

**IN THE COURT OF APPEALS OF IOWA**

No. 9-457 / 08-1773  
Filed July 22, 2009

**KELVIN SINGLETON,**  
Plaintiff-Appellant,

**vs.**

**J. WALTER BELL a/k/a WALTER J.  
BELL, J.M. EXPRESS, INC., JOHN MORAR,  
and AUREL MORAR,**  
Defendants-Appellees.

---

Appeal from the Iowa District Court for Warren County, Darrell Goodhue,  
Judge.

Plaintiff injured in an Iowa motor vehicle accident appeals the dismissal of  
his complaint due to defective service of nonresidents. **REVERSED AND  
REMANDED.**

Frederick James of The James Law Firm, Des Moines, for appellant.

Richard G. Langdon of Herrick, Langdon & Langdon, Des Moines, for  
appellees.

Considered by Mahan, P.J., and Eisenhauer and Mansfield, JJ.

**EISENHAUER, J.**

In January 2008, plaintiff Kelvin Singleton filed a petition alleging he sustained personal injuries in a January 2006 motor vehicle accident in Warren County, Iowa. Using the procedures in Iowa Rules of Civil Procedure 1.305 and 1.306, Singleton personally served in Michigan four defendants – three Michigan residents and a Michigan corporation. In September 2008, the defendants filed a pre-answer motion to dismiss alleging the only form of acceptable service is filing a copy of the original notice with Iowa’s director of transportation under Iowa Code section 321.501 (2007). The district court agreed and dismissed the complaint. Singleton appeals and we review for correction of errors of law. See *Kingsway Cathedral v. Dep’t of Transp.*, 711 N.W.2d 6, 7 (Iowa 2006).

Section 321.501 specifies the steps and details of a service procedure utilizing the director of transportation. However, its companion statute, Iowa Code section 321.498(2), specifies the director is “the nonresident’s lawful attorney upon whom *may* be served all original notices.” The use of the word “may” indicates service upon the director utilizing the procedure in section 321.501 is not the only form of acceptable service.

In 1975, the Iowa Rules of Civil Procedure were amended to add an “alternative method of service,” which provides:

Every corporation, individual . . . that shall have the necessary minimum contact with the state of Iowa shall be subject to the jurisdiction of the courts of this state . . . .

Service may be made on any such corporation, individual . . . as provided in rule 1.305 within *or without the state* . . . .

Nothing herein shall limit or affect the right to serve an original notice upon any corporation, individual . . . within *or without*

*this state* in any manner now or hereafter permitted by statute or rule.

Iowa R. Civ. P. 1.306 (emphasis added). Therefore, since 1975, rule 1.306 has provided an alternative means of service on nonresidents (“without the state”) and has expanded Iowa’s out-of-state service options. See *Life v. Best Refrigerated Express, Inc.*, 443 N.W.2d 334, 336 (Iowa Ct. App. 1989) (upholding rule 1.306 personal service in Nebraska for motor vehicle accident in Iowa); see also *Mahaska Bottling Co. v. Southdown Sugars, Inc.*, 79 F.R.D. 704, 705 (S.D. Iowa 1978) (upholding rule 1.306 personal service in Delaware).<sup>1</sup> Accordingly, we reverse.<sup>2</sup>

**REVERSED AND REMANDED.**

---

<sup>1</sup> Prior to February 15, 2002, the alternative method of service rule was Iowa R. Civ. P. 56.2. After that date, the rule was renumbered and became Iowa R. Civ. P. 1.306.

<sup>2</sup> We have addressed the issue raised and argued by the parties in the district court. We do not consider issues raised by the defendants for the first time on appeal. See *Meier v. Senecaut*, 641 N.W.2d 532, 537 (Iowa 2002).