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6 Attorneys for Plaintiff DC Comics

7 UNITED STATES DISTRICT COURT
 8
 9 CENTRAL DISTRICT OF CALIFORNIA

10 DC Comics,	)	Case No.: CV11-03934 RSWL
	)	(OPx)
11 Plaintiff,)	
	)	<i>EX PARTE APPLICATION FOR</i>
12 v.	)	<i>ORDER AUTHORIZING</i>
	)	<i>SERVICE OF PROCESS ON</i>
13 Mark Towle, an individual and doing	)	<i>DEFENDANT BY PUBLICATION</i>
14 business as Gotham Garage, and	)	<i>AND MAIL AND REQUEST FOR</i>
Does 1 - 10, inclusive,	)	<i>ENLARGEMENT OF TIME</i>
15 Defendants.	)	<i>WITHIN WHICH TO EFFECT</i>
	)	<i>SERVICE; MEMORANDUM OF</i>
	)	<i>POINTS AND AUTHORITIES IN</i>
	)	<i>SUPPORT THEREOF</i>
)	

19 **EX PARTE APPLICATION**

20 Plaintiff DC Comics (“DC”) (“Plaintiff”) seeks an order authorizing service of
 21 the Summons in this matter upon Defendant Mark Towle, an individual and doing
 22 business as Gotham Garage (“Defendant”) via publication and mail, pursuant to
 23 Federal Rule of Civil Procedure 4(e) and California Civil Code of Procedure § 415.50.
 24 This application is made in the interests of justice and pursuant to the Court’s power
 25 to authorize publication as a means for service as provided by Federal Rules of Civil
 26 Procedure, Rule 4(e)(1) and California Code of Civil Procedure § 415.50. This

1 application is made on the grounds that Plaintiff has stated a cause of action against
2 Defendant, as shown by the Complaint on file, and Defendant cannot with reasonable
3 diligence be found and served in any other manner specified in California Code of
4 Civil Procedure §§ 415.10 through 415.40.

5 In addition, Plaintiff respectfully requests a sixty (60) day enlargement of time
6 to effect service of process within the Court's broad discretion pursuant to Federal
7 Rules of Civil Procedure, Rule 6(b) to grant such an enlargement so long as the
8 request is made before the expiration of the period originally prescribed.

9 This application is based upon the Memorandum of Points and Authorities, the
10 Declarations filed in support, including Exhibits attached thereto, the Complaint and
11 any other papers and records on file in this action and upon such additional evidence
12 and arguments as may be presented at, or before, the hearing on Plaintiff's
13 Application.

14 Despite Plaintiff not having yet served Defendant, Plaintiff has served notice of
15 this Application on Defendant's counsel on or about August 31, 2011.

16 Dated: August 31, 2011

J. Andrew Coombs, A Prof. Corp.

17
18
19 By: /s Nicole L. Drey
20 J. Andrew Coombs
Nicole L. Drey
Attorneys for Plaintiff DC Comics

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendant Mark Towle, an individual and doing business as Gotham Garage
4 (“Defendant”), is a manufacturer and distributor of unlicensed and counterfeit replica
5 Batman vehicles who will be rewarded for concealing his whereabouts and evading
6 service to avoid responsibility for his illegal actions if this application is not granted.
7 As alleged in the Complaint filed by Plaintiff DC Comics (“Plaintiff”), Defendant is
8 actively manufacturing, selling, offering for sale, renting, and distributing unlicensed
9 and counterfeit replica vehicles, and kits comprised of assorted parts and accessories,
10 which incorporate unauthorized reproductions of fanciful vehicles copyrighted and
11 trademarked by DC Comics from its world famous BATMAN property, including, but
12 not necessarily limited to the various BATMOBILE vehicles and all of their
13 BATMAN-related indicia and components within this Judicial District through his
14 fully interactive commercial Internet website operating under the domain name
15 GothamGarage.net.

16 Pursuant to Federal Rule of Civil Procedure 4(e)(1) and California Code of
17 Civil Procedure § 415.50, Plaintiff requests an order allowing service of process on
18 Defendant via publication and mail. Service by publication and mail is appropriate
19 and necessary in this case because the Defendant’s current residence is unknown. See
20 Declaration of Nicole L. Drey (“Drey Decl.”) at ¶¶ 3-7, Exhibits (“Exs.”) A-C.
21 Defendant has also failed to return an Acknowledgment of Service, leaving Plaintiff
22 with no other course for service than that by publication and mail. See id. at ¶ 8.
23 Further, although counsel for Defendant (Lawrence Zerner of Los Angeles,
24 California) has contacted Plaintiff’s counsel and acknowledged that his client is aware
25 of the filing of this action, he has specifically refused to accept service on Defendant’s
26 behalf or provide an executed Waiver of Service. Id. at ¶ 6. Plaintiff thus respectfully

1 submits that an order allowing service of process via publication and mail in this case
2 will benefit all parties and the Court by ensuring the Defendant receives immediate
3 notice of the pendency of this action and allowing this action to move forward
4 expeditiously. Absent the ability to serve the Defendant by publication and mail,
5 Plaintiff will almost certainly be left without the ability to pursue a remedy.

6 **II. STATEMENT OF FACTS**

7 Defendant owns, operates and manages a business producing custom cars
8 related to various television shows, movies and other fanciful and copyrighted works.
9 Complaint (“Compl.”) at ¶¶ 1, 20. Specifically, Defendant’s business manufactures,
10 sells, offers for sale, rents, and distributes unlicensed and counterfeit replica vehicles
11 and kits comprised of assorted parts and accessories which incorporate unauthorized
12 reproductions of fanciful vehicles copyrighted and trademarked by Plaintiff from its
13 world-famous BATMAN property, including, but not necessarily limited to, the
14 various BATMOBILE vehicles and all of their BATMAN-related indicia and
15 components (collectively “Infringing Product”). *Id.* at ¶¶ 1, 23, 25, 34.

16 On or about May 6, 2011, Plaintiff filed its complaint against Defendant. Drey
17 Decl. at ¶ 2. Thereafter, Plaintiff has attempted to serve Defendant via personal
18 service at five (5) different addresses on no less than nineteen (19) different occasions.
19 *Id.* at ¶¶ 3-4, 7, Exs. A, B & C. Plaintiff has also attempted to effect service through
20 an Acknowledgment of Service as well as Defendant’s counsel, Lawrence Zerner of
21 Los Angeles, but Defendant has refused both means. *Id.* at ¶¶ 5-6, 8.

22 Plaintiffs, therefore, demonstrate good cause for leave to serve Defendant by
23 publication and mail as well as an enlargement of time within which to effect service
24 of process.

1 **III. ARGUMENT**

2 **A. The Court May Authorize Service via Publication and Mail Pursuant**
3 **to California Code of Civil Procedure § 415.50.**

4 Federal Rule of Civil Procedure 4(e)(1) states that service may be effected
5 pursuant to the law of the forum state. California law provides for service to be made
6 on out-of-state residents by either (1) personal service, (2) substituted service, (3) mail
7 and acknowledgment of receipt, (4) certified mail, or (5) publication. Cal. Code Civ.
8 Proc. § 415.10, *et seq.* Service by publication, however, requires a court order prior to
9 service attempts in order for service to be valid. See Cal. Code Civ. Proc. § 415.50(a).
10 Plaintiffs respectfully request such an order in order to effect service of process upon
11 the evasive Defendant.

12 **1. Plaintiffs Have Demonstrated Reasonable Diligence and a**
13 **Cause of Action Against Defendant.**

14 California Code of Civil Procedure § 415.50(a) provides that service may be
15 effected by publication, pursuant to court order, if “the party to be served cannot with
16 reasonable diligence be served in another manner specified in this article and ... a
17 cause of action exists against the party upon whom service is to be made or he or she
18 is a necessary or proper party to the action.”

19 Plaintiff has repeatedly attempted to serve Defendant by either personal service
20 or substituted service. See Drey Decl. at ¶¶ 3-4, 7, Exs. A, B & C. These attempts
21 have proven unsuccessful. See id. Plaintiff has also attempted to secure service
22 through Defendant’s counsel, but counsel has refused to accept service on Defendant’s
23 behalf or sign a waiver of service. Id. at ¶ 6. Plaintiff has attempted to serve
24 Defendant by mail and acknowledgment as well, but as of the time of this filing,
25 Defendant has not returned the Acknowledgment of Service and is unlikely to do so
26 given his ongoing efforts to evade service and his counsel’s statements that Defendant

1 would not waive service. See id. at ¶ 8; see also id. at ¶¶ 3-7. At this point, there is no
2 other means of service available to Plaintiff other than service by publication.

3 Further, Plaintiff has demonstrated a valid cause of action against Defendant.
4 Plaintiff has alleged in its Complaint that Defendant’s manufacture and distribution of
5 unauthorized replica BATMOBILE vehicles infringes its copyrights and trademarks.
6 See Complaint, generally. Thus, a cause of action exists against Defendant such that
7 service by publication is proper.

8 **2. Plaintiff Has Identified the Means Most Likely to Provide**
9 **Actual Notice to Defendant of this Lawsuit.**

10 Although it is clear from the contacts initiated by Defendant’s counsel that
11 Defendant is aware of this action, this does not constitute “actual notice” under
12 California law. Pursuant to California Code of Civil Procedure § 415.50(b), “[t]he
13 court shall order the summons to be published in a named newspaper, published in
14 this state, that is most likely to give actual notice to the party to be served. If the party
15 to be served resides or is located out of this state, the court may also order the
16 summons to be published in a named newspaper outside this state that is most likely to
17 give actual notice to that party.” Plaintiff has determined that Defendant is most
18 likely residing in Santa Ana, California, or the immediately surrounding area. Drey
19 Decl. at ¶ 7. Thus, Defendant will most likely receive actual notice of this lawsuit
20 through a newspaper targeted to residents of Santa Ana, such as the Orange County
21 Register. Id. at ¶ 10.

22 Further, if a defendant’s address is ascertained before the expiration of the time
23 prescribed for publication of the summons, copies of the summons, complaint and
24 order for publication must be mailed to the defendant. Cal. Code Civ. Proc. §
25 415.50(b). While Plaintiff has not yet conclusively determined a physical or mailing
26 address for Defendant, Plaintiff has what it believes to be the last known address for

1 Defendant. Drey Decl. at ¶ 7. Further, Plaintiff has been contacted by counsel for
2 Defendant, whose address Plaintiff has been able to determine. Drey Decl. at ¶¶ 5-6.
3 Therefore, Plaintiff will send copies of the summons, complaint and order for
4 publication to Defendant at his last known address as well as at his counsel’s address
5 in addition to publishing the summons.

6 **B. Plaintiff Demonstrates Cause Permitting an Enlargement of Time**
7 **Within Which to Effect Service of Process**

8 Plaintiff respectfully requests that, pursuant to Rule 6(b), the Court grant a sixty
9 (60) day enlargement of time within which to effect service of Summons and
10 Complaint.

11 “When an act may or must be done within a specified time,
12 the court may, for good cause, extend the time: (1) with or
13 without motion or notice if the court acts, or if a request is
14 made, before the original time or its extension expires . . .”

15 Fed. Rule Civ. P. 6(b). Plaintiff is to effect service of Summons and Complaint on
16 Defendant on or before September 3, 2011. Drey Decl. at ¶ 2. Accordingly, Plaintiff
17 submits its request for an enlargement of time before the expiration of the current
18 extension.

19 Moreover, “[d]istrict courts have broad discretion to extend time for service
20 under Rule 4(m). . . [as] Rule 4’s 120-day time period for service ‘operates not as an
21 outer limit subject to reduction, but as an irreducible allowance.’” Efaw v. Williams,
22 473 F.3d 1038, 1041 (9th Cir. 2007) quoting Henderson v. United States, 517 U.S.
23 654, 661, 116 S. Ct. 1638, 134 L. Ed. 2d 880 (1996). Further, “‘Rule 4(m) explicitly
24 permits a district court to grant an extension of time to serve the complaint after that
25 120-day period.’” Id. quoting Mann v. Am. Airlines, 324 F.3d 1088, 1090 (9th Cir.
26 2003) (“On its face, Rule 4(m) does not tie the hands of the district court after the 120-

1 day period has expired.”). Pursuant to Fed. R. Civ. P. 4(m), a district court is required
2 to grant an extension of time for service if good cause is shown and permitted to grant
3 such an extension even absent good cause. Mann, 324 F.3d at 1090, n. 2 citing
4 Henderson, 517 U.S. at 662.

5 Here, Plaintiff’s actions demonstrate good cause for granting an enlargement of
6 time to effect service upon the Defendant. First, Plaintiff has, in good faith, made
7 significant attempts to identify, locate and serve Defendant by September 3, 2011.
8 See Drey Decl. at ¶¶ 3-7. Since the filing of the Complaint, Plaintiff has attempted
9 service on Defendant at multiple addresses, on numerous occasions, and through
10 various methods, but Defendant is currently evading and/or refusing service. Id.
11 Plaintiff has employed the investigative efforts of a process server who has attempted
12 service on Defendant at five (5) different addresses and on no less than nineteen (19)
13 occasions, including leaving copies of the service packet with contacts of Defendant.
14 Id. at ¶¶ 3-4, 7. Further, Plaintiff was contacted by counsel for Defendant regarding
15 this matter, but despite several discussions, counsel for Defendant refuses to accept
16 service for Defendant or sign a waiver of service. Id. at ¶¶ 5-6. Additionally, Plaintiff
17 has attempted to secure an Acknowledgment of Service by mail, but Defendant has
18 thus far failed to return and is unlikely to return given the statements made by his
19 counsel. Id. at ¶ 8. Accordingly, Plaintiff’s efforts to effect service demonstrate its
20 good faith effort to diligently prosecute this Action and good cause for an enlargement
21 of time.

22 Second, Defendant will not suffer prejudice by virtue of the delayed service.
23 Pursuant to the Court’s Order, Plaintiff was to serve Defendant on or before
24 September 3, 2011. Drey Decl. at ¶ 2. Plaintiff requests only a brief extension within
25 which to effect service by publication and mail upon Defendant. Accordingly, this is
26 not a significant delay during which memories may fade or evidence be lost that

1 would prejudice Defendant, particularly when Defendant has notice of this lawsuit as
2 evidenced by Plaintiff's communications with Defendant's counsel. Id. at ¶¶ 5-6, 9;
3 but see Efav v. Williams, 473 F.3d at 1041 (finding that an extraordinary delay of
4 seven years prejudiced Defendant).

5 Further, it is due to Defendant's own actions that Plaintiff has not yet effected
6 service. Defendant's conduct thus far has indicated he intends to continue to dodge
7 service in this matter. Defendant's counsel has refused to accept service on
8 Defendant's behalf, and counsel has also indicated that Defendant will vigorously
9 fight any attempt by Plaintiff to deem service as having been effected at one of the
10 previous addresses at which Plaintiff has left service of process. See Drey Decl. at ¶¶
11 5-6. Further, Defendant has refused to return the Acknowledgment of Service sent to
12 Defendant's last known address. Id. at ¶ 8. Defendant should not be allowed to
13 benefit from his attempts to evade service. See Fed. R. Civ. P. 4, Advisory
14 Committee Notes ("Relief may be justified...if the defendant is evading service");
15 Motley v. Parks, 2001 U.S. Dist. LEXIS 12479, at *17 (C.D. Cal. July 23, 2001)
16 (same); see also Mid-Continent Wood Products, Inc. v. Harris, 936 F.2d 297, 303 (7th
17 Cir. 1990) citing Nikwei v. Ross School of Aviation, Inc., 822 F.2d 939, 942 (10th Cir.
18 1987) (refusal to accept mail constitutes evasion of service).

