

1 MICHAEL R. HALL
Nevada Bar No. 005978
2 STEVEN T. JAFFE
Nevada Bar No. 007035
3 JACOB S. SMITH
Nevada Bar No. 10231
4 **HALL JAFFE & CLAYTON, LLP**
5 7455 West Washington Ave., Suite 460
6 Las Vegas, Nevada 89128
(702) 316-4111
7 Fax: (702) 316-4114

8 G. DALLAS HORTON
Nevada Bar No. 005996
9 MONTE HALL
Nevada Bar No. 000296
10 **G. DALLAS HORTON & ASSOCIATES**
11 4435 South Eastern Avenue
12 Las Vegas, Nevada 89119
(702) 380-3100
13 Fax: (702) 385-3101

14 ROBERT D. VANNAH
Nevada Bar No. 002503
15 MARK L. JACKSON
Nevada Bar No. 010905
16 **VANNAH & VANNAH**
17 400 S. 4th Street, 6th Floor
18 Las Vegas, Nevada 89101
(702) 369-4161
19 Fax: (702) 369-0104
20 *Attorneys for Plaintiffs*

21 **UNITED STATES DISTRICT COURT**
22 **DISTRICT OF NEVADA**

23 KEITH E. FAGIANA, and)
24 JEANETTE V. PAGE,)
(Re: 7412 Pinedale Avenue))
25)
Plaintiffs,)
26 vs.)
27 ATLAS MORTGAGE FUNDING)
CORPORATION; a Foreign Corporation)
28 DORIS MITCHELL; an Individually)
CAPITAL SIX FUNDING; a Foreign)

CASE NO. 2:10-cv-00998-GMN-PAL
**MOTION TO ENLARGE TIME FOR
SERVICE AND FOR AN ORDER
THAT SERVICE BE MADE BY
PUBLICATION OF SUMMONS**

1 Corporation; PREMIER MORTGAGE)
 SERVICES LLC; a Foreign Limited)
 2 Liability Company; FIRST)
 COMMERCIAL CORPORATION a)
 3 Foreign Corporation; REGIONS)
 4 FINANCIAL CORPORATION)
 a Foreign Corporation; COUNTRYWIDE)
 5 HOME LOANS INC.; a Foreign)
 Corporation; BAC HOME LOANS)
 6 SERVICING, LP.; a Foreign Limited)
 Partnership; ROE Rating Company;)
 7 DOES 1- 100, inclusive; ROE)
 8 CORPORATIONS 1 - 100, inclusive.)
 9)
 Defendants.

11 COMES NOW, Plaintiffs KEITH FAGIANA AND JEANETTE PAGE by and through their
 12 attorneys MICHAEL R. HALL, ESQ., STEVEN T. JAFFE, ESQ., and JACOB S. SMITH, ESQ. of
 13 the law firm of HALL, JAFFE & CLAYTON, LLP, hereby moves this Honorable Court for an
 14 Order to Enlarge the Time for Service and for and Order that Service be Made by Publication of
 15 Summons.

16 This motion is made and based on the following points and authorities and all pleadings and
 17 papers on file herein, any affidavits and exhibits attached hereto.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. PROCEDURAL HISTORY**

20 Plaintiffs filed their Complaint on May 13, 2010. Multiple attempts to personally serve
 21 Defendant DORIS MITCHELL have been unsuccessful. Plaintiffs believe that her whereabouts are
 22 unknown. Accordingly, Plaintiffs request that this Court grant their Motion for Order to Enlarge the
 23 Time for Service and for an Order that Service be made by Publication of Summons.

