

FILED-RECEIVED
2020 SEP -4 AM 8:2

DAVID HAMILTON
FAMILY COURT
YORK COUNTY, SC

PETITION AND ORDER FOR SERVICE BY PUBLICATION

vs.

Defendant(s).

Minor(s) Under the Age of 18 Years.

2. Petitioner has been unable to effect service of process on the named Respondent in the above-captioned case. Petitioner hereby requests that the Court issue an Order

for Service by Publication for a minimum period of once a week for three (3) consecutive weeks in the online legal notice publication, *Global Legal Notices®*, a website of general circulation in El Salvador and surrounding regions which specializes in service by publication and which provides numerous benefits over traditional print newspapers. Their publication policy is to publish the Order, any notices, and all court-issued documents continuously for a period of three (3) consecutive weeks, which exceeds statutory requirements.

ARGUMENT

3. Petitioner has attempted unsuccessfully to serve the Respondent utilizing traditional service of process methods. Respondent has made herself unavailable for service of process, as demonstrated in the attached Affidavit of Due Diligence showing the steps taken to locate and serve the Respondent in El Salvador.
4. The most practical available alternative method of service is service by publication. The only known method for service by publication in El Salvador is through *Global Legal Notices®* which provides a more thorough method to give actual notice to the Respondent, as described on their legal notice website at www.GlobalLegalNotices.com.

5. This method allows for a greater opportunity to give actual notice to the Respondent than service by publication in a traditional newspaper. It provides publication of the Court Order, plus the entire set of Court-issued documents. Further, the publication period exceeds the customary once a week for three (3) consecutive weeks by continually publishing the documents for an indefinite period, as allowed by law or necessity. Petitioner previously obtained an Order for Service by Publication but it specified publication in a "newspaper." This Petition seeks to have the publication completed in an online legal notice publication which is a more efficient method of giving actual notice to the Respondent. Further, a Google search by the Respondent's name and country will typically appear on page one of the Google search after approximately five (5) days, thus, providing a greater opportunity to give actual notice to the respondent.

POINTS AND AUTHORITIES

6. The U.S. Supreme Court in *Mullane v. Central Hanover Trust & Bank Co.*, 22 ILL.339, U.S. 306, 70 S. Ct. 652, 94 L. Ed. 865 (1950), found that, "It is a logical step forward in the evolution of civil procedure that the use of new technologies in common communication be utilized."

U.S. courts have reasoned that service by publication on foreign defendants is permitted under Federal Rules of

Civil Procedure 4(F)(3). Rule 4 allows service of process on a foreign individual:

(1) by internationally agreed upon means of service reasonably calculated to give notice; (2) by a reasonably calculated method as prescribed by the country's law for service for general actions or as the foreign authority directs to a letter rogatory; or (3) by other means not prohibited by international agreement. Because the 1993 amendments to FRCP 4(F) urge that FRCP (4)(3) be construed liberally, the courts have interpreted FRCP 4(F)(3) as authorizing them to utilize technological advancements for serving foreign defendants.

Federal Rules of Civil Procedure, Rule 4((3)(1) provides that *"Service of an individual . . . may be effected in any judicial district of the United States pursuant to the law of the state in which the district court is located . . ."*

The challenge facing Petitioner in this case is there are no traditional newspapers in El Salvador that will allow for publication of legal notices which originate in courts in the United States.

CONCLUSION

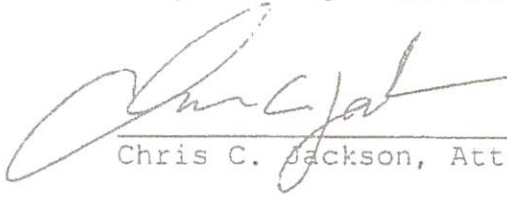
7. *Global Legal Notices* offers an improved method of providing actual notice to a Respondent of a pending lawsuit while satisfying the Court's requirements for service by publication.

It is widely held that service by publication has a limited success rate in providing actual notice to a defendant or respondent that a legal case is pending. Yet, courts

routinely issue an order allowing for service by publication in a newspaper, either print or online, as a last resort method to complete service of process.

Wherefore, Petitioner respectfully requests that the Court issue an Order for Service by Publication in the instant case.

Respectfully submitted,

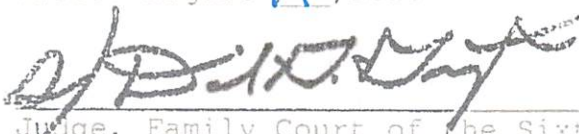


Chris C. Jackson, Attorney for Petitioner

ORDER FOR SERVICE BY PUBLICATION

IT IS SO ORDERED THAT service of the Order for Service by Publication and all court-issued documents in the matter of South Carolina Department of Social Services vs. Rosa Gonzalez Marcos Munoz Martinez, Respondent, Case No. 2019-DR-46-1876, shall be published in Global Legal Notices for a period of three (3) consecutive weeks and that Proof of Publication be filed with this court no later than thirty (30) days after completion of service.

Dated: August 17, 2020



Judge, Family Court of the Sixteenth
Judicial Circuit, County of York

CERTIFIED TRUE COPY
2020 SEP -4 AM 8:26
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

FILED-RECEIVED

STATE OF SOUTH CAROLINA

2020 JUL 27 AM 11:34

COUNTY OF YORK

South Carolina Department
of Social Services,

Plaintiff,
vs.

