UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 07-10386-GAO

BRADLEY R. COOK,
Plaintiff

v.

JERALD T. JENKINS and SAMARTH VERMA,
Defendants

ORDER
June 29, 2007

O'TOOLE, D.J.

The plaintiff's motion to enlarge time to effect service upon defendant Verma and to allow service by publication upon him (dkt. no. 5) is GRANTED. The Federal Rules of Civil Procedure allow for service of process upon an individual may be effected "pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State. . . ." Fed. R. Civ. P. 4(e)(1).

In this case, the plaintiff seeks to effect service upon the defendant in the state of Nevada. Nevada law permits service by publication upon a defendant against whom a cause of action lies "when the person on whom service is to be made resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge thereof. . . ." Nev. R. Civ. P. 4(e)(1)(I). In support of the motion, the plaintiff has submitted an affidavit by Michael N. Moore, the Director of Research at Vance Consulting and Investigations,

which is a private investigations firm hired by the plaintiff as part of his attempts to locate defendant Verma.[1] In his affidavit, Moore details his efforts to locate defendant Verma, which included: (1) contacting Verma's landlord at Verma's last known address in Arizona, who informed Moore that Verma no longer lived at that location, but that the landlord could not provide a forwarding address for Verma, (2) searching Arizona and Nevada court records for other matters in which Verma was a party, (3) hiring a local investigator in Las Vegas, Nevada to investigate Verma's whereabouts, (4) contacting current residents of Verma's previous addresses and multiple relatives of Verma, including his father, all of whom offered no further insight as to defendant Verma's current domicile, and (5) searching various official records, such as Nevada's incorporation records and Clark County, Nevada's fictitious business names listing, which directed Moore to business associates of Verma, who once again, were unable to provide any concrete contact information for Verma.

While none of the attempts to locate Verma led to specific information regarding Verma's location, there were repeated suggestions that Verma has recently been in Nevada. For example, a current tenant at one of Verma's prior known addresses stated that Verma "probably" moved back to Las Vegas, Nevada only a few weeks prior to attempting service at that address. (Michael N. Moore Aff. ¶ 5.) In addition, certain relatives stated that defendant Verma "resided in Las Vegas and travels to Arizona, Los Angeles, and Florida." (Id. ¶ 13). Finally, business associates in Las Vegas informed Moore of physically encountering Verma a few months ago in Las Vegas. (Id. ¶ 18.) Because it does not appear that defendant Verma maintains a stable residence in any one particular location for an extended period of time, on the basis of the foregoing information, it is reasonable to

[1] Prior to hiring Mr. Moore, the plaintiff's process server attempted, unsuccessfully, to personally serve defendant Verma at six different locations.

believe that Verma is currently in Las Vegas. For this reason, I find that service within Nevada, pursuant to Nevada law, to be most logical and appropriate in this circumstance.

In light of Moore's affidavit outlining his extensive attempts to locate defendant Verma, which were of no avail, I find that the plaintiff has exercised due diligence in his attempts to locate defendant Verma through reasonable means. See Abreu v. Gilmer, 985 P.2d 746, 749-50 (Nev. 1999). Consequently, in accordance with Nevada Rule of Civil Procedure 4(e)(1)(I), the plaintiff shall effect service of process upon defendant Verma by publication by September 28, 2007. Such publication is to be made in a newspaper published in Las Vegas, Nevada for a period of four (4) weeks, and at least once a week during that four-week period. Service of process shall be completed at the expiration of four (4) weeks from the date of first publication. The summons shall be in accordance with the requirements set forth in Rule 4(b) of the Nevada Rules of Civil Procedure. The joint motion to continue the stay of all matters pending service of process upon defendant Verma (dkt. no 7) is GRANTED.

It is SO ORDERED.

June 29, 2007
DATE

/s/ George A. O'Toole, Jr.
DISTRICT JUDGE