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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

PETRA PELAYO,

Plaintiff,

vs.

HOME CAPITAL FUNDING; YOUR
MONEY STORE; EMC MORTGAGE
CORPORATION; 2721 WARDLOW
AVENUE, SAN DIEGO 92154 and all other
claimants of whatsoever kind and character
against real property commonly known; and
DOES 1 through 100 inclusive,

Defendants.

Case No. 08-CV-2030 IEG (POR)

ORDER:

(1) GRANTING PLAINTIFF’S *EX PARTE* REQUEST FOR ORDER TO SERVE DEFENDANT HOME CAPITAL FUNDING THROUGH THE CALIFORNIA SECRETARY OF STATE; and

(2) REQUIRING SERVICE OF PROCESS TO BE MADE UPON DEFENDANT HOME CAPITAL FUNDING PURSUANT TO CAL. CORP. CODE § 1702.

On June 1, 2009, Plaintiff filed her *Ex Parte* Request for Order to Serve Defendant Home Capital Funding [“HCF”] Through the California Secretary of State. (Doc. No. 28.) Plaintiff contends she has made diligent efforts to serve HCF at its place of business and through its authorized agent for service of process, but has been unsuccessful. Pursuant to Cal. Corp. Code § 1702,

If an agent for the purpose of service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personally delivering the process, or if no agent has been designated, and it is shown by affidavit to the satisfaction of the court that process against a domestic corporation cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20 or subdivision (a) of Section 415.30

1 of the Code of Civil Procedure or upon the corporation in the manner
2 provided in subdivision (a), (b) or (c) of Section 416.10 or subdivision
3 (a) of Section 416.20 of the Code of Civil Procedure, the court may
4 make an order that the service be made upon the corporation by
5 delivering by hand to the Secretary of State, or to any person employed
6 in the Secretary of State's office in the capacity of assistant or deputy,
7 one copy of the process for each defendant to be served, together with
8 a copy of the order authorizing such service. Service in this manner is
9 deemed complete on the 10th day after delivery of the process to the
10 Secretary of State.

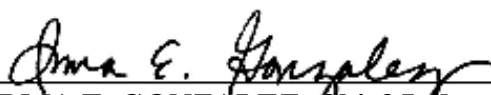
11 Cal. Corp. Code § 1702(a) (2009).

12 In support of her request, Plaintiff has submitted the sworn declaration of Mikel L. Clark, the
13 Field Supervisor for Diversified Legal Services, Inc. ("DLS"), the process server Plaintiff has retained
14 in this case. Mr. Clark attached to his declaration a record from the California Secretary of State's
15 Business Portal indicating the name and address of HCF as well as its agent for service of process,
16 Torrey Larsen. [Ex. B to Clark Decl. ISO Ex Parte Request ("Clark Decl.").] Mr. Clark declares that
17 DLS was unable to serve HCF or Ms. Larsen, further supporting this assertion with a "Non Service
18 Report" stating that both listed addresses belong to other businesses. (Clark Decl., ¶ 2; Ex. A to Clark
19 Decl.) Furthermore, DLS' efforts to perform a skip trace to locate HCF or Ms. Larsen have been
20 unsuccessful. (Clark Decl., ¶ 3.) Mr. Clark has identified nine different media DLS used to attempt
21 to locate HCF or Ms. Larsen, and declares DLS was unable to locate the defendant through any of
22 these information sources. (Clark Decl., ¶ 3(a)-(i).)

23 Having considered Plaintiff's *Ex Parte* Request, the Court concludes Plaintiff has shown that
24 process cannot be served upon Defendant HCF with reasonable diligence. Accordingly, the Court
25 GRANTS Plaintiff's *Ex Parte* Request for Order to Serve Defendant Home Capital Funding Through
26 the California Secretary of State. The Court further ORDERS that service of process upon Home
27 Capital Funding, a California corporation, be made by delivery of process to the California Secretary
28 of State, or assistant or deputy thereof, pursuant to § 1702 of the California Corporations Code.

IT IS SO ORDERED.

DATED: June 4, 2009


IRMA E. GONZALEZ, Chief Judge
United States District Court