

FILED

JUN 14 2021

FRESNO COUNTY SUPERIOR COURT
By _____ DEPT. 403

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GIANA GONZALVEZ

RECEIVED
6/8/2021 4:13 PM
FRESNO COUNTY SUPERIOR COURT
By: I. Herrera, Deputy

10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF FRESNO

12 GIANA GONZALVEZ,)

Case No. 20CECG01685

13 Plaintiff,)

**APPLICATION FOR SERVICE BY
PUBLICATION; MEMORANDUM OF
POINTS & AUTHORITIES; [PROPOSED]
ORDER**

14 vs.)

15 FOSTER FARMS, LLC; FOSTER POULTRY)
FARMS LSE; ARI FLEET LSR; E.M.V.,)
16 INC.; RUBEN CARMONA MORALES;)
ORLIN YOVANI AMARIBA CASTILLO)
17 (pursuant to C.C.P. section 382 as an Unwilling)
Plaintiff); and DOES 1 to 25, inclusive,)

18 Defendants.)
19)

20 COMES NOW PLAINTIFF, GIANA GONZALVEZ, who submits this Application for Order for
21 Service by Publication pursuant to California Code of Civil Procedure §415.50.

22 I.

23 **FACTS OF THE CASE**

24 This case is related to a motor vehicle accident, as described in the Plaintiff's Complaint-Personal
25 Injury, Property Damage, Wrongful Death. Plaintiff is unable to locate the Defendant, Orlin Yovani
26 Arnariba Castillo ("Castillo"). Castillo is the decedent's father and was named as an unwilling plaintiff
27 pursuant to California Code of Civil Procedure section 415.50. Diligent attempts have been made to
28 locate Castillo as reflected in the Declarations of Due Diligence Search attached as Exhibit "A."

1 Application is made for an order directing service of the Summons, Complaint and Notice of Case
2 Management and Assignment to Judge For All Purposes.

3 **II.**

4 **REQUEST**

5 Plaintiff has been unable to locate or effect service of process on Castillo in the above-captioned
6 case. The party to be served cannot, with reasonable diligence, be served in another manner specified by
7 Code of Civil Procedure sections 415.10 through 415.47. The party to be served is a necessary or proper
8 party to the action. Moving party makes this application to serve Castillo by Publication for a minimum
9 period of once a week for four (4) successive weeks in the online legal notice publication, Global Legal
10 Notices®, a website of general circulation in Mexico and surrounding regions which specializes in service
11 by publication and which provides numerous benefits over traditional print newspapers (see Exhibit "B").
12 Their publication policy is to publish the Order, any notices, and all court-issued documents continuously
13 for a period of four (4) successive weeks, which exceeds statutory requirements.

14 **III.**

15 **ARGUMENT**

16 Plaintiff has attempted unsuccessfully to locate and serve Castillo in Mexico utilizing traditional
17 service of process methods. Castillo made himself unavailable for service of process.

18 The most practical available alternative method of service is service by publication. The only
19 known method for service by publication in Mexico is through Global Legal Notices® which provides
20 a more thorough method to give actual notice to the defendant, as described on their legal notice
21 website at www.GlobalLegalNotices.com. This method allows for a greater opportunity to give actual
22 notice to the defendant than service by publication in a traditional newspaper. It provides publication
23 of the Court Order, plus the entire set of Court-issued documents. Further, the publication period
24 exceeds the customary once a week for four (4) successive weeks by continually publishing the

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1 documents for an indefinite period, as allowed by law or necessity. In addition, a Google search by the
2 defendant's name and country will typically appear on page one of the Google search after approximately
3 five days, thus, providing a greater opportunity to give actual notice to the defendant.

4 **IV.**

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 The U.S. Supreme Court in *Mullane v. Central Hanover Trust & Bank Co.*, 22 ILL.339, U.S. 306,
7 70 S. Ct. 652, 94 L. Ed. 865 (1950), found that, "It civil procedure is a that logical the use step forward
8 in the evolution of new technologies in common communication be utilized."

9 U.S. courts have reasoned that service by publication on foreign defendants is permitted under
10 Federal Rules of Civil Procedure 4(F)(3). Rule 4 allows service of process on a foreign individual: (1)
11 by internationally agreed upon means of service reasonably calculated to give notice; (2) by a reasonably
12 calculated method as prescribed by the country's law for service for general actions or as the foreign
13 authority directs to a letter rogatory; or (3) by other means not prohibited by international agreement.
14 Because the 1993 amendments to FRCP 4(F) urge that FRCP (4)(3) be construed liberally, the courts have
15 interpreted FRCP 4(F)(3) as authorizing them to utilize technological advancements for serving foreign
16 defendants. Federal Rules of Civil Procedure, Rule 4((3)(1) provides that "Service of an individual ...
17 may be effected in any judicial district of the United States pursuant to the law of the state in which the
18 district court is located . . ."

19 Further, California Code of Civil Procedure Section 415.50, allows for service by publication if
20 the service address for the defendant cannot be determined.

21 The challenge facing Plaintiff in this case is there are no traditional newspapers in Mexico that
22 will allow for publication of legal notices which originate in courts in the United States.

23 **V.**

24 **CONCLUSION**

25 Global Legal Notices® offers an improved method of providing actual notice to a defendant of
26 a pending lawsuit while satisfying the Court's requirements for service by publication.

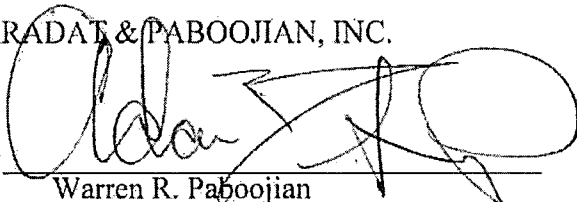
27 ///

28 ///

1 Plaintiff respectfully requests that the Court issue an Order for Service by Publication in the
2 instant case.

3 Dated: June 7, 2021

BARADAT & PABOOJIAN, INC.

4
5 By: 

6 Warren R. Paboojian
7 Jason S. Bell
8 Adam B. Stirrup
9 Attorneys for Plaintiff
10 GIANA GONZALVEZ

11 **ORDER FOR SERVICE BY PUBLICATION**

12 IT IS SO ORDERED THAT service of the Plaintiff's Summons and Complaint, and all
13 court-issued documents in this case, shall be published in Global Legal Notices, LLC, a publication of
14 general circulation in Mexico, for a period of four (4) successive weeks and that Proof of Publication be
15 filed with this court no later than thirty (30) days after completion of the publication.

16 Dated: 6/14/21

17 
18 _____
19 JUDGE OF THE SUPERIOR COURT

DECLARATION OF DUE DILIGENCE SEARCH

I declare, under penalty of perjury of the laws of the State of California, that the following is true and correct to the best of my knowledge and that I could competently testify, if called, to the following:

1. I am the CEO of Process Service Network, LLC, a process server and investigator with extensive experience in international service of process, am over the age of 18 years, and not a party to the within-named action. I have been a Registered Process Server and owner of Process Service Network, LLC since 1978. I have authored four (4) books on service of process, international investigations and court filing procedures and have conducted training seminars for the past 36 years. I regularly serve, or cause to be served, legal documents domestically and worldwide and supervise all international service and investigation assignments for clients who make assignments to us in Mexico. I regularly conduct MCLE courses on international service of process for major law firms and state Bar Associations. I am a Life Member of the National Association of Investigative Specialists and the International Process Servers Association. I serve on the Advisory Board of Professional Process Server Network. I


am qualified as an expert in my field and can competently testify to the facts stated and declared within.

2. On May 28, 2021, I received an assignment from Baradat & Paboojian, Inc., along with written instructions to locate and serve the named Defendant, **Orlin Yovani Amariba Castillo** ("Castillo"), related to case number 20CECG01685, with a Summons, Complaint, and related court-issued documents. The documents were written in English and translated into Spanish.
3. The usual method of service of documents in Mexico is pursuant to the Hague Service Convention. However, Mexico is not currently accepting service requests due to the COVID-19 shutdown. They have not executed any Hague requests since June 2020 and are currently backlogged by eleven (11) months. According to José Luis Amaro Jaramillo of the Ministry of Foreign Affairs (Central Authority), new Hague service requests will not be honored until at least September 2021, and possibly longer.
4. The alternative option for service is by publication since there is no known address for Castillo.
5. I conducted a search to locate the current whereabouts of Castillo. The following is a result of that search:
6. Search using Facebook, Twitter, Instagram, MySpace, YouTube, Google+, WhatsApp, WeChat, Line and Foursquare.

Result: Numerous similar names were located but none were a match to Castillo.

7. All online telephone directories for the region of Tijuana, Mexico (the last known area of possible residence. Result: no listings were found.
8. Search of the business license records in Tijuana, Mexico. Result: no record found.
9. Search of criminal and civil records in Mexico. Result: nothing found.
10. Search of public medical facilities and hospitals in Tijuana, Mexico. Result: Nothing found.
11. Additional database searches revealed 3 possible matches. Each available data was investigated and determined to be invalid. The data checked was similar names.

Executed on this 28th day of May, 2021, at Chatsworth, CA, attesting the foregoing to be true and correct, under penalty of perjury of the laws of the State of California.



Nelson Tucker



Agencia de detectives privados en Tijuana

La confianza del momento es la herramienta más útil del momento

BARADAT & PABOOJIAN
AT'N MR. ADAM B. STIRRUP, ESQ.