24 **II. ARGUMENT**

25 Local Rule 4-1 of the U.S. District Court Rules allows for service pursuant to state rules,
 26 provided counsel seeking such service “furnishes the court with all forms and papers needed to
 27 comply with the requirements.” LR 4-1 (2010).
 28

1 The Nevada Rules of Civil Procedure provide that "Upon a showing of good cause, the Court
2 shall extend the time for service and set a reasonable date by which service should be made."
3 N.R.C.P. 4(i). The Rules further provide for service by publication "when the person on whom
4 service is to be made resides out of state, or has departed from the state, **or cannot, after due**
5 **diligence, be found within the state**" (Emphasis added). NRCP 4(e)(1).

6 Attached hereto are affidavits of due diligence outlining the attempts made to serve the
7 Defendant DORIS MITCHELL (Affidavits of Due Diligence, attached hereto as **Exhibit 1**).
8 Plaintiffs have made good-faith attempts to serve the Defendant in person, but have been unable to
9 successfully serve Defendant, and Plaintiffs seek an executed Order (which Order is attached hereto
10 as **Exhibit 2**) from the Court granting the Plaintiffs additional time in which to serve the Defendant
11 DORIS MITCHELL via publication in a local newspaper.

12 **III. CONCLUSION**

13 For all the foregoing reasons, and because Plaintiffs have made a good-faith effort to serve
14 the Defendant and has presented good cause, Plaintiffs respectfully requests this Court grant their
15 Motion to Enlarge the Time for Service and for an Order that Service be made by Publication of
16 Summons.

17 DATED this 13 day of August, 2010.

18
19 HALL JAFFE & CLAYTON, LLP

20
21 By _____

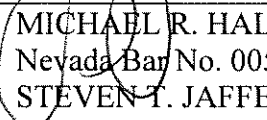

22 MICHAEL R. HALL
23 Nevada Bar No. 005978
24 STEVEN T. JAFFE
25 Nevada Bar No. 007035
26 JACOB S. SMITH
27 Nevada Bar No. 10231
28 7455 West Washington Ave., Suite 460
Las Vegas, Nevada 89128
Attorneys for Plaintiff

EXHIBIT 1

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGLIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by Paradigm Attorney Service, Inc. on 06/14/2010 to be served upon:

DORIS MITCHELL

I, Zachary A. Van Dette, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 06/18/2010 at 11:41 AM, I attempted to serve the within SUMMONS; COMPLAINT on DORIS MITCHELL at 3355 Spring Mountain Rd., Ste. 59, Las Vegas, NV 89103 in the manner indicated below:

NON-SERVICE: For the reason(s) in the comments below:

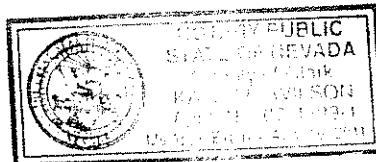
Comments/Prev. Attempts: I am unable to serve the defendant at the above address at this time. This is Diaspora International Consultants, I spoke to Dr. Girma Siede who stated that he has been here for 6 years and has never employed or heard of the defendant. I called the property management company, Ribeiro Company, and spoke to the office and was told that they have no record on file for the defendant.

X

Zachary A. Van Dette
Paradigm Attorney Service, Inc. - Lic#: 1361
610 S. 10th Street
Las Vegas, NV 89101
702.385.7874
Atty File#: Keith Fagiana - Our File# 38990

SUBSCRIBED AND SWORN to before me
this 22 day of June, 2010.

Notary Public in and for said
County and State.



DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by Paradigm Attorney Service, Inc. on 05/17/2010 to be served upon:

DORIS MITCHELL

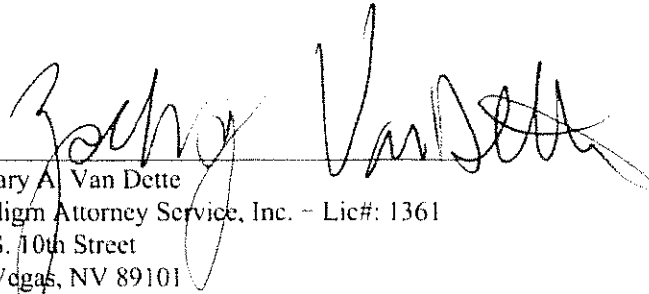
I, Zachary A. Van Dette, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