19 Finally, Plaintiff requires additional time to employ alternate means of service.
20 Personal service and substituted service attempts have proven ineffective thus far. See
21 Drey Decl. at ¶¶ 3-7. Plaintiff has also attempted service on Defendant by mail and
22 acknowledgment of receipt, but Defendant has thus far failed to return the
23 Acknowledgment. Id. at ¶ 8. Should the Court granted Plaintiff's *Ex Parte*
24 Application and order service by publication, Plaintiff will be required to run the
25 publication for at least four weeks, pursuant to California Government Code § 6064.

1 Service is then deemed effective on the twenty-eighth day of publication. Id.; Cal.
2 Code Civ. Proc. § 415.50(c).

3 Thus, Plaintiff has clearly demonstrated good cause for an enlargement of time
4 within which to effect service of process on Defendant.

5 **IV. CONCLUSION**

6 For the foregoing reasons, Plaintiff respectfully requests this Court grant the
7 present motion to serve Defendant by publication and mail. Additionally, Plaintiff
8 respectfully requests this Court grant a sixty (60) day extension of time within which
9 to effect service of process.

10 Dated: August 31, 2011

J. Andrew Coombs, A Prof. Corp.

11
12 By: /s Nicole L. Drey
13 J. Andrew Coombs
14 Nicole L. Drey
Attorneys for Plaintiff DC Comics

1 **DECLARATION OF NICOLE L. DREY**

2 I, NICOLE L. DREY, declare as follows:

3 1. I am an attorney at law, duly admitted to practice before the Courts of the
4 State of California and the United States District Court for the Central District of
5 California. I am an attorney for Plaintiff DC Comics (“DC”) (“Plaintiff”) in an action
6 styled DC Comics v. Mark Towle, et al., Case Number CV11-03934 RSWL (OPx).
7 Except as otherwise expressly stated to the contrary, I have personal knowledge of the
8 following facts and, if called as a witness, I could and would competently testify as
9 follows.

10 2. I am informed and believe that Plaintiff filed its Complaint on or about
11 May 6, 2011. Pursuant to Rule 4(m), Plaintiffs are to serve Defendant on or before
12 September 3, 2011.

13 3. I am informed and believe that since the filing of the Complaint until the
14 filing of this *ex parte* request, my office has spent a considerable amount of time and
15 resources tracing all known contact information for Defendant, including extensive
16 research on Lexis-Nexis and by other means to determine any and all possible aliases,
17 dba’s, email addresses, websites and physical locations. In connection therewith, I am
18 informed and believe that my office identified three (3) potential addresses for
19 Defendant – (1) ADDRESS A in Lake Elsinore, California; (2) ADDRESS B in
20 Corona, California; and (3) ADDRESS C in Temecula, California. I am informed and
21 believe that my office determined ADDRESS A to be the most likely address for
22 Defendant but provided the process server with all three addresses.

23 4. I am informed and believe that the process server attempted service at
24 ADDRESS B on one occasion but noted that the address was vacant. I am informed
25 and believe that the process server attempted service at ADDRESS C on two separate
26 occasions. During the second attempt, the process server was informed by the owner

1 that Defendant no longer resided at that address. Attached hereto as Exhibit A is a
2 true and correct copy of the process server's diligence report. I am informed and
3 believe that the process server attempted service at ADDRESS A on four (4) separate
4 occasions. Specifically, on or about June 1, 2011, the process server attempted to
5 serve Defendant at ADDRESS A. I am informed and believe that when the process
6 server asked for Defendant, an unidentified male stated that Defendant was not home.
7 I am further informed and believe that the process server then sub-served the
8 unidentified male. Attached hereto as Exhibit B is a true and correct copy of the
9 process server's diligence report.

10 5. On or about June 9, 2011, I received a telephone call from a Larry
11 Zerner, who purported to represent Defendant. Mr. Zerner stated that ADDRESS A
12 belonged to Defendant's ex-wife and that Defendant had never lived at that address. I
13 noted to Mr. Zerner that the process server had asked the unidentified male who
14 answered the door if Defendant was home, and the male had answered no. Mr. Zerner
15 stated that he would look into the statements. I also asked if Mr. Zerner would be
16 willing to accept service or if Defendant would be willing to sign a waiver of service,
17 and Mr. Zerner stated that he would get back to me.

18 6. On or about June 20, 2011, I again spoke with Mr. Zerner. Mr. Zerner
19 stated that Defendant disputed the process server's account of statements made by the
20 unidentified male at ADDRESS A. Mr. Zerner stated that Defendant would
21 vigorously fight any attempt by Plaintiff to claim that service had been properly made
22 at ADDRESS A. Mr. Zerner also stated that he would not accept service for
23 Defendant nor would Defendant sign a waiver of service unless Plaintiff agreed to a
24 license for Defendant's actions.

25 7. I am informed and believe that my office continued to conduct significant
26 research into the whereabouts of Defendant. I am informed and believe that most of

1 my office's research continued to point to ADDRESS A as belonging to Defendant. I
2 am further informed and believe that my office hired an investigator to research the
3 current address for Defendant. I am informed and believe that the investigator
4 discovered an additional potential addresses for Defendant – ADDRESS D in Santa
5 Ana, California, which appeared to be the current and most up-to-date address for
6 Defendant. I am informed and believe that my office also conducted additional
7 research and identified an alternative apartment number at the same building in Santa
8 Ana, California – ADDRESS E. I am informed and believe that my office then
9 provided these addresses to the process server who attempted service on both
10 apartments on multiple occasions. I am informed and believe that the process server
11 attempted service on ADDRESS D on at least three (3) separate occasions. On the
12 third attempt, I am informed and believe that the process server was informed by the
13 occupant that Defendant was unknown at that address. I am further informed and
14 believe that the process server attempted service on ADDRESS E on no less than nine
15 (9) separate occasions. I am informed and believe that on the last attempt, on or about
16 August 2, 2011m the process server spoke with a man named "Charles" who stated
17 that Defendant hadn't lived in the complex for years. I am informed and believe that
18 the process server left a courtesy copy of the summons and complaint with Charles.
19 Attached hereto as Exhibit C is a true and correct copy of the process server's
20 supplemental diligence report.

21 8. Having exhausted the addresses for personal service, I am informed and
22 believe that, on or about August 18, 2011, my office mailed the Summons, Complaint
23 and an Acknowledgment of Service to Defendant at ADDRESS D, the address
24 identified by Plaintiff's hired investigator as being Defendant's current residence.
25 Pursuant to California Code of Civil Procedure § 415.30, Defendant is to return the
26 Acknowledgment by September 17, 2011. I am informed and believe that Defendant

1 has not yet returned the Acknowledgment. I am also informed and believe it is
2 unlikely Defendant will return the Acknowledgment given Defendant’s counsel’s
3 statements that Defendant would not sign a waiver.

4 9. The requested Order granting Plaintiff’s Application for an Order
5 Authorizing Service of Process on Defendant by Publication and Mail is Plaintiff’s
6 only remaining method available to effectively serve Defendant. I am informed and
7 believe that Defendant has notice of this action, based on the conversations with
8 Defendant’s counsel, but without the relief requested herein, Defendant will continue
9 to deliberately evade service in order to avoid responsibility for her illegal actions.

10 10. Should the Order be granted, Plaintiff will publish the Summons in the
11 Orange County Register. According to my office’s research, Defendant is a resident
12 of Santa Ana, California, and thus the Orange County Register is the “newspaper,
13 published in this state, that is most likely to give actual notice to the party to be
14 served,” pursuant to California Code of Civil Procedure § 415.50. Plaintiff will run
15 the publication once a week for four successive weeks, pursuant to California
16 Government Code § 6064.

17 I declare under penalty of perjury that the foregoing is true and correct under
18 the laws of the United States of America.

19 Executed this 31st day of August, 2011, at Glendale, California.

20
21 /s Nicole L. Drey
22 NICOLE L. DREY
23
24
25
26
27

EXHIBIT “A”

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY CASE NUMBER: CV11-03934 RSWL (OPx) Ref. No. or File No.:
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division	
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: M. TOWLE, ET AL.	
NON SERVICE REPORT	

I received the within process on May 11, 2011 and that after due and diligent effort I have been unable to personally serve said witness. The following itemization of the dates and times of attempts details the efforts required to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, AN INDIVIDUAL AND DOING BUSINESS AS GOTHAM GARAGE**

Documents: **summons; complaint; Judge Assignment; Notice of Interested Parties; Civil Case Cover Sheet; Trademark Notice; Copyright Notice**

As enumerated below:

05/13/2011 -- 2:10PM

[REDACTED]
CORONA, CA 92880

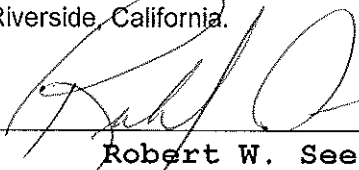
Unable to effect service at given residential address. Given address is vacant.

Fee for Attempted Service: \$ 75.00



County: **San Bernardino**
 Registration No.: **1225**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury under the laws of The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: May 25, 2011 at Riverside, California.

Signature: 
Robert W. See

NON SERVICE REPORT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): :	FOR COURT USE ONLY
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division	
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: M. TOWLE, ET AL.	CASE NUMBER: CV11-03934 RSWL (OPx)
DECLARATION OF DILIGENCE	Ref. No. or File No.:

I received the within process on May 11, 2011 and that after due and diligent effort I have not been able to personally serve said person. I made the following attempts on the dates and times listed below to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, AN INDIVIDUAL AND DOING BUSINESS AS GOTHAM GARAGE**

Documents: **summons; complaint; Judge Assignment; Notice of Interested Parties; Civil Case Cover Sheet; Trademark Notice; Copyright Notice**

As enumerated below:

May 16, 2011 -- 6:00 PM

████████████████████
 TEMECULA, CA 92591

There was no answer at the door at the time of attempt.

May 18, 2011 -- 5:00 PM

████████████████████
 TEMECULA, CA 92591

Bad address. Defendant lives here 5 years ago per owner. Thinks he's in Arizona.



County: **RIVERSIDE**
 Registration No.: **805**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: May 25, 2011 at RIVERSIDE, California.

Signature: 
RANDY LOPER

DECLARATION OF DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division	
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: M. TOWLE, ET AL.	CASE NUMBER: CV11-03934 RSWL (OPx)
NON SERVICE REPORT	Ref. No. or File No.:

I received the within process on May 11, 2011 and that after due and diligent effort I have been unable to personally serve said witness. The following itemization of the dates and times of attempts details the efforts required to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, AN INDIVIDUAL AND DOING BUSINESS AS GOTHAM GARAGE**

Documents: **summons; complaint; Judge Assignment; Notice of Interested Parties; Civil Case Cover Sheet; Trademark Notice; Copyright Notice**

As enumerated below:

05/18/2011 -- 5:00PM


 TEMECULA, CA 92591

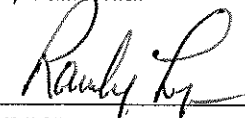
Unable to effect service at given residential address. Defendant lived here 5 years ago per owner. Thinks he's in Arizona.

Fee for Attempted Service: \$ 75.00



County: **RIVERSIDE**
 Registration No.: **805**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury under the laws of The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: May 25, 2011 at RIVERSIDE, California.

Signature: 
RANDY LOPER

NON SERVICE REPORT

EXHIBIT “B”

J. ANDREW COOMBS SBN: 123881
J. ANDREW COOMBS
517 E. WILSON ST. #202
GLENDALE, CA 91206
(818) 500-3200

UNITED STATES DISTRICT COURT
Central District - Central Division

DC COMICS

Plaintiff(s)

v.

M. TOWLE, ET AL.

Defendant(s)

CASE NUMBER:
CV11-03934 RSWL (OPx)

PROOF OF SERVICE
SUMMONS AND COMPLAINT
(Use separate proof of service for each person/party served)

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (specify documents):
 - a. summons first amended complaint third party complaint
 - complaint second amended complaint counter claim
 - alias summons third amended complaint cross claim
 - other (specify): Judge Assignment; Notice of Interested Parties; Civil Cover Sheet; Trademark Notice; Copyright Notice
2. Person served:
 - a. Defendant (name:) MARK TOWLE, AN INDIVIDUAL AND DOING BUSINESS AS GOTHAM GARAGE
 - b. Other (specify name and title or relationship to the party/business named):
 - c. Address where the papers were served:

[REDACTED]
Lake Elsinore, CA 92530
3. Manner of Service in compliance with (the appropriate box must be checked):
 - a. Federal Rules of Civil Procedure
 - b. California Code of Civil Procedure
4. I served the person named in Item 2:
 - a. By Personal Service. By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least twelve (12) years of age.
 1. Papers were served on (date): at (time):
 - b. By Substituted Service. By leaving copies: JOHN DOE - CO-OCCUPANT
Age: 49 Weight: 190 Hair: Gray Sex: Male
Height: 5'10 Eyes: Race: Caucasian Marks:
 1. (home) at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household, at least 18 years of age, who was informed of the general nature of the papers.
 2. (business) or a person apparently in charge of the office, or place of business, at least 18 years of age, who was informed of the general nature of the papers.
 3. Papers were served on (date): 6/1/2011 at (time): 6:41 PM
 4. by mailing (by first-class mail, postage prepaid) copies to the person served in Item 2(b) at the place where the copies were left in Item 2(c).
 5. papers were mailed on Jun 10, 2011 - DECLARATION OF MAILING ATTACHED
 6. due diligence. I made at least three (3) attempts to personally serve the defendant.
 - c. Mail and acknowledgment of service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, with two (2) copies of the form of Waiver of Service of Summons and Complaint and a return envelope, postage prepaid addressed to the sender. (Attach completed Waiver of Service of summons and Complaint).

- d. **Service on domestic corporation, unincorporated association (including partnership), or public entity. (F.R.Civ.P. 4(h)) (C.C.P. 416.10)** By delivering, during usual business hours, a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute and the statute so requires, by also mailing, by first-class mail, postage prepaid, a copy to the defendant.
- e. **Substituted service on domestic corporation, unincorporated association (including partnership), or public entity. (C.C.P. 415.20 only)** By leaving during usual business hours, a copy of the summons and complaint in the office of the person served with the person who apparently was in charge and thereafter by mailing (*by first-class mail, postage prepaid*) copies of the persons at the place where the copies were left in full compliance with C.C.P. 415.20 Substitute service upon the California Secretary of State requires a court order. **(Attach a copy of the order to this Proof of Service.)**
- f. **Service on a foreign corporation.** In any manner prescribed for individuals by FRCP 4(f)
- g. **Certified or registered mail service.** By mailing to an address outside California (*by first-class mail, postage prepaid, requiring a return receipt*) copies to the person served. **(Attach signed return receipt or other evidence of actual receipt by the person served).**
- h. **Other** (specify code section and type of service):

5. Service upon the United States, and Its Agencies, Corporations or Officers.

- a. by delivering a copy of the summons and complaint to the clerical employee designated by the U.S. Attorney authorized to accept service, pursuant to the procedures for the Office of the U.S. Attorney for acceptance of service, or by sending a copy of the summons and complaint by registered or certified mail addressed to the civil process clerk at the U.S. Attorneys Office.

