PRACHI NARAYAN *v.* LALIT NARAYAN
(SC 18673)

Rogers, C. J., and Norcott, Palmer, Zarella, McLachlan, Eveleigh and Vertefeuille, Js.

Argued January 12—officially released June 19, 2012

Samuel V. Schoonmaker IV, with whom was *Wendy Dunne DiChristina*, for the appellant (plaintiff).

John C. Heffernan, with whom was *J. Colin Heffernan*, for the appellee (defendant).

Opinion

McLACHLAN, J. In this certified appeal, we must decide whether the Appellate Court properly vacated the judgment of the trial court in favor of the plaintiff, Prachi Narayan, on the basis that there was no personal jurisdiction over the defendant, Lalit Narayan. The defendant, who has never been served with process in the present dissolution action, had filed an appearance with the caption "Prachi Narayan v. Lalit Narayan" under a docket number that is shared with a related Title IV-D child support action,[1] brought by the commissioner of social services (commissioner). The trial court relied on the defendant's failure to file a motion to dismiss the dissolution action within thirty days of filing the appearance in the support action in concluding that the defendant had waived any challenge to personal jurisdiction in the dissolution action. We must determine whether the Appellate Court properly gave retroactive effect to Practice Book § 25a-3 (f), which provides that "[a]ll appearances entered on behalf of parties for matters involving Title IV-D child support matters shall be deemed to be for those matters only," and concluded that the defendant's appearance in the Title IV-D support action did not function as an appearance in the dissolution action. Specifically, we consider whether the Appellate Court properly arrived at its conclusion without addressing whether considerations of good sense and justice bar retroactive application of § 25a-3 (f). We conclude that good sense and justice *do* bar retroactive application of that Practice Book provision. We also address the defendant's additional claim that, even if § 25a-3 (f) is not given retroactive effect, the Appellate Court properly vacated the judgment of the trial court because there was no authority allowing the trial court to conclude that an appearance filed in a Title IV-D support action constitutes an appearance in the related, but independent, dissolution action. We reject this claim and reverse the judgment of the Appellate Court.

The Appellate Court opinion sets forth the following relevant facts and procedural history. "The parties were married on December 9, 1999, in India, and have two minor children of the marriage. On June 7, 2007, the plaintiff commenced a dissolution of marriage action, docket number FA-07-4011965-S (dissolution action). In addition to a dissolution of the marriage, she sought custody of the children, alimony, spousal support, transfer of assets and legal fees. Despite repeated attempts by state marshals, the defendant was never served process.

"The commissioner . . . pursuant to General Statutes §§ 17b-745, 46b-215 and 46b-172, filed a support petition against the defendant in July, 2007 (support action), which was assigned the same docket number as the dissolution action.[2] The petition sought financial

and medical support for the parties' children, as well as reimbursement to the state for disbursements made to the plaintiff. The defendant was served process for the support action on August 20, 2007, when the petition, order and summons were delivered to his employer, Tudor Investments.[3]

"On October 22, 2007, during a proceeding in the support action, counsel for the defendant filed an appearance with the court, and the family support magistrate, John P. McCarthy, continued the support action until a later date. The appearance lists the docket number for the case for which counsel was appearing as 'FA-07-4011965-S.'

"The plaintiff filed motions for alimony and child support on December 3, 2007. At this time, the plaintiff also moved the court to enter an order finding that the defendant had waived service on the basis of the appearance filed by counsel in the support action. The court, on December 18, 2007, dismissed the dissolution action for failure to prosecute. The plaintiff filed a motion to set aside the dismissal on February 13, 2008. On March 14, 2008, the defendant filed a motion to dismiss the dissolution action for lack of personal jurisdiction and insufficiency of service of process. The court granted the plaintiff's motion to set aside the dismissal and denied the defendant's motion to dismiss on June 6, 2008. The defendant thereafter filed a motion to reconsider, which the court denied on August 27, 2008, reasoning that 'the defendant failed to move for dismissal within thirty days of appearing as required by [Practice Book § 10-30]. An appearance cures any claimed defect of service.'

"Counsel for the defendant filed a motion to withdraw as counsel on September 4, 2008, arguing that he had appeared in the dissolution action only for the purpose of filing the motion to dismiss, which was denied, and 'the [d]efendant's appearance prior to the filing of the motion to dismiss was filed in the [f]amily [s]upport [m]agistrate's [c]ourt in open court with no knowledge that both case[s] contain the same docket number.' The court granted counsel's motion to withdraw on October 20, 2008. On October 17, 2008, the self-represented defendant filed a 'special demurrer and motion to dismiss' on grounds of insufficient service of process and lack of jurisdiction. The motion was returned, unconsidered by the court, because the defendant had not filed an appearance in the case.

"A trial in the dissolution action occurred on November 21, 2008. The self-represented defendant was not present, and the plaintiff represented that the defendant had filed an appearance in the matter. The court found that the defendant 'apparently has intentionally avoided appearing in this court either personally or through counsel . . . .' After the plaintiff testified and presented evidence regarding the defendant's income, the

court found that the defendant was 'mainly responsible' for the breakdown of the marriage and granted the dissolution, awarding the plaintiff alimony and child support." *Narayan* v. *Narayan*, 122 Conn. App. 206, 208–10, 3 A.3d 75 (2010).

The defendant appealed from the dissolution judgment to the Appellate Court, which vacated the trial court's judgment. The Appellate Court relied on Practice Book § 25a-3 (f),[4] which provides that an appearance filed in a IV-D support matter is restricted to that matter only, to conclude that the defendant's appearance in the support action did not constitute a general appearance in the dissolution action, and, therefore, that his failure to file a motion to dismiss within thirty days of filing the appearance did not constitute a waiver of his claim of insufficient service of process in the dissolution action. Id., 211. Section 25a-3 (f) was not in effect at the time that the defendant filed his October 22, 2007 appearance; it was adopted on an interim basis on March 26, 2010, effective April 15, 2010.[5] Id. Concluding that the rule is procedural rather than substantive in nature, however, the Appellate Court applied it retroactively, and, accordingly, vacated the judgment of the trial court for lack of personal jurisdiction over the defendant. Id., 213–14. We granted the plaintiff's subsequent petition for certification to appeal, limited to the following issue: "Whether the Appellate Court properly applied [§ 25a-3 (f)] retroactively without considering whether 'considerations of good sense and justice' bar retroactive application?" *Narayan* v. *Narayan*, 298 Conn. 914, 4 A.3d 833 (2010).[6]

I

We first consider whether the Appellate Court properly concluded that Practice Book § 25a-3 (f) should be applied retroactively under the facts of the present case. The plaintiff contends that the Appellate Court improperly concluded that § 25a-3 (f) is procedural rather than substantive, and further claims that, even if § 25a-3 (f) is procedural, good sense and justice bar retroactive application of the new rule in the present case. The defendant responds that the Appellate Court properly gave retrospective effect to § 25a-3 because: (1) § 25a-3 (f) merely clarifies an existing rule and is not a change in the law; (2) even if § 25a-3 (f) is a rule change rather than a clarification, it is procedural rather than substantive; and (3) good sense and justice do not prevent retroactive application.[7] We agree with the plaintiff that good sense and justice bar retroactive application of § 25a-3 (f).

Preliminarily, we set forth the applicable standard of review. "A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court. . . . [O]ur review of the trial court's ultimate legal conclusion and

resulting [denial] of the motion to dismiss will be de novo." (Internal quotation marks omitted.) *Bacon Construction Co.* v. *Dept. of Public Works*, 294 Conn. 695, 706, 987 A.2d 348 (2010).

It is also helpful, before we proceed to our consideration of whether Practice Book § 25a-3 (f) should be applied retroactively to the facts of the present case, to review the principles governing personal jurisdiction. "[T]he Superior Court . . . may exercise jurisdiction over a person only if that person has been properly served with process, has consented to the jurisdiction of the court or has waived any objection to the court's exercise of personal jurisdiction." (Internal quotation marks omitted.) *Kim* v. *Magnotta*, 249 Conn. 94, 101–102, 733 A.2d 809 (1999). "[W]hen a particular method of serving process is set forth by statute, that method must be followed. . . . Unless service of process is made as the statute prescribes, the court to which it is returnable does not acquire jurisdiction." (Citations omitted; internal quotation marks omitted.) *Commissioner of Transportation* v. *Kahn*, 262 Conn. 257, 272, 811 A.2d 693 (2003).

"Unlike subject matter jurisdiction . . . personal jurisdiction may be created through consent or waiver." *United States Trust Co.* v. *Bohart*, 197 Conn. 34, 39, 495 A.2d 1034 (1985). "[T]he filing of an appearance on behalf of a party, in and of itself, does not waive that party's personal jurisdiction claims. Nevertheless, '[a]ny defendant, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within thirty days of the filing of an appearance. . . .' Practice Book § 10-30. The rule specifically and unambiguously provides that any claim of lack of jurisdiction over the person as a result of an insufficiency of service of process is waived unless it is raised by a motion to dismiss filed within thirty days in the sequence required by Practice Book § 10-6, formerly [Practice Book (1978–97)] § 112. Thus, thirty-one days after the filing of an appearance or the failure to adhere to the requisite sequence, a party is deemed to have submitted to the jurisdiction of the court. Any claim of insufficiency of process is waived if not sooner raised." *Pitchell* v. *Hartford*, 247 Conn. 422, 432–33, 722 A.2d 797 (1999).

"It is generally presumed that legislation is intended to operate prospectively [e]xcept as to amending statutes that are procedural in their impact . . . . Procedural statutes and rules of practice ordinarily apply retroactively to all actions whether pending or not at the time the statute [or rule] became effective, in the absence of any expressed intent to the contrary. . . . We have noted, however, that a procedural statute will not be applied retroactively if considerations of good sense and justice dictate that it not be so applied." (Citations omitted; internal quotation marks omitted.)

Mulrooney v. *Wambolt*, 215 Conn. 211, 216–17, 575 A.2d 996 (1990). "Procedural statutes have been traditionally viewed as affecting remedies, not substantive rights, and therefore leave the preexisting scheme intact. . . . [A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary . . . a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application. . . . While there is no precise definition of either [substantive or procedural law], it is generally agreed that a substantive law creates, defines and regulates rights while a procedural law prescribes the methods of enforcing such rights or obtaining redress." (Citations omitted; internal quotation marks omitted.) *D'Eramo* v. *Smith*, 273 Conn. 610, 621, 872 A.2d 408 (2005).

Keeping these principles in mind, we turn to Practice Book § 25a-3 (f), which provides in relevant part that an appearance in a IV-D support action "shall be deemed to be for those matters only." On its face, § 25a-3 (f) appears to be a purely procedural rule. It does not create, define or regulate any substantive rights or obligations, but delineates the procedural effect that an appearance in a IV-D support action will have. The rule is all about method and effect—a quintessentially procedural rule. The plaintiff's argument to the contrary is unpersuasive. She suggests that, because § 25a-3 (f) was part of a larger change that resulted in the creation of an entirely new chapter of the Practice Book, chapter 25a, we must treat the entire chapter as a whole, and we may not accord retroactive effect to any section of the chapter because some sections effect substantive changes. The sole authority that the plaintiff offers for this claim is our decision in *In re Eden F.*, 250 Conn. 674, 741 A.2d 873 (1999). In that case, however, *after* we had stated that the particular, pertinent statutory section affected substantive rights—creating a presumption of prospective application only—we offered the further observation that other sections in the relevant public act *also* effected substantive changes. Id., 697. In connection with that observation, however, we specifically noted that the respondent mother therein, who challenged the decision terminating her parental rights, had not confined her claim regarding retroactivity to certain sections or provisions of the public act. Id., 697 n.24. By contrast, in the present case, only the retroactive effect of § 25a-3 (f) is at issue. The plaintiff has not claimed—and we do not perceive—that any other provision in chapter 25a suggests that § 25a-3 (f) affects substantive rights. We conclude, therefore, that § 25a-3 (f) is a procedural rule.

Our inquiry, however, does not end there. It is well established that "our test of whether a procedural statute is to be applied retroactively, absent any specific provision in the statute on the point, is not a purely

mechanical one. Even if the statute is procedural, it will not be applied retroactively if considerations of good sense and justice dictate that it not be so applied." *Carvette* v. *Marion Power Shovel Co.*, 157 Conn. 92, 96, 249 A.2d 58 (1968). We first recognized this exception to the retroactive application of procedural statutes and rules in *E. M. Loew's Enterprises, Inc.* v. *International Alliance of Theatrical Stage Employees*, 127 Conn. 415, 17 A.2d 525 (1941). In that case, the plaintiff, which operated a movie theater in Hartford, sought, inter alia, an injunction barring the defendants, certain employees, from picketing in front of the theater. Id., 416. After the action had been initiated, the legislature passed a law that prevented "the issuance of any injunction to restrain the continuance of the picketing . . . ." Id., 417. Applying the new law, the trial court found in favor of the defendants. Id.

On appeal, the plaintiff contended that the new law affected substantive rights and therefore could not be applied retroactively. Id., 417–18. We recognized that the traditional distinction that we have drawn between substantive and procedural provisions—that the former affect substantive rights, whereas the latter affect remedies—does not always yield clear guidance as to whether a subsequently enacted statute or rule should be applied to a pending action. Id., 418. We observed that "[t]he basis of the presumed intention that statutes affecting substantive rights shall not apply to pending actions is no doubt the injustice of changing the grounds upon which an action may be maintained after it has been brought. . . . Where the nature of the relief sought is the principal object of the action and so is of its substance, the same considerations might apply as in the case of statutory changes, involving substantive rights. The word remedy itself conceals at times an ambiguity, since changes of the form are often closely bound up with changes of the substance. . . . The problem does not permit us to ignore gradations of importance and other differences of degree. In the end, it is in considerations of good sense and justice that the solution must be found." (Citation omitted; internal quotation marks omitted.) Id. An action seeking an injunction presents precisely this problem—the relief sought is the very substance of the action. We recognized, however, that the nature of injunctive relief is that it is prospective, and must be granted or denied on the basis of both facts and changes of law that exist at the time of decision. Specifically, we have stated: "In equitable proceedings, any events occurring after their institution may be pleaded and proved which go to show where the equity of the case lies at the time of the final hearing." (Internal quotation marks omitted.) Id., 419. "This is so thoroughly established a principle of law that any person bringing an action to secure an injunction must be considered to know it just as he is presumed to know that statutory changes in procedure,

made after the action is brought, may affect it." Id. Accordingly, we concluded that there was no injustice in applying the change in the law retroactively.

We also relied on good sense and justice in declining to apply a procedural rule change retroactively in *Jones Destruction, Inc.* v. *Upjohn*, 161 Conn. 191, 286 A.2d 308 (1971). The appeal therein arose from an action to foreclose on a mechanic's lien. Id., 192. After the action had commenced, the legislature changed the statute of limitations for bringing an action to foreclose on a mechanic's lien, requiring a plaintiff to proceed to and *obtain* final judgment within the defined limitations period. Id., 194. Prior to the change, a plaintiff had only to proceed to final judgment within the limitations period. Id. We recognized that the general rule is that statutes of limitation are considered procedural and, therefore, presumed to apply retroactively. Id., 195. We observed, however, that retroactive application of the new rule in this circumstance would leave some litigants in pending actions with insufficient time to reduce their liens to final judgment. Id., 197. We reasoned that "[g]ood sense and judgment can hardly be said to dictate penalizing a plaintiff for failure to obtain a final judgment within a certain time limit due to at least some factors beyond the plaintiff's control. Hence, the conclusion is inescapable that the statute should not be construed as retroactive to pending actions such as the one here in issue." Id.

