

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DOROTHY J. ROEBUCK

PLAINTIFF

v.

CASE NO. 4:09cv00456 BSM

GRADY M. McCALLISTER

DEFENDANT

ORDER

Plaintiff Dorothy J. Roebuck (“Roebuck”) requests leave to effect service on defendant, Grady M. McCallister (“McCallister”) by warning order (Doc. No. 2). Federal Rule of Civil Procedure 4(e) allows for service of process to be made “following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made . . .” Arkansas Rule of Civil Procedure 4(f)(1) states “[i]f it appears by the affidavit of a party seeking judgment or his or her attorney that, after diligent inquiry, the identity or whereabouts of a defendant remains unknown . . . service shall be by warning order issued by the clerk.” Further, the warning order “shall . . . be published weekly for two consecutive weeks in a newspaper having general circulation in the county where the action is filed and to be mailed, with a copy of the complaint, to the defendant . . . at his or her last known address . . .” Ark. R. Civ. P. 4(f)(2).

The affidavit submitted by Damarrio Solomon-Simmons, attorney of record for Roebuck, establishes that numerous attempts were made to serve McCallister. Roebuck attempted to serve McCallister by mail at his last known address, by certified process server

Tresa Salle, and by way of the Pulaski County Sheriff's Office at two alternative addresses uncovered by its private investigator. Despite Roebuck's diligent efforts she has been unable to effect service on McCallister. Arkansas has established that, after diligent inquiry, defendant's whereabouts are unknown. Accordingly, the motion for service by warning order (Doc. No. 2) is granted. Roebuck is directed to submit a warning order to the Clerk of the Court. The Clerk of the Court will then issue the order, pursuant to Fed. R. Civ. P. 4(e) and Ark. R. Civ. P. 4(f).

IT IS SO ORDERED THIS 29th day of July, 2010.


UNITED STATES DISTRICT JUDGE