Name of person served:

Title of person served:

Date and time of service: (date): at (time):

- b. By sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. **(Attach signed return receipt or other evidence of actual receipt by the person served).**
- c. By sending a copy of the summons and complaint by registered or certified mail to the officer, agency or corporation **(Attach signed return receipt or other evidence of actual receipt by the person served).**

6. At the time of service I was at least 18 years of age and not a party to this action.

7. Person serving (name, address and telephone number):



Joseph Sulak
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

a. Fee for service: \$ 75.00

- b. Not a registered California process server
- c. Exempt from registration under B&P 22350(b)
- d. Registered California process server
 Registration # :539
 County: Riverside

8. I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Date: June 10, 2011

 Joseph Sulak
 Type or Print Server's Name

Joseph Sulak
 (Signature)

PROOF OF SERVICE - SUMMONS AND COMPLAINT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS SBN: 123881 J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff:		FOR COURT USE ONLY
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division		
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: M. TOWLE, ET AL.	CASE NUMBER: CV11-03934 RSWL (OPx)	
DECLARATION OF DILIGENCE		Ref. No. or File No.:

I received the within process on May 25, 2011 and that after due and diligent effort I have not been able to personally serve said person. I made the following attempts on the dates and times listed below to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, AN INDIVIDUAL AND DOING BUSINESS AS GOTHAM GARAGE**

Documents: **summons;complaint;Judge Assignment; Notice of Interested Parties; Civil Cover Sheet; Trademark Notice;Copyright Notice**

As enumerated below:

May 27, 2011 -- 8:11 AM

[REDACTED]
Lake Elsinore, CA 92530

The Subject was not in at the time of attempt. For sale by Recon Real Estate (909) 821-5854.

May 29, 2011 -- 11:22 AM

[REDACTED]
Lake Elsinore, CA 92530

There was no answer at the door at the time of attempt.

May 31, 2011 -- 8:32 PM

[REDACTED]
Lake Elsinore, CA 92530

There was no answer at the door at the time of attempt.

June 01, 2011 -- 6:41 PM

[REDACTED]
Lake Elsinore, CA 92530

Substituted service effected.



County: **Riverside**
 Registration No.: **539**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: June 10, 2011 at Los Angeles, California.

Signature: 
Joseph Sulak

DECLARATION OF DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS SBN: 123881 J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff:	FOR COURT USE ONLY
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division	
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: M. TOWLE, ET AL.	CASE NUMBER: CV11-03934 RSWL (OPx)
PROOF OF SERVICE BY MAIL	Ref. No. or File No.:

I am a citizen of the United States and employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1545 Wilshire Blvd., Los Angeles, CA 90017.

On June 10, 2011, after substituted service under section CCP 415.20(a) or 415.20(b) or FRCIV.P 4(d)(1) was made, I mailed copies of the:

summons; complaint; Judge Assignment; Notice of Interested Parties; Civil Cover Sheet; Trademark Notice; Copyright Notice

to the defendant in said action by placing a true copy thereof enclosed in a sealed envelope, with First Class postage thereon fully prepaid, in the United States Mail at LOS ANGELES, California, addressed as follows:

MARK TOWLE, AN INDIVIDUAL AND DOING BUSINESS AS GOTHAM GARAGE

[REDACTED]
Lake Elsinore, CA 92530

I am readily familiar with the firm's practice for collection and processing of documents for mailing. Under that practice, it would be deposited within the United States Postal Service, on that same day, with postage thereon fully prepaid at LOS ANGELES, California in the ordinary course of business.

Fee for Service: 75.00

 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on June 10, 2011.

Signature: K. Alexanian II
 K. Alexanian II

PROOF OF SERVICE BY MAIL

EXHIBIT “C”

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: DC Comics		FOR COURT USE ONLY
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division		
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: MARK TOWLE, an individual and doing business as Gotham Garage	CASE NUMBER: CV11-03934RSWL(OPx)	
DECLARATION OF DILIGENCE		Ref. No. or File No.:

I received the within process on June 21, 2011 and that after due and diligent effort I have not been able to personally serve said person. I made the following attempts on the dates and times listed below to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, an individual and doing business as Gotham Garage**

Documents: **summons; complaint; Judge Assignment; Civil Cover Sheet; Copyright Notice; Trademark Notice; Notice of Interested Parties**

As enumerated below:

June 23, 2011 -- 8:10 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

June 25, 2011 -- 2:40 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

June 29, 2011 -- 8:05 PM

[REDACTED]
SANTA ANA, CA 92704

Defendant unknown per Earhardt residence, been here almost 2 years.

July 10, 2011 -- 9:05 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

July 13, 2011 -- 9:30 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

Continued on Next Page

County: **ORANGE**
 Registration No.: **408**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: August 05, 2011 at Santa Ana, California.

Signature: _____

Wendy Duffield

DECLARATION OF DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: DC Comics		SBN: 123881 FAX NO. (Optional): (818) 500-3201		FOR COURT USE ONLY	
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division					
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: MARK TOWLE, an individual and doing business as Gotham Garage				CASE NUMBER: CV11-03934RSWL(OPx)	
DECLARATION OF DILIGENCE				Ref. No. or File No.:	

I received the within process on June 21, 2011 and that after due and diligent effort I have not been able to personally serve said person. I made the following attempts on the dates and times listed below to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, an individual and doing business as Gotham Garage**

Documents: **summons; complaint; Judge Assignment; Civil Cover Sheet; Copyright Notice; Trademark Notice; Notice of Interested Parties**

As enumerated below:

Continued from Previous Page

July 15, 2011 -- 8:10 AM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

July 17, 2011 -- 11:30 AM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

July 19, 2011 -- 10:10 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

July 22, 2011 -- 8:15 AM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt.

