

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

F.G. CROSTHWAITE, et al.,
Plaintiffs,
v.
APOSHIAN EXCAVATING
COMPANY INC., a Utah Corporation,
Defendant.

NO. C13-0363 TEH

ORDER DENYING PLAINTIFFS’
EX PARTE APPLICATION FOR
ORDER FOR PUBLICATION OF
SUMMONS

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United States District Court
For the Northern District of California

Presently before the Court is Plaintiffs’ Ex Parte Application for an Order for Publication of Summons in the Salt Lake City Tribune. Under Rule 4(h) of the Federal Rules of Civil Procedure, unless service is waived or a federal law provides otherwise, a domestic corporation must be served either by personal service on an agent or “in the manner prescribed by Rule 4(e)(1) for serving an individual.” Rule 4(e)(1) provides that an individual may be served “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.” Accordingly, for the Court to grant Plaintiffs’ application for service of process by publication, they must show that their proposed form of notice satisfies the requirements of either California or Utah law. The proposed order does not satisfy the provisions of California Code of Civil Procedure section 415.50(b) because it does not provide for publication in a “named newspaper, published in [California].” In its current form, the Application does not satisfy Utah Rule of Civil Procedure 4(d)(4) because it does not provide sufficient information for the Court to determine whether the Salt Lake City Tribune is a newspaper of “general circulation” as defined in section 45-1-201 of the Utah Code.

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Because Plaintiffs have not shown that their proposed notice satisfies the requirements of either California or Utah law, their application is DENIED without prejudice to a future application.

IT IS SO ORDERED.

Dated: 07/17/2013



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT