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5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF ARIZONA**
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8 Richard Shupe, et al.,

9 Plaintiffs,

10 v.

11 Lewis & Lewis Insurance Agency
12 Incorporated, et al.,

13 Defendants.

No. CV-18-00159-TUC-DCB

ORDER

14 On July 24, 2018, this Court denied a Motion to Dismiss in part as to Defendant
15 Lewis and Lewis Agency, Inc., (Lewis') assertion that Plaintiff failed to name the proper
16 party and for improper service. The Court held it would not dismiss the action on a mere
17 technicality, specifically, the difference in naming Defendant Lewis & Lewis Insurance
18 Agency with an ampersand instead of "and" and Jim Lewis instead of James Crane Lewis
19 Jr. Lewis filed an Answer at the same time it filed the Motion to Dismiss so the Court
20 assumes Lewis was served with the Summons and Complaint which were the subject of
21 the Motion to Dismiss. Plaintiff failed to file the proof of service for Defendant Lewis as
22 required by Fed. R. Civ. P. 4(l).

23 Also on July 24, 2018, the Court denied the Plaintiff's¹ request to serve Defendant
24 Qualitas Compania de Seguros SA Grupo (Qualitas) by publication. Instead, the Court
25 extended the time for service on this foreign corporation by 60 days. On September 27,
26 2018, the Plaintiff filed a Motion for Sanctions for Qualitas' failure to respond to the
27 Plaintiff's service by waiver. Defendant Qualitas makes a special appearance for the sole

28 ¹ Plaintiff Maria Shupe withdrew from this action on June 4, 2018. *But see* (Notice of
Withdrawal (Doc. 7) signed by Richard Shupe).

1 purpose of opposing the Motion for Sanctions. Qualitas correctly notes that the waiver of
2 service provisions relied on by the Plaintiff only apply to defendants located within the
3 United States. Plaintiff did not file a Reply to this Response.

4 While Plaintiff is pro se, the Court notes that he is not without experience. He has
5 filed a total of 15 cases in federal court. To the extent the Plaintiff might argue that as a
6 pro se litigant he is not held to the same standard as an attorney, the Court clarifies that
7 while it may liberally construe such things as his pleadings, “pro se litigants must follow
8 the same rules of procedure that govern other litigants.” *King v. Atiyeh*, 814 F.2d 565, 567
9 (9th Cir. 1987). His pro se status does not immunize him from complying with the civil
10 rules of procedure, especially when he has been advised of them either by this Court or the
11 Defendant. The Plaintiff is advised to review Rule 4(f) and (h) for serving a foreign
12 corporation. The Court shall extend the time to serve Qualitas by 30 days, and shall
13 thereafter dismiss Qualitas as a Defendant unless the Plaintiff seeks leave for further
14 extension of time and can show he is proceeding in a fashion which will ultimately
15 culminate in properly serving Qualitas.

16 **Accordingly,**

17 **IT IS ORDERED** that the Motion for Sanctions (Doc. 22) is DENIED.

18 **IT IS FURTHER ORDERED** that the Plaintiff shall comply with Rule 4(l) and
19 file proof of past service on Lewis and any future service on Qualitas.

20 **IT IS FURTHER ORDERED** that Plaintiff is granted a 30 day extension of time
21 to serve Qualitas.

22 **IT IS FURTHER ORDERED** that in the event Plaintiff fails to comply with this
23 Order for the proper service of the Summons and Complaint on Qualitas, including filing
24 the proof of service, this Court shall dismiss Qualitas from this action without further notice
25 to the Plaintiff.

26 **IT IS FURTHER ORDERED** that the Notice of Withdrawal shall be refiled signed
27 by Maria Shupe, not her husband.

28 **IT IS FURTHER ORDERED** that the Plaintiff shall comply with the Federal

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Rules of Civil Procedure and the Rules of Practice for the United States District Court for the District of Arizona (the Local Rules). See www.azd.uscourts.gov.

Dated this 17th day of December, 2018.



Honorable David C. Bury
United States District Judge