Continued on Next Page

County: **ORANGE**
 Registration No.: **408**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: August 05, 2011 at Santa Ana, California.

Signature: _____

Wendy Duffield

DECLARATION OF DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) J. ANDREW COOMBS SBN: 123881 J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 FAX NO. (Optional): (818) 500-3201 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: DC Comics	FOR COURT USE ONLY CASE NUMBER: CV11-03934RSWL(OPx) Ref. No. or File No.:
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division	
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: MARK TOWLE, an individual and doing business as Gotham Garage	
DECLARATION OF DILIGENCE	

I received the within process on June 21, 2011 and that after due and diligent effort I have not been able to personally serve said person. I made the following attempts on the dates and times listed below to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, an individual and doing business as Gotham Garage**

Documents: **summons; complaint; Judge Assignment; Civil Cover Sheet; Copyright Notice; Trademark Notice; Notice of Interested Parties**

As enumerated below:

Continued from Previous Page

July 26, 2011 -- 7:40 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt. Usually dark.

July 27, 2011 -- 9:30 PM

[REDACTED]
SANTA ANA, CA 92704

There was no answer at the door at the time of attempt. No towle on e-directory.

August 02, 2011 -- 9:30 PM

[REDACTED]
SANTA ANA, CA 92704

Left courtesy copy with Charles who stated, subject hasn't lived in the complex for years.

County: **ORANGE**
 Registration No.: **408**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338



I declare under penalty of perjury the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: August 05, 2011 at Santa Ana, California.

Signature: Wendy Duffield
Wendy Duffield

DECLARATION OF DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)		FOR COURT USE ONLY
J. ANDREW COOMBS J. ANDREW COOMBS 517 E. WILSON ST. #202 GLENDALE, CA 91206 TELEPHONE NO.: (818) 500-3200 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: DC Comics		SBN: 123881 FAX NO. (Optional): (818) 500-3201
USDC - Central District - Central Division STREET ADDRESS: 312 N. Spring St. #G-8 MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Central Division		
PLAINTIFF/PETITIONER: DC COMICS DEFENDANT/RESPONDENT: MARK TOWLE, an individual and doing business as Gotham Garage		CASE NUMBER: CV11-03934RSWL(OPx)
NON SERVICE REPORT		Ref. No. or File No.:

I received the within process on June 21, 2011 and that after due and diligent effort I have been unable to personally serve said witness. The following itemization of the dates and times of attempts details the efforts required to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B).

Servee: **MARK TOWLE, an individual and doing business as Gotham Garage**

Documents: **summons; complaint; Judge Assignment; Civil Cover Sheet; Copyright Notice; Trademark Notice; Notice of Interested Parties**

As enumerated below:

--
 [REDACTED]
 SANTA ANA, CA 92704
 Unable to effect service at given residential address. Attempts were made where there was no answer at the door. I made contact with the Earhardt residence who stated, they have been here almost 2 years, defendant unknown.

Fee for Attempted Service: \$.00

--
 [REDACTED]
 SANTA ANA, CA 92704
 Unable to effect service at given residential address. Numerous attempts were made where there was no answer at the door. I made contact with a Charles who stated, subject has not lived in the complex for years. Left a courtesy copy of document with him.

Fee for Attempted Service: \$ 57.00



County: **ORANGE**
 Registration No.: **408**
 Janney & Janney Attorney Service, Inc.
 1545 Wilshire Blvd., Suite 311
 Los Angeles, CA 90017
 (213) 628-6338

I declare under penalty of perjury under the laws of The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on: August 05, 2011 at Santa Ana, California.

Signature: Wendy Duffield
Wendy Duffield

PROOF OF SERVICE

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the above-entitled cause. I am employed by a member of the Bar of the United States District Court of California. My business address is 517 East Wilson Avenue, Suite 202, Glendale, California 91206.

On August 31, 2011, I served on the interested parties in this action with:

- ***EX PARTE* APPLICATION FOR ORDER AUTHORIZING SERVICE OF PROCESS ON DEFENDANT BY PUBLICATION AND MAIL AND REQUEST FOR ENLARGEMENT OF TIME WITHIN WHICH TO EFFECT SERVICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**
- **[PROPOSED] ORDER GRANTING PLAINTIFFS' *EX PARTE* APPLICATION FOR ORDER AUTHORIZING SERVICE OF PROCESS ON DEFENDANT BY PUBLICATION AND MAIL AND REQUEST FOR ENLARGEMENT OF TIME WITHIN WHICH TO EFFECT SERVICE**

in support for the following civil action:

Warner Bros. Entertainment Inc. v. M. Towle, et al.

by placing a true copy thereof in an envelope to be immediately sealed thereafter. I am readily familiar with the office's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit.

Larry Zerner Zerner Law 1801 Century Park East, Suite 2400 Los Angeles, CA 90067	
---	--

Place of Mailing: Glendale, California

Executed on August 31, 2011, at Glendale, California

/s/ Jeremy Cordero

Jeremy Cordero