Another instance in which we declined to give retroactive effect to a subsequently enacted, purely procedural statute was *Lane* v. *Hopfeld*, 160 Conn. 53, 273 A.2d 721 (1970). In that case, the plaintiff commenced the action against the nonresident defendant on July 21, 1965, by serving process on the secretary of the state. We first concluded that service was insufficient to satisfy the long-arm statute that existed at the time that the plaintiff had commenced the action. Id., 55–57. We then turned to the question of whether our subsequently enacted long-arm statute, which had provisions more favorable to the plaintiff, applied retroactively to the plaintiff's service of process on the defendant.[8] Because of the appeal, the case was still technically pending when the new statute was enacted, but judgment had been rendered in the trial court six months before the law became effective, and four years had elapsed between the commencement of the action and the change in the law. Id., 57–60. Under those circumstances, we reasoned that "it would violate good sense and justice to apply the provisions of that act retroactively. It would operate to bring within the in personam jurisdiction of the Superior Court a resident of California who, so far as appears, has never set foot in Connecticut, in order to make him answer for an alleged tort which had its operative effect here or for the breach of a warranty incident to a contract of sale made in California. It would accomplish that end by validating

a service of process made in 1965 by the application of a statute which did not become effective until more than four years after the service was made." Id., 61.

These three decisions, *E. M. Loew's Enterprises, Inc.* v. *International Alliance of Theatrical Stage Employees*, supra, 127 Conn. 415, *Jones Destruction, Inc.* v. *Upjohn*, supra, 161 Conn. 191, and *Lane* v. *Hopfeld*, supra, 160 Conn. 53, typify the good sense and justice inquiry undertaken by this court. Our examination centers ultimately on the fairness of imposing the rule change retroactively, focusing on whether changing the rules in the middle of the action, so to speak, unfairly prejudices the litigants. That is precisely what happened in the present case. The plaintiff diligently and consistently had made multiple attempts to serve process on the defendant in the dissolution action, beginning in June, 2007, with the last documented attempt on October 23, 2007.[9] On October 22, 2007, at about the same time as the plaintiff's last attempt to serve process on the defendant in the dissolution action, during a proceeding in the support action, the defendant filed his appearance under the docket number shared by the dissolution action and the support action. On the appearance form, however, the defendant entered as the first named plaintiff not the commissioner, who is the first named plaintiff in the support action, but "Prachi Narayan," the named plaintiff in the dissolution action. The appearance form, on its face, therefore, is an appearance in the dissolution action. See Practice Book (Rev. to 2011) § 3-3 (providing in relevant part that "[e]ach appearance shall . . . [2] be headed with the *name* and number of the case, the name of the court location to which it is returnable and the date" [emphasis added]). The defendant's appearance did not merely list the docket number of the dissolution action, but also listed that case name rather than the name of the support action. Nowhere on the appearance form did the defendant indicate that his appearance was intended to be effective solely in the support action. Accordingly, the defendant appeared in the dissolution action. After the defendant filed his appearance, the plaintiff ceased her efforts to effect service of process on him and instead reasonably relied on his failure to file a motion to dismiss the dissolution action within thirty days of his appearance as a waiver of any challenge to personal jurisdiction on the basis of the lack of service. The plaintiff's change of strategy in reasonable reliance on the effect of the defendant's appearance is precisely the type of consideration that we have relied on in the past in concluding that good sense and justice bar retroactive application of a procedural rule change.[10] It would be unjust under these particular facts to apply Practice Book § 25a-3 (f) retroactively.