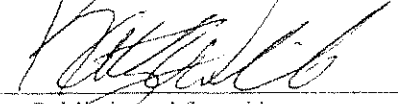
On 05/21/2010 at 12:16 PM, I attempted to serve the within SUMMONS; COMPLAINT on DORIS MITCHELL at 889 S. Rainbow Blvd., Ste. 708, Las Vegas, NV 89145 in the manner indicated below:

NON-SERVICE: For the reason(s) in the comments below:

Comments/Prev. Attempts: I am unable to serve the defendant at the above address at this time. This is a Mail Store and there is no employee by the defendants name. There is a box 708 but they could not give me any information regarding the box holder.

X 
Zachary A. Van Dette
Paradigm Attorney Service, Inc. - Lic#: 1361
610 S. 10th Street
Las Vegas, NV 89101
702.385.7874
Atty File#: Keith Fagiana - Our File# 38096

SUBSCRIBED AND SWORN to before me
this 21 day of June, 2010.


Notary Public in and for said
County and State.



DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by Paradigm Attorney Service, Inc. on 05/17/2010 to be served upon:

DORIS MITCHELL

I, Zachary A. Van Dette, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 05/24/2010 at 02:00 PM, I attempted to serve the within SUMMONS; COMPLAINT on DORIS MITCHELL at 3340 Topaz St., Ste. 150B, Las Vegas, NV 89121 in the manner indicated below:

NON-SERVICE: For the reason(s) in the comments below:

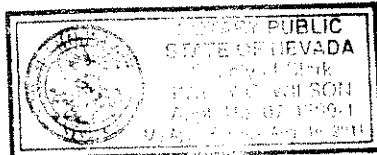
Comments/Prev. Attempts: I am unable to serve the defendant at the above address at this time. This is the National Association for the Advancement of Colored People. I spoke with the employees at this address and the defendant was unknown at this office.

X

Zachary A. Van Dette
Paradigm Attorney Service, Inc. - Lic#: 1361
610 S. 10th Street
Las Vegas, NV 89101
702.385.7874
Atty File#: Keith Fagiana - Our File# 38989

SUBSCRIBED AND SWORN to before me
this 21 day of June, 2010

Notary Public in and for said
County and State.



DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by Paradigm Attorney Service, Inc. on 06/17/2010 to be served upon:

DORIS MITCHELL


I, Bruce Feher, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county in was served in.

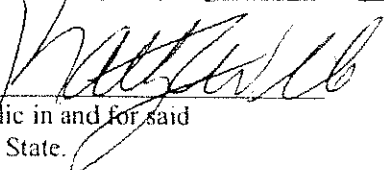
On 06/21/2010 at 11:10 AM, I attempted to serve the within SUMMONS; COMPLAINT on DORIS MITCHELL at 5222 Holbrook Dr. , Las Vegas, NV 89103 in the manner indicated below:

NON-SERVICE: For the reason(s) in the comments below:

Comments/Prev. Attempts: I am unable to serve the defendant at the above address at this time. The residence is vacant and for sale.

X 
Bruce Feher
Paradigm Attorney Service, Inc. – Lic#: 1361
610 S. 10th Street
Las Vegas, NV 89101
702.385.7874
Atty File#: Keith Fagiana – Our File# 39013

SUBSCRIBED AND SWORN to before me
this 21 day of June, 2010


Notary Public in and for said
County and State.

