet requirement of Rule 8(g). 25 Ariz. App. at 357.

¶7 *Whittaker*, not *Porter*, is analogous to the present case because the complaint here was delivered and denied by the clerk for an improper cover sheet rather than a complete failure to deliver the complaint to the clerk. We therefore conclude that the trial court erred by dismissing Lakridis’s claim on statute of limitations grounds. We do not reach the parties’ arguments regarding application of the discovery rule or whether the trial court should have granted oral argument on Udy-Meekin’s motion to dismiss.

LAKRIDIS v. UDY-MEEKIN  
Decision of the Court

**CONCLUSION**

¶8 For the foregoing reasons, we reverse the trial court's judgment and remand for further proceedings. Lakridis may recover his costs incurred on appeal contingent upon his compliance with Arizona Rule of Civil Appellate Procedure 21.



AMY M. WOOD • Clerk of the Court  
FILED: AA