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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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12 James K. Trueman, )

13 ) Plaintiff, )

No. CIV 09-2179-PHX-RCB(DKD)

14 ) vs. )

O R D E R

15 Jason Johnson, Unknown Avena, )

16 and Unknown Molina, )

17 ) Defendants. )

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19 Currently pending before the court is a motion by plaintiff  
20 *pro se*, James K. Trueman, "requesting" the court's "assist[ance]"  
21 in "obtain[ing] the names and addresses of the defendants [Unknown  
22 Avena, Jason Johnson, and Unknown Molina] from Compass Group USA,  
23 Inc. d/b/a[] Canteen Correctional Services ["CCS"] for service of  
24 process[.]" Pl.'s Mot. (Doc. 33) at 1 (emphasis omitted).  
25 Obviously there has not been, nor will there be, any response by  
26 these as yet unserved defendants. The court thus will proceed to  
27 resolve this matter based upon plaintiff's motion and the prior  
28 proceedings herein.

1 Background

2 In determining whether to grant an extension of time to serve  
3 under Fed.R.Civ.P. 4(m), this court “[e]ngag[ed] in the two-step  
4 analysis which the Ninth Circuit requires[.]” Ord. (Doc. 32) at  
5 2:2-3 and at 6:6-7 (internal quotation marks and citation omitted).  
6 After so doing, on December 21, 2011, the court granted plaintiff  
7 sixty days from the date of that order, *i.e.*, or until February 19,  
8 2012, in which to “conduct discovery for the limited purpose of  
9 ascertaining . . . the full names and . . . the addresses of” the  
10 three defendants identified above. Id. at 17:11-16. Additionally,  
11 the court required plaintiff “[w]ithin that sixty day time frame”  
12 to “file with the court a notice indicating either: (1) that he has  
13 ascertained the names of defendants and their addresses; (2) or  
14 that he has not.” Id. at 17:16-19. Following the provision of  
15 those names and addresses, the court indicated that it would “issue  
16 an order directing service.” Id. at 17:21.

17 Plaintiff has been unable to ascertain those names and  
18 addresses, despite having written “a letter to [CCS] requesting”  
19 that information. Pl.’s Mot. (Doc. 33) at 1, ¶ 1. Plaintiff  
20 claims that he was “told that they [the three unserved defendants]  
21 [are] **‘no longer are employees for [CCS].’**” (emphasis in original).  
22 It is unclear as to when that letter was written and the response  
23 received, as plaintiff did not provide a copy of either. In any  
24 event, given CCS’ purported response, plaintiff now claims to be  
25 “at [a] los[s] as to how [to] comply with” this court’s prior  
26 order. Id. at 1, ¶ 2. Given that plaintiff filed the pending  
27 motion, setting forth his efforts in conducting the allowed  
28 discovery, within the 60 day time frame, the court finds that he

1 has complied with this court's prior order in terms of timely  
2 notification.

3 The court further finds and **ORDERS** that plaintiff shall be  
4 allowed to conduct limited discovery as follows:

5 (1) in accordance with Fed.R.Civ.P. 31, as modified by this  
6 order, plaintiff may take the deposition by written questions of  
7 Canteen Correctional Services, through its corporate parent, the  
8 Compass Group;

9 (2) plaintiff shall be strictly limited to seeking from that  
10 entity the **full names and the last known home addresses or**  
11 **locations of defendants Unknown Avena; Jason Johnson; and Unknown**  
12 **Molina;**

13 (3) plaintiff shall have **thirty (30) days** from the date of  
14 entry of this order within which to serve and file his written  
15 questions;

16 (4) within that same **thirty (30) day** time frame, plaintiff  
17 shall also "deliver to the officer[,]" herein designated, *i.e.*, the  
18 Electronic Court Recorder/Courtroom Deputy for this court, "a copy  
19 of all the questions served[.]" See Fed.R.Civ.P. 31(b). That  
20 officer shall then fully comply with Fed.R.Civ.P. 31(b) in its  
21 entirety. In that regard, if Canteen Correctional Services,  
22 through its corporate parent, the Compass Group, deems it be more  
23 expeditious to respond telephonically,<sup>1</sup> that can be arranged;

24 (4) regardless of the manner provided, defendants' home  
25 addresses or locations shall be placed under seal with the court;

26 (5) when it appears to the court that the discovery which this  
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28 <sup>1</sup> This provision is included because Canteen Correctional Services' corporate headquarters is in North Carolina.

1 order permits has been completed, it shall issue an order directing  
2 service;

3 (6) if plaintiff does not comply with the time frame herein  
4 for commencing this limited discovery, this case shall be dismissed  
5 "without prejudice," subject to any statute of limitations defense.

6 DATED this 12th day of March, 2012.

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Robert C. Broomfield  
Senior United States District Judge

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20 Copies to counsel of record and plaintiff *pro se*

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