

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

**LORENE CHARLES, as Personal Representative
of the Estate of Nancy Lorene Geary, Deceased**

PLAINTIFF

V.

CASE NO. 5:10-CV-5235

JOHN M. BURNETT

DEFENDANT

ORDER

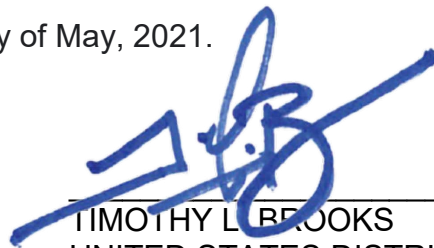
Currently before the Court is Plaintiff's Motion for Order Authorizing and Directing Constructive Service Pursuant to Arkansas Code § 16-65-501(c) (Doc. 23). Plaintiff explains that she engaged the services of a private investigator to locate Defendant and, subsequently, attempted to serve him with a Motion to Revive Judgment (Doc. 21). Despite multiple attempts to effectuate service, she has not been successful in serving the Defendant. Now, Plaintiff asks this Court to authorize and direct constructive service pursuant to Arkansas Code § 16-65-501(c). The Court **GRANTS IN PART AND DENIES IN PART** the Motion and **ORDERS** the following:

1. Plaintiff shall serve Defendant within 60 days of the entry of this Order;
2. Plaintiff is authorized to serve Defendant by Warning Order through publication in the following counties: Benton County, Arkansas; Washington County, Arkansas; Montgomery County, Texas; Christian County, Missouri; Winston County, Alabama; and Bernalillo County, New Mexico. Such service must comply with the rules of service by publication in effect in those states. See Ark. R. Civ. P. 4(g)(3); Ala. R. of Civ. P. 4.3; N.M. R. Dist. Ct. 1-004(K); Mo. R. Civ. P. 54.12(c); Tex. R. Civ. P. 116;

3. Plaintiff is directed to provide the Court with proof of service as soon as reasonably possible;
4. Plaintiff is instructed to mail the Warning Order to the Defendant's last known address by certified mail with a return receipt requested and delivery restricted to Defendant and additionally by regular first class mail;
5. Plaintiff is directed to prepare the Warning Order and submit it to the Clerk of Court for signature; and
6. Plaintiff is advised that the body of the Warning Order should include the following language:

You are hereby notified that Plaintiff Lorene Charles, by and through her attorney, Matthew L. Fryar of Crouch, Harwell, Fryar & Ferner, PLLC, has filed a Motion to Revive Judgement against you, a copy of which shall be delivered to you or your Attorney upon request. You are also notified that you must appear and defend by filing your Response within thirty (30) days of the date of the first publication of this Warning Order and, in the event of your failure to do so, a Judgment by Default will be entered against you for the relief demanded.

IT IS SO ORDERED on this 27th day of May, 2021.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE