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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORLANDO GARCIA,
Plaintiff,
v.
JOSEPH BERNARDINI, et al.,
Defendants.

Case No. [21-cv-08560-RS](#)

**ORDER DENYING ADMINISTRATIVE
MOTION FOR SERVICE BY
PUBLICATION**

Plaintiff filed a third administrative motion for service by publication. In his first motion, Plaintiff requested to conduct service by publication in a newspaper that is no longer in circulation. The Court denied the motion, and Plaintiff filed a new motion requesting service by publication in the Valley Times, which Plaintiff stated was part of the Bay Area News Group. Finding no reference to the Valley Times on the Bay Area News Group’s website, the motion was denied without prejudice to Plaintiff offering some kind of documentary evidence that the Valley Times is indeed currently in circulation.

Plaintiff brings this third motion, attaching an email with an employee of the Bay Area News Group in support of its request to publish in the Valley Times.¹ Plaintiff, however, has not

¹ Service by publication is permitted “in a named newspaper, published in this state, that is most likely to give actual notice to the party to be served.” Cal. Civ. Proc. Code. § 4150.50(b). Plaintiff provides no information about the circulation of the Valley Times to establish that the newspaper is the one “that is most likely to give actual notice to the party to be served.” *Id.* Other courts in this district have found the East Bay Times is a newspaper that is most likely to give actual notice.

1 established that he is entitled to service by publication at this stage. Under California law, service
2 by publication is permitted “if upon affidavit it appears to the satisfaction of the court in which the
3 action is pending that the party to be served cannot with reasonable diligence be served in another
4 manner specified” in the statute. Cal. Civ. Proc. Code § 415.50(a). “Before allowing a plaintiff to
5 resort to service by publication, the courts necessarily require him to show exhaustive attempts to
6 locate the defendant, for it is generally recognized that service by publication rarely results in
7 actual notice.” *Watts v. Crawford*, 10 Cal. 4th 743, 749 n.5 (1995) (internal quotation marks and
8 citation omitted).

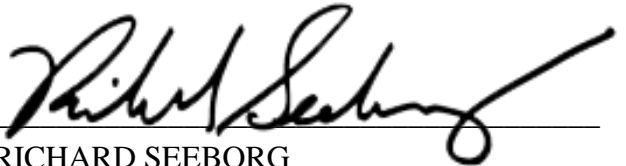
9 Other courts in this district have held in disability access cases that when the Defendant
10 owns a business or the physical property at which a business operates, failure to attempt any
11 investigation at the property in question or to attempt service at that location does not constitute
12 reasonable diligence. *See Garcia v. Clement-Rorick*, 21-cv-05037-TSH, 2022 WL 1478532, at *2
13 (N.D. Cal. April 19, 2022); *Garcia v. Saffarian*, 21-cv-06451-MMC, 2022 WL 634435, at *2
14 (N.D. Cal. March 3, 2022). This lawsuit concerns the property at 688 Blossom Way, Hayward,
15 California, where Plaintiff alleges the business “Sam’s Cherryland Grocery” operates. Although
16 Plaintiff has investigated Defendants’ home address and attempted service at the address where he
17 believes Plaintiffs reside, Plaintiff has not documented any investigation or attempted service at
18 688 Blossom Way. The administrative motion for service by publication is therefore denied
19 without prejudice. Plaintiff is granted a 30-day extension, from the date of this order, to complete
20 service on Defendants.

21 **IT IS SO ORDERED.**

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23 Dated: August 1, 2022

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26 *See Garcia v. Clement-Rorick*, 21-cv-05037-TSH, 2022 WL 1478532, at *3 (N.D. Cal. April 19,
27 2022); *Macias v. Fasail*, 2020 WL 2542028, at *4 (N.D. Cal. May 19, 2020); *United States v.*
28 *Benson*, 2019 WL 6612246, at *3 (N.D. Cal. Dec. 5, 2019). If Plaintiff is allowed to serve
Defendants by publication, the East Bay Times is the proper publication.

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RICHARD SEEBORG
Chief United States District Judge