

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DEBORAH A. MORALES,

Plaintiff,

vs.

**5:06-CV-0899
(NAM)(GJD)**

**NYS DEPARTMENT OF LABOR
DIVISION OF EMPLOYEE SERVICES, and
CNY WORKS, INC.**

Defendants.

APPEARANCES

OF COUNSEL:

Deborah L. Morales
Plaintiff Pro Se

Andrew M. Cuomo
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Office of the Attorney General
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Albany, New York 12224
Attorney for Defendant NYS Department of Labor

Steven H. Schwartz, Esq.

Bond, Schoeneck, & King, PLLC
One Lincoln Center
Syracuse, New York 13202
Attorney for Defendant CNY Works, Inc.

Patrick V. Melfi, Esq.

Norman A. Mordue, Chief United States District Judge:

MEMORANDUM DECISION AND ORDER

The Court having reviewed defendant NYS Department Of Labor’s (“DOL”) motion for reconsideration of the Court’s previous determination not to dismiss plaintiff’s claims against DOL for lack of proper service pursuant to Fed. R. Civ. P. 4(m), finds that defendant DOL’s additional arguments do not warrant reversal of the Court’s previous decision on this matter.

Indeed, as the Court previously determined, the Second Circuit’s holding in *Ruddock v. Reno*, 104

Fed. Appx. 204, 206-7 (2d Cir. 2004) clearly established that if a plaintiff provides to the U.S. Marshal “information necessary to identify the defendant,” the Marshals’ failure to effect timely service constitutes good cause for failing to comply with the time requirements of Fed. R. Civ. P. 4(m). Contrary to defendant DOL’s arguments, the Court does not find that plaintiff’s non-inmate status, which differs from the plaintiff in *Ruddock*, is a distinguishing factor, particularly because defendant DOL is an agency of the State of New York, readily identified and located in spite of any error by plaintiff in providing an address for service of process.

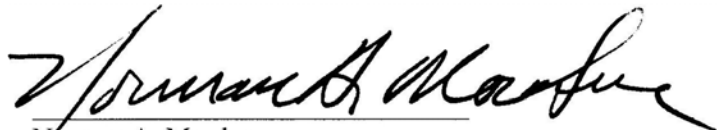
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Based on the foregoing, it is hereby

ORDERED that defendant DOL’s motion for reconsideration is DENIED.

IT IS SO ORDERED.

Dated March 26, 2009
Syracuse, New York



Norman A. Mordue
Chief United States District Court Judge

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