I, ANA ZULEMA VERDUZCO CANETT declare:

1. I am over 18 years of age and am not a party to the above-entitled action.
2. My address is Privada Montecatin #12 Colinas del Rey in Tijuana Baja California Mexico c. p. 22634
3. The following facts are within my personal knowledge and if sworn as a witness I can and will truthfully and competently testify thereto.
4. I attempted to serve process in the above-referenced matter on the following person or entity:
ORLIN YOVANI AMARIBA CASTILLO
5. I attempted to serve the following documents: *Search and locate subject*
6. I attempted personal service on the following dates and times with the following results:

7. Residence Address:
Unknown

Date and Time

Result

11/23/2020

Ordered information on last known cell phone number, but no name or address registered for the number. We then proceeded to call the number and a man's voice answered. So we ordered a phone geographical location, but it resulted in the middle of an avenue that has a lot of traffic, no homes near the location.

11/23/2020

We then ordered a search in the National Electoral database to find address information provided for Mr. Amariba, but no registration under his name.

11/23/2020

Mr. Amariba's Social Media accounts are private. He has no public information or pictures of him, that helped us with his personal or work location.

12/30/2020

With a picture later provided to us, we performed a surveillance in his last known work address in Tijuana under the name of Marzam pharmacy delivery. But never saw him arrive, come in or out of the premises. We then proceeded to ask for him directly in the offices and were informed that he had resigned a little over a year ago.

12/30/2020

Ordered a search in a Mexican Government dependency for registered drivers license or automobiles, but result came back negative. Nothing registered under his name.

8. Business Address: Calle Tres Norte No. 664-D Cd. Industrial Otay, Tijuana Baja Cfa Mex

9. Unknown

Date and Time

Result

12/30/2020

Ordered search in the government dependency IMSS (Mexican Institute for workers medical insured). Which resulted active and working in a Company named *Lala Operaciones S.A. de C.V.* in Tijuana. That has more than a thousand employees, Performed a surveillance and did not locate Ms. Orlin Yovani Amariba Castillo. Asked for him in the human resources department, and were told that all of their employee information is confidential and denied to provide any information on our subject.

10. I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

11. DATED: Friday May 21st, 2021.



Ana Zulema Verduzco Canett
911 Investigadores Privados
Tijuana México

Comparison Chart

International Service by Publication

Features	Global Legal Notices	Traditional Newspapers
Publish court Notice of Publication	Yes	Yes
Open access to public	Yes	Yes
Publish actual court documents	Yes	No
Search engine friendly	Yes	No
Extended publication period	Yes	No
Available in all countries	Yes	No
Translation in multiple languages	Yes	No
Email notification	Yes	No
Unlimited size of notice	Yes	No
Exceeds minimum requirements	Yes	No
Search by name or case number	Yes	No
Available on computer and cell	Yes	No
Cost efficient	Yes	No

Exhibit "B"

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF FRESNO

3 I am employed in the County of Fresno, State of California. I am over the age of 18 and not a
4 party to the within action. My business address is 720 West Alluvial Avenue, Fresno, California 93711.
5 My email address is bh@bplaw-inc.com.

6 On June 8, 2021, I served the foregoing document described as **APPLICATION FOR SERVICE**
7 **BY PUBLICATION; MEMORANDUM OF POINTS AND AUTHORITIES; [PROPOSED]**
8 **ORDER** on all interested parties in this action as listed below:

9 Sharon C. Collier
10 SEVERSON & WERSON
11 One Embarcadero Center, Suite 2600
12 San Francisco, CA 94111
13 Fax: (415) 956-0439
14 scc@severson.com
15 jmm@severson.com
16 co@severson.com
17 *Attorneys for Defendant*
18 *FOSTER FARMS, LLC, and*
19 *FOSTER POULTRY FARMS*

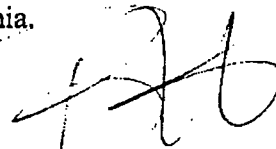
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E.M.V., INC., and RUBEN
CARMONA MORALES

16 BY MAIL - I am readily familiar with the firm's practice of collection and processing
17 documents for mailing. Under that practice, each envelope would be deposited with the
18 U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno,
19 California, in the ordinary course of business. I am aware on motion of the party served,
20 service is presumed invalid if postal cancellation date or postage meter date is more than
21 one day after date of deposit for mailing in affidavit.

22 BY ELECTRONIC TRANSMISSION - A PDF version of said document was served by
23 *tylerhost.net* via electronic mail to the party(s) identified herein using the e-mail
24 address(es) indicated.

25 I declare under penalty of perjury, under the laws of the State of California, that the above is true
26 and correct.

27 Executed on June 8, 2021, at Fresno, California.

28 

BECKY HOLLY