

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**
7

8 FLETCHER CARSON,

9 Plaintiff,

10 vs.
11

12 WALSH GRIFFIN, et al.,

13 Defendants.
14

Case No.: 13-cv-0520 KAW

ORDER GRANTING IN PART PLAINTIFF'S
THIRD MOTION TO ALLOW ALTERNATE
SERVICE

15
16 Plaintiff Fletcher Carson, who is proceeding pro se, filed the complaint in this case on
17 February 6, 2013. The Court denied Plaintiff's Motion to Allow Alternate Service on Defendants
18 without prejudice on April 16, 2013. Plaintiff filed a second Motion to Allow Alternate Service of
19 Defendants on April 22, 2013. The Court granted this motion in part, and gave Plaintiff an
20 opportunity to cure the defects explained in the Court's order.

21 In the instant motion, Plaintiff seeks to demonstrate that he has served the following
22 individuals and companies: Priscilla Ellis, Kenietta Johnson, John Kagose, Vicken International
23 Traders LLC, and KVP Consultants. All of these individuals and companies are supposedly located
24 in the United States.

25 Plaintiff asserts that he has sent each of these Defendants registered emails containing all of
26 the service documents. The emails were sent through a service called RPost Holdings, which,
27 according to Plaintiff, returns an acknowledgement that the recipient's email inbox received the email.
28 For the following reasons, the motion is granted in part.

1 As explained in the Court's previous order, Federal Rule of Civil Procedure 4(e)(1) provides
2 that "an individual . . . may be served in a judicial district of the United States by: following state law
3 for serving a summons in an action brought in courts of general jurisdiction in the state where the
4 district court is located or where service is made." As this Court is located in California, service of
5 process is governed by California law. Section 415.30 of the California Code of Civil Procedure
6 provides that service may be made by first-class mail to the person to be served. The sender must
7 mail a copy of the summons and complaint to the person to be served, together with two copies of the
8 notice and acknowledgement set out in section 415.30(b), and a return, postage-paid envelope.
9 Service is complete when the acknowledgment is returned to the sender.

10 Section 413.30 of the California Code of Civil Procedure states, "[w]here no provision is made
11 in this chapter or other law for the service of summons, the court in which the action is pending may
12 direct that summons be served in a manner which is reasonably calculated to give actual notice to the
13 party to be served and that proof of such service be made as prescribed by the court."

14 A corporation, partnership or association in the United States may be served in the same
15 manner for serving an individual under Federal Rule of Civil Procedure 4(e)(1), or, "by delivering a
16 copy of the summons and of the complaint to an officer." Fed. R. Civ. P. 4(h)(1)(A), (B).

17 Service on an individual, corporation, partnership or association may also be accomplished by
18 obtaining a waiver of service under Rule 4(d).

19 In the instant motion, Plaintiff now explains that he attempted to serve the above individuals
20 by sending them the documents required by Section 415.30 of the California Code of Civil Procedure,
21 as well as by requesting a waiver of service under Rule 4(h). But none of the Defendants returned the
22 acknowledgement of service or waiver of service forms within the allotted time periods. Thus,
23 Plaintiff seeks to serve them through the registered email process explained above.

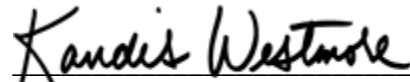
24 As the Court has explained in its previous orders, service may be accomplished under Section
25 413.20 by sending registered emails to email addresses through which Plaintiff has corresponded with
26 Defendants. Plaintiff states that he corresponded with Priscilla Ellis through the email address
27 mstpajd@aol.com, and sent the service documents to this address. Accordingly, Priscilla Ellis is
28 deemed served. However, Plaintiff does not explain that he has corresponded with Kenietta Johnson

1 or John Kagose through this, or any other email address. They are not reasonably calculated to
2 receive actual notice of this lawsuit through emails to Priscilla Ellis' email address. Thus, they are not
3 deemed served.

4 As stated above, service on a company may be effected by serving a copy of the
5 summons and the complaint to an officer of the company. Plaintiff has explained that Priscilla
6 Ellis is the president of Vicken International Traders LLC, and the CEO of KVP Consultants.
7 Plaintiff has sent the required documents to Priscilla Ellis through email. Accordingly, the
8 two companies are deemed served.

9 It is hereby ORDERED that Plaintiff's third Motion for Alternate Service is granted in part and
10 denied in part. The following individual and businesses are deemed served: Priscilla Ellis, Vicken
11 International Traders LLC, and KVP Consultants. Kenietta Johnson and John Kagose have not been
12 shown to have been served. This order is issued without prejudice for Plaintiff to cure the defects in
13 service, and submit another motion for alternate service, if necessary.

14
15
16 DATE: June 28, 2013



KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE