

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JEREMY M. CARTER,
Appellant,

v.

**MARK I. GRUMET REVOCABLE TRUST DATED MAY 9, 2007, and
COMMUNITY 8 PROPERTIES, LLC,**
Appellees.

No. 4D17-3817

[August 22, 2018]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; David A. Haimes, Judge; L.T. Case No. 15-14117 (08).

Jeremy M. Carter, Estill, South Carolina, pro se.

Dane T. Stanish of the Law Offices of Dane Stanish, P.A., Hollywood,
for appellee Mark I. Grumet Revocable Trust.

Joseph J. Huss and Joshua J. Shore of Krinzman Huss & Lubetsky,
Fort Lauderdale, for appellee Community 8 Properties, LLC.

PER CURIAM.

Appellant appeals the trial court's order dismissing his complaint. He raises three issues on appeal, but we reverse on only one. Over the course of two years, appellant unsuccessfully tried to serve process on the defendants. Eventually, he resorted to service by publication, which the trial court quashed for being improper. The trial court then dismissed the complaint for failure to serve process despite appellant's pending motion to amend his complaint.

A trial court has no discretion to deny a plaintiff's first amendment to a complaint before a responsive pleading has been served. *Boca Burger, Inc. v. Forum*, 912 So. 2d 561, 568 (Fla. 2005). Rather, a party is entitled to "amend a pleading once as a matter of course at any time before a responsive pleading is served . . ." Fla. R. Civ. P. 1.190(a). Because appellant had an absolute right to amend his complaint before a responsive pleading was served, the trial court erred in dismissing the

action. See *Boca Burger*, 912 So. 2d at 567. We therefore reverse and remand for the trial court to allow appellant to amend his complaint.

Affirmed in part, reversed in part, and remanded.

TAYLOR, LEVINE and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.