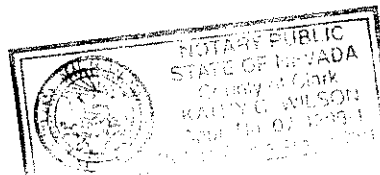


EXHIBIT 2

1 MICHAEL R. HALL
Nevada Bar No. 005978
2 STEVEN T. JAFFE
Nevada Bar No. 007035
3 JACOB S. SMITH
Nevada Bar No. 10231
4 **HALL JAFFE & CLAYTON, LLP**
5 7455 West Washington Ave., Suite 460
6 Las Vegas, Nevada 89128
(702) 316-4111
7 Fax: (702) 316-4114

8 G. DALLAS HORTON
Nevada Bar No. 005996
9 MONTE HALL
Nevada Bar No. 000296
10 **G. DALLAS HORTON & ASSOCIATES**
11 4435 South Eastern Avenue
12 Las Vegas, Nevada 89119
(702) 380-3100
13 Fax: (702) 385-3101

14 ROBERT D. VANNAH
Nevada Bar No. 002503
15 MARK L. JACKSON
Nevada Bar No. 010905
16 **VANNAH & VANNAH**
17 400 S. 4th Street, 6th Floor
18 Las Vegas, Nevada 89101
(702) 369-4161
19 Fax: (702) 369-0104

20 *Attorneys for Plaintiffs*

21 **UNITED STATES DISTRICT COURT**
22 **DISTRICT OF NEVADA**

23 KEITH E. FAGIANA, and)
24 JEANETTE V. PAGE,)
(Re: 7412 Pinedale Avenue))
25)
26 Plaintiffs,)
27 vs.)
28 ATLAS MORTGAGE FUNDING)
CORPORATION; a Foreign Corporation)

CASE NO. 2:10-cv-00998-GMN-PAL

**ORDER GRANTING MOTION TO
ENLARGE TIME FOR SERVICE BE
MADE BY PUBLICATION OF
SUMMONS**


1 DORIS MITCHELL; an Individually)
 2 CAPITAL SIX FUNDING; a Foreign)
 Corporation; PREMIER MORTGAGE)
 3 SERVICES LLC; a Foreign Limited)
 Liability Company; FIRST)
 4 COMMERCIAL CORPORATION a)
 Foreign Corporation; REGIONS)
 5 FINANCIAL CORPORATION)
 a Foreign Corporation; COUNTRYWIDE)
 6 HOME LOANS INC.; a Foreign)
 Corporation; BAC HOME LOANS)
 7 SERVICING, LP.; a Foreign Limited)
 Partnership; ROE Rating Company;)
 8 DOES 1- 100, inclusive; ROE)
 CORPORATIONS 1 - 100, inclusive.)
 9)
 10)
 11 Defendants.)

12 Plaintiffs' Motion to Enlarge Time for Service and for an Order that Service be Made by
 13 Publication of Summons, and the Court having examined the records and documents on file in the
 14 above-entitled matter, and being fully advised of the premises of Plaintiffs' Motion, and good cause
 15 appearing:

16 IT IS HEREBY ORDERED that Plaintiffs' Motion to Enlarge Time for Service and for and
 17 Order that Service be Made by Publication of Summons is GRANTED.


18 IT IS FURTHER ORDERED that the time for service of process is hereby extended up to and
 19 including October 30, 2010.

20 IT IS FURTHER ORDERED that Defendant DORIS MITCHELL be served by publication for
 21 a period of four (4) weeks in the Nevada Legal News, with the notice to be published at least once per
 22 week during the four (4) week period.

23
 24 
 25 UNITED STATES DISTRICT COURT JUDGE
 26 DATED: August 19, 2010
 27
 28

1 Respectfully submitted by:

2 HALL JAFFE & CLAYTON, LLP

3
4 

5 By _____

6 MICHAEL R. HALL, ESQ.
7 Nevada Bar No. 005978
8 STEVEN T. JAFFE, ESQ.
9 Nevada Bar No. 007035
10 JACOB S. SMITH, ESQ.
11 Nevada Bar No. 010231
12 7455 West Washington Ave., Suite 460
13 Las Vegas, Nevada 89128
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28