

3. Chase is injured in an accident while driving an off-road vehicle made by Drivers Edge, Inc., an out-of-state corporation. Chase files a suit against Drivers Edge, alleging negligence, and mails a summons and a copy of the complaint to the firm by certified mail, return receipt requested. The envelope is addressed in part to “Elvin, President, Drivers Edge, Inc.” The receipt is returned with the signature of “Francine,” a Drivers Edge employee. A U.S. Postal employee later testifies that Francine usually receives mail on Drivers Edge’s behalf. Drivers Edge does not respond to the suit. In a default judgment, Chase is awarded damages of \$500,000. Later, Elvin claims that he was not notified of the suit and asks the court to set aside the judgment. What is the issue in this set of facts? What rule applies? What should be the result on the application of the rule? Why?

ANSWER:

The sufficiency of the service of process is at the center of this dispute. The requirements for sufficient service of process are that a summons and a copy of the complaint must be delivered to the proper party.

Here, the defendant was a corporation, and the service was addressed to the corporation’s president. The documents were sent via first-class mail, return receipt requested. Generally, service of process is proper if the documents are delivered to a person authorized by a corporation to receive the service. The court should not grant Drivers Edge and Elvin’s motion to set aside the judgment. Chase met the requirements for serving an out-of-state corporation. Significantly, he addressed the service to Elvin, not to the corporation. Francine was a Drivers Edge employee who regularly received mail on her employer’s behalf. Francine’s notice of the action can thus be imputed to Drivers Edge and Elvin.