

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
Northern District of California

STEVE THIEME,

No. C 13-3827 MEJ

Plaintiff,

**ORDER FOR SUPPLEMENTAL  
BRIEFING**

v.

DIANE E. COBB, INDIVIDUALLY, AND  
DBA DM FINANCIAL, AKA DIANE  
WINEGARDNER; SLOANE DAVIS  
INDIVIDUALLY AKA SLOAN DAVIS,  
AND DBA DM FINANCIAL AKA  
FINANCIAL Dm; VANDYK MORTGAGE  
CORPORATION; and DOES 1-100,  
INCLUDING ROE CORPORATIONS,

Defendants.

On October 21, 2013, Plaintiff filed an Application to Serve by Publication of Summons to Defendants “Diane Cobb aka DM Financial and also known as Diane Winegardner, and Sloane Davis aka ‘DM Financial’ and/or ‘Financial Dm’” (collectively “Defendants”). Dkt. No. 32 (“Appl.”). Specifically, Plaintiff requested the Court give him permission to serve Defendants by publication of the summons in the Las Vegas Sun, which Plaintiff states “is most likely to give actual notice to Diane Cobb and Sloane Davis.” *Id.* ¶ 6; *see also id.* at \*3 (Proposed Order).

The Court has reviewed Plaintiff’s request and exhibits in support. Plaintiff states that he has exercised “extraordinary diligence” in seeking to serve the Defendants, and the Exhibits he provides, including affidavits of diligence from process servers, demonstrate Plaintiff’s efforts to locate the Defendants in Las Vegas, Nevada. *See* Appl., Exs. 1-6. Plaintiff states that Defendants “are believed to be still residing in the Las Vegas area,” noting that “process servers have gone to Cobb’s and Davis’s last known addresses in Las Vegas” in an attempt to serve Defendants. *Id.* ¶ 2.

Plaintiff’s efforts to locate these Defendants appears to focus solely in Nevada, but in his

1 Complaint, Plaintiff notes that “D.M. Financial has been and continues to be in Marin County,  
2 California, e.g. Larkspur and/or Novato, California,” and that “[s]ince 2007, Cobb has maintained  
3 offices in Mill Valley, California, Larkspur, California, and in Novato, California.” Complaint, Dkt.  
4 No. 1 (“Compl.”) ¶ 2. Plaintiff also notes that Defendant Cobb is “licensed as a mortgage loan  
5 originator in the State of California.” *Id.* ¶ 5. Likewise, Plaintiff’s Complaint states that Sloane  
6 Davis is a “resident of California” and that DM Financial had addresses that included “10 S. Knoll  
7 Drive, Unit 4, Mill Valley, CA” and later “655 Redwood Highway, Suite 230, Mill Valley,  
8 California.” *Id.* ¶ 3; 7(g). The Complaint further notes that D.M. Financial had an account in Marin  
9 County where checks were drawn (*id.* ¶ 7(e)) and that the telephone numbers given to Plaintiff to  
10 contact Defendants Cobb and Davis bore Marin County prefixes (“415”). *Id.* at ¶ 7(i).

11 Plaintiff’s Application states that a “skip-trace on the defendants has been commissioned, but  
12 without success in finding the current location of either defendant.” Appl. ¶ 2. Although Plaintiff’s  
13 Affidavit of Due Diligence affirms that “a diligent effort was made to serve and to locate a current  
14 address for the defendant within the State of Nevada, County of Clark, and that all efforts have been  
15 to no avail,” (Appl., Ex. 1) Plaintiff has not shown such efforts in California, where Plaintiff has  
16 alleged these Defendants have substantial contacts.

17 Accordingly, the Court **HEREBY ORDERS** Plaintiff to address the following questions in a  
18 supplemental brief to be filed no later than Wednesday, October 30, 2013:

- 19 1. Aside from contacting Defendant Cobb’s stepson in Mill Valley (*see* Status Statement as to  
20 Service of Process on Defendants Diane Cobb and Sloane Davis, Dkt. No. 22, ¶ 8), what, if  
any, efforts have been made to locate or serve Defendants in California?
- 21 2. Why does Plaintiff think that the publication of the summons in the Las Vegas Sun is most  
22 likely to give actual notice to Defendants Cobb and Davis, as opposed to another publication  
in the Las Vegas area, or one in Marin County?

23 **IT IS SO ORDERED.**

24  
25 Dated: October 24, 2013

26  
27   
28 \_\_\_\_\_  
Maria-Elena James  
United States Magistrate Judge