

**FOURTH DIVISION
MCFADDEN, P. J.,
WATKINS and PADGETT, JJ.**

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October 16, 2026

In the Court of Appeals of Georgia

A26A1584. TUCKER v. BROCKINGTON.

MCFADDEN, Presiding Judge.

This appeal asks whether the rule set forth in OCGA § 9-11-6(e), which adds three days to the prescribed period for filing in certain circumstances, applies to renewal actions. The trial court held it did not and, for that reason, dismissed plaintiff Taurus Tucker's renewal action against defendant Brandon Brockington as untimely filed. We find no error and affirm. We do not consider Tucker's alternative argument that the case was in default and thus the trial court lacked authority to dismiss it, because Tucker did not make that argument to the trial court.

1. Procedural history

The collision that is the subject of this personal injury action occurred on December 17, 2021, and Tucker filed his original action in the State Court of Fulton County on May 27, 2022. That action was dismissed without prejudice on January 21, 2025.

On July 24, 2025, Tucker filed the renewal action in the State Court of Cherokee County. The renewal action was served on Brockington on July 25, 2025. Brockington did not file an answer, but on September 5, 2025, he moved to dismiss the renewal action on the ground that Tucker had not filed it within six months of the date of dismissal. Brockington argued in his motion that the rule set forth in OCGA § 9-11-6(e), allowing three additional days for filing, did not apply, contrary to an assertion Tucker made in his complaint in the renewal action. The trial court agreed with Brockington and dismissed the renewal action as untimely.

2. Timeliness of renewal action

OCGA § 9-2-61(a) permits a plaintiff to recommence a timely filed action that was later discontinued or dismissed “either within the original applicable period of limitations or within six months after the discontinuance or dismissal, whichever is later[.]” The two-year limitations period applicable to this action, see OCGA § 9-3-33,

had run when Tucker filed his renewal action, and he admits that he did not file the renewal action within six months of the date the original action was dismissed. Nevertheless, he argues that his renewal action was timely filed, and thus the trial court erred in dismissing the renewal action, because OCGA § 9-11-6(e) afforded him three additional days to file it. We disagree.

OCGA § 9-11-6(e) provides, “Whenever a party has the right or is required to do some act or take some proceedings *within a prescribed period after the service of a notice or other paper*, other than process, upon him or her, and the notice or paper is served upon the party by mail or e-mail, three days shall be added to the prescribed period.” (Emphasis added.) As shown by the language emphasized above, this Code section addresses situations in which the service of a notice or other paper triggers a party’s time period for acting. See *RLBB Acquisition v. Baer*, 329 Ga. App. 483, 486-87 (765 SE2d 662) (2014). The Code section “is designed to maximize the probability that a party will have the full time period within which to take action after he receives the notice.” *Akins v. Magbee Bros. Lumber & Supply Co.*, 152 Ga. App. 904, 906(1) (264 SE2d 334) (1980) (discussing Ga. Code Ann. § 81A-106(e), the predecessor to OCGA § 9-11-6(e)).

Contrary to the position Tucker takes in his appellate brief, the six-month period for filing his renewal action under OCGA § 9-2-61(a) was not triggered by the *service* of notice or other paper. It was triggered by the *entry* of the order of dismissal. See *Gresham v. Harris*, 329 Ga. App. 465, 469-70 (765 SE2d 400) (2014); *Kimball v. KGB Transp.*, 241 Ga. App. 511, 512 (527 SE2d 233) (1999) (physical precedent). We have held that OCGA § 9-11-6(e) applies to the former (a prescribed period after service of notice) but not the latter (a prescribed period after entry of an order). See *RLBB Acquisition*, 329 Ga. App. at 486-87 (holding that, “[o]n its face, OCGA § 9-11-6(e) applies only to acts required ‘within a prescribed period after the service of a notice or other paper[,]’ and thus does not apply to acts required within a prescribed period after entry of an order). Because OCGA § 9-2-61(a) prescribes a six-month period for filing a renewal action after entry of the dismissal order, rather than after notice of that order, OCGA § 9-11-6(e) does not apply.

Consequently, OCGA § 9-11-6(e) did not afford Tucker an additional three days to file his renewal action. The trial court did not err in holding that the renewal action was untimely and in dismissing it for that reason.

3. Alternative argument

Alternatively, Tucker argues that the trial court was not permitted to dismiss his renewed complaint because the case was in default. But as Brockington points out, Tucker “did not make this argument below. Accordingly, we cannot consider this argument for the first time on appeal. We are limited to considering only those grounds raised and ruled on below by the trial court and may not consider a basis for appeal not presented at the trial level.” *Cotton States Mut. Ins. Co. v. Stallings*, 235 Ga. App. 212, 213(a) (508 SE2d 688) (1998) (citation modified) (declining to consider the merits of a plaintiff’s argument that a defendant who was in default lacked standing to move to dismiss the action, because the plaintiff did not make that argument to the trial court).

Judgment affirmed. Watkins and Padgett, JJ., concur.