Rosa Gonzalez
Marcos Munoz Martinez,
John Doe,

Defendants.

IN THE INTERESTS OF:

Emily Gonzalez DOB:3/27/2004
Munoz

Bryann A Gonzalez DOB:10/25/2005
Munoz

Minors Under the Age of 18.

DAVID HAMILTON
FAMILY COURT
YORK COUNTY, SC

IN THE FAMILY COURT
SIXTEENTH JUDICIAL CIRCUIT

Case No. 2019-DR-46-1876

SUMMONS AND NOTICE
[Termination of Parental Rights]

YOU ARE HEREBY NOTIFIED that a termination of parental rights hearing will take place in this matter on October 15, 2020 at 3:00 p.m.


YOU ARE HEREBY SUMMONED and required to answer the complaint for termination of your parental rights in and to the minor children in this action, the original of which has been filed in the Office of the Clerk of Court for YORK County 1555 W. Main Street, Rock Hill, SC 29732, and to serve a copy of your answer to the complaint upon the undersigned attorney for the Plaintiff at 933 Heckle Boulevard, Rock Hill, SC 29732, within thirty (30) days following the date of service upon you, exclusive of the day of such service; and if you fail to answer the complaint within the time stated, the plaintiff will apply for judgment by default against the defendant for the relief demanded in the complaint.

PLEASE TAKE NOTICE that you have the right to be present and represented by an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you. It is your responsibility to contact the Clerk of Court's Office, 1555 W. Main Street, Rock Hill, SC 29732, to apply for appointment of an attorney to represent you if you cannot afford an attorney (take all of these papers with you if you apply). This is a new action. If you had an attorney appointed in a previous action, that attorney is NOT your attorney for this action. YOU MUST APPLY FOR THE APPOINTMENT OF AN ATTORNEY IMMEDIATELY. IF YOU DO NOT APPLY

FOR AN ATTORNEY WITHIN THIRTY DAYS OF RECEIPT OF THE COMPLAINT,
AN ATTORNEY WILL NOT BE APPOINTED FOR YOU.

YOU ARE FURTHER NOTIFIED that: (1) the guardian ad litem (GAL) who is appointed by the court in this action to represent the best interests of the child(ren) will provide the family court with a written report that includes an evaluation and assessment of the issues brought before the court along with recommendations; (2) the GAL's written report will be available for review twenty-four (24) hours in advance of the hearing; (3) you may review the report at the GAL Program county office.

S.C. DEPARTMENT OF SOCIAL SERVICES


Kathryn J. Walsh SC Bar # 7002
Attorney for Plaintiff
S.C. Department of Social Services
933 Heckle Boulevard
Rock Hill, SC 29732
South Carolina Bar No.

July 23, 2020
Rock Hill, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF YORK

South Carolina Department
of Social Services,

Plaintiff,

Rosa Gonzalez
Marcos Munoz- Martinez
John Doe

and

CHILD: Emily Gonzaez-Munoz-3/27/04
Bryan Gonzaez-Munoz-10/25/05

Defendants.

FILED & RECEIVED
JUL 27 AM 11:34
FAMILY COURT
SIXTEENTH JUDICIAL CIRCUIT

DAVID HAMILTON
FAMILY COURT
YORK COUNTY, SC

vs.

AFFIDAVIT of DUE DILIGENCE

2013-DR-46-2132

2019-DR-46-1876

PERSONALLY appeared before me, a notary public for South Carolina, the undersigned, who being first duly sworn, deposes and says:

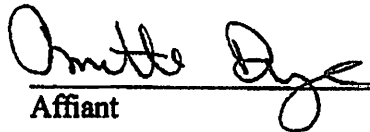
1. I am the case manager and/or supervisor with the York County Department of Social Services assigned to the captioned case.
2. A complaint has been filed in this matter alleging that the above-named child is within the jurisdiction of the court and that the court has jurisdiction of the subject matter of these proceedings.
3. Marcos Munoz- Martinez and John Doe are defendants in the foregoing action and is a necessary and proper party to same; it is necessary and proper that the defendants be notified of these proceedings.
4. The whereabouts of the defendants cannot be ascertained after a reasonable and diligent inquiry has been made in that regard, which inquiry has included, among other things,
the following:
 1. York County Department of Social Services has contacted Rosa Gonzalez to locate Marcos Munoz- Martinez and John Doe. Rosa Gonzalez sated the last address for Marcos Munoz- Martinez was La Calzada, El Salvador. John Doe's address was San Antonio, Texas.
 2. York County Department of Social Services has conducted Internet and prison search on Marcos Munoz- Martinez and John Doe.

3. York County Department of Social Services requested a diligent search be done by Clear Search.

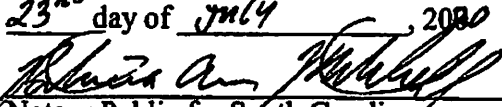
4. Notwithstanding the reasonable and diligent efforts to locate the defendant, the exact whereabouts of the defendant cannot be located or reasonably ascertained and the defendant cannot be personally served with the pleadings in or given notice of the subject action as required by the South Carolina Rules of Civil Procedure.

5. I make these statements as of my own knowledge, saving and excepting those matters stated upon information and belief, and as to those, I believe them to be true.

Further, Affiant sayeth not.


Affiant

SWORN to before me this

23rd day of July, 2020
 (SEAL)
Notary Public for South Carolina
My Commission Expires 5-17-2028