The defendant argues that Practice Book § 25a-3 (f) is a clarification rather than a change in the law, and therefore must be given retroactive effect. We disagree.

"[O]ur usual presumption [is] that, in enacting a statute, the legislature intended a change in existing law. . . . This presumption, like any other, may be rebutted by contrary evidence of the legislative intent in the particular case. An amendment which in effect construes and clarifies a prior statute must be accepted as the legislative declaration of the meaning of the original act." (Internal quotation marks omitted.) *Kluttz* v. *Howard*, 228 Conn. 401, 409, 636 A.2d 816 (1994). We require that such evidence demonstrate a "clear intent" that the rule-making body, in this instance the Superior Court, sought to enact a clarification, rather than a change in the law. Id.

The fundamental problem that the defendant cannot overcome is that Practice Book § 25a-3 (f) does not clarify any ambiguity in existing law, but rather fills a gap where no previous rule existed. Simply put, one cannot clarify a rule that does not yet exist. It is true that the official commentary to Practice Book (2011) § 25a-3 (f) provides: "This section regarding appearances and withdrawals is intended to clarify that an appearance in family court is not an appearance in court for Title IV-D purposes and vice versa. Without this clarification, members of the bar have been faced with a judicial authority counting their appearance for all matters where neither their retainer agreement covers the additional services nor is their sense of their own individual competence contemplated to cover services in the other court." That statement, however, must be viewed in a broader context. Specifically, we first note the companion provision to § 25a-3 (f), Practice Book § 25a-3 (g), which provides: "All appearances entered on behalf of parties in the family division of the superior court shall not be deemed appearances for any matter involving a Title IV-D child support matter unless specifically so designated." The two provisions must be understood together, in light of the apparent practice in the Stamford-Norwalk judicial district of assigning the same docket number to IV-D support actions and related dissolution actions, and also in light of the commentary's acknowledgment that "members of the bar have been faced with a judicial authority counting their appearance for all matters . . . ." Practice Book (2011) § 25a-3, commentary. Viewing all of these together, the most reasonable conclusion is that § 25a-3 (f) and (g) were intended to address a problem that arose from the practice of filing the two related, but separate, actions under the same docket number—that is, there was confusion regarding whether an appearance filed in one action functioned as an appearance in the other action. Prior to the adoption of chapter 25a, however, there was no rule addressing the issue. Rather than clarifications, therefore, § 25a-3 (f) and (g) are new rules.

II

Finally, we must consider the defendant's claim that,

even in the absence of the retroactive application of Practice Book § 25a-3 (f), the trial court improperly denied his motion to dismiss for lack of personal jurisdiction because there was no authority allowing that court to conclude that his appearance in the support action constituted an appearance in the dissolution action. As we have explained in part I of this opinion, however, such authority does exist. (Rev. to 2011) § 3-3 (2) of the Practice Book directs counsel to head an appearance with the name and number of the case. The name and number of the case in the defendant's October 22, 2007 appearance form correspond to the dissolution action, not the support action. The trial court therefore properly relied on § 3-3 to conclude that the defendant filed an appearance in the dissolution action.[11]

The judgment of the Appellate Court is reversed and the case is remanded to that court with direction to affirm the judgment of the trial court.

In this opinion the other justices concurred.

[1] General Statutes § 46b-231 (b) (13) defines " 'IV-D support cases' " in relevant part as "those in which the IV-D agency is providing child support enforcement services under Title IV-D of the Social Security Act . . . ."

General Statutes § 46b-231 (b) (12) defines " 'IV-D agency' " in relevant part as the "Bureau of Child Support Enforcement within the Department of Social Services . . . ."

[2] At the time of the present action, it was apparently the practice of the Stamford-Norwalk judicial district to assign the same docket number to separate dissolution and support actions of the type involved in this case.

[3] General Statutes § 52-57 (f) provides in relevant part: "When the other methods of service of process provided under this section or otherwise provided by law cannot be effected, in actions concerning the establishment, enforcement or modification of child support orders other than actions for dissolution of marriage . . . service of process may be made upon a party to the action by one of the following methods, provided proof of receipt of such process by such party is presented to the court in accordance with rules promulgated by the judges of the Superior Court . . .

"(2) When a party to an action under this subsection is employed by an employer with fifteen or more employees, by personal service upon an official of the employer designated as an agent to accept service of process in actions brought under this subsection. Every employer with fifteen or more employees doing business in this state shall designate an official to accept service of process for employees who are parties to such actions. The person so served shall promptly deliver such process to the employee."

[4] When the Appellate Court released its opinion in the present case on June 29, 2010, Practice Book § 25a-3 had been temporarily assigned the section number § 25a-2, but had not yet been published in the Practice Book. See Practice Book history for § 25a-3. For the sake of clarity, all references to this provision of the Practice Book in this opinion are to the current revision of § 25a-3 (f), which is identical to the version considered by the Appellate Court.

[5] The rule was subsequently adopted on June 21, 2010, effective August 1, 2010.

[6] Following oral argument before this court, on January 17, 2012, this court ordered the parties to file supplemental briefs addressing the following issue: "Do filings in the dissolution of marriage action, such as the 'Special Demurrer/Motion to Dismiss,' and any other pleading filed, that [appear] to seek relief other than dismissal for lack of personal jurisdiction, constitute a waiver by the defendant of any sufficiency of process claim?" Because we conclude that the trial court properly concluded that the defendant waived personal jurisdiction by failing to file a motion to dismiss within thirty days of filing his appearance, it is not necessary for us to resolve whether the defendant also waived personal jurisdiction by seeking affirmative relief from the trial court.

[7] The defendant also argues that the Appellate Court did not give Practice Book § 25a-3 (f) retroactive effect, but merely relied on it as an interpretive

tool to determine the effect of his appearance in the support action on the issue of waiver. Although we read the opinion of the Appellate Court differently than the defendant, it is not necessary to address this argument, because we conclude that, without the retroactive application of § 25a-3 (f), the trial court properly treated the defendant's appearance in the support action also as an appearance in the dissolution action. See part II of this opinion.

[8] Because we concluded that the new statute, effective in 1969, did not apply retroactively, we did not reach the question of whether the plaintiff would be able to satisfy the minimum contacts showing under the new rule. *Lane* v. *Hopfeld*, supra, 160 Conn. 60.

[9] Specifically, the state marshal attested on June 21, 2007, that he had attempted in hand service on the defendant at his place of employment on June 11, 2007, June 13, 2007, and June 18, 2007, and was informed on each occasion that the defendant was not present. On June 28, 2007, the marshal attested that he had attempted service by certified mail both at the defendant's work address in Greenwich, and two different addresses in White Plains, New York. The plaintiff subsequently attempted in hand service on the defendant at his address in Houston, Texas, on October 23, 2007. Finally, because the defendant was due in court in Harris County, Texas, the plaintiff attempted in hand service at the courthouse. The defendant, however, did not appear in court on that date.

[10] For example, if the plaintiff had not relied on the defendant's appearance, she could or may have applied for an order of notice.

[11] It is undisputed that the appearance was filed during a proceeding in the support action. Defense counsel represented in his motion to withdraw as counsel that he had filed the appearance without being aware that the support action and dissolution action shared the same docket number. The mere fact that counsel may have filed the appearance in error, by naming the incorrect case on the appearance form, does not render the appearance inoperable. Because there was no claim that the appearance was unauthorized, it is effective. See *Pitchell* v. *Hartford*, supra, 247 Conn. 434 ("when an attorney has the authority to enter an appearance on behalf of a defendant, the filing of a general appearance is not modified merely because it was filed in error").