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

JOHN GONZALES,

vs.

JET-MEX TRANSPORTATION, LLC, et
al.,

Plaintiff,

Defendants.

CASE NO. 14-CV-206-LAB-NLS

**ORDER DENYING EX-PARTE
MOTION FOR AN EXTENSION OF
TIME TO SERVE DEFENDANT
AND FOR LEAVE TO SERVE BY
PUBLICATION**

This case was filed on January 30, 2014, which means the Defendants must be served by May 30. See Fed. R. Civ. P. 4(m). Recently, Gonzales filed an ex parte motion for more time to serve Defendant Chris Johnson, and for leave to serve him by publication.

Gonzales represents that there is no contact information for Johnson on the California Secretary of State’s website, and that a search on Lexis Nexis turned up 33 Chris Johnsons in Provo, Utah who might be *the* Chris Johnson he is looking for. (Mot. at 2–3.) Gonzales’s counsel says in a supplemental declaration, “To comply with the requirements of Federal Rule of Civil Procedure 4(m), counsel has made diligent efforts to ascertain [a] mailing address for Defendant Chris Johnson in an attempt to effect service upon him without success.” (Sauer Decl. ¶ 5.)

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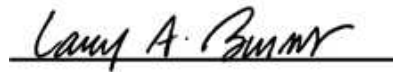
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Unfortunately, the standard for the Court to permit service by publication is higher than Gonzales understands it to be. Service by publication is a last resort, it must be preceded by exhaustive efforts to locate a defendant, and it must be supported by an affidavit rather than a declaration—among other things. See *Thieme v. Cobb*, 2013 WL 6072090 at *3–5 (N.D. Cal. Nov. 18, 2013). Here, Gonzales offers that his attorney made a couple of attempts to locate Johnson online, as well as his attorney’s simple word that “diligent efforts” have been made. That is simply inadequate. *Id.*; see also *Rose v. Seamless Financial Corp.*, 2013 WL 1285515 at *2–5 (S.D. Cal. Mar. 26, 2013)

The ex parte motion is **DENIED WITHOUT PREJUDICE**. Gonzales still has almost one month to serve Johnson. As May 30 draws closer, he is free to renew this motion for more time to serve him, as well as a more robust request to serve Johnson by publication.

IT IS SO ORDERED.

DATED: May 5, 2014


HONORABLE LARRY ALAN BURNS
United States District Judge