

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:09-cv-02429-REB-MJW

**CHEVRON U.S.A. INC.**,  
a Pennsylvania corporation,

Plaintiff,

v.

**GREGORY D. TIMM**, a Colorado resident,  
**CARY L. CARPENTER**, a Colorado resident,  
and **ALLEN VAN WYHE**, a Colorado resident

Defendants.

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**ORDER GRANTING  
PLAINTIFF CHEVRON'S MOTION FOR SUBSTITUTED SERVICE ON  
DEFENDANT GREGORY TIMM**

*(Docket No. 21)*

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This matter comes before the Court on Plaintiff Chevron U.S.A. Inc.'s motion for substituted service of process on Defendant Gregory Timm. The Court has reviewed the motion and supporting affidavit and finds that good grounds exist to GRANT the motion.

Chevron has made numerous attempts to serve Timm with the summons and complaint but has been unsuccessful. Chevron's counsel has been in email contact with Timm, who frequently responds the same day. Chevron provided Timm with an emailed copy of the summons and complaint, but Timm did not agree to waive service of process. The Court is satisfied that due diligence has been used to attempt personal service and that further attempts would be to no avail.

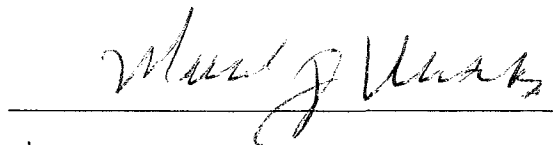
Under Fed. R. Civ. P. 4(e), service of process on an individual may be effected by (1) following state law for service of the summons in the state where the district court is located or service is made; or (2) delivering a copy to the individual; leaving it with a person at his usual dwelling; or delivering it to an appointed agent. Chevron's motion is brought under Rule 4(e)(1) because Colorado law allows for substituted service. Under Colo. R. Civ. P. 4(f), substituted service may be made on another person, if appropriate under the circumstances and reasonably calculated to give actual notice to the party upon whom service is to be effective.

Timm is involved in other litigation in Colorado state court. *Drew v. Bikers Dream Int'l, LLC*, Case No. 2008 CV 2461, El Paso District Court, Colorado. The Court finds that service on Timm's attorney in the *Drew v. Bikers Dream Int'l, LLC*, Case No. 2008 CV 2461, El Paso District Court, Colorado, is appropriate under the circumstances and is reasonably calculated to give actual notice to Timm.

The Court ORDERS as follows: Chevron is authorized to deliver the summons and complaint, and a copy of this Order <sup>And Court minutes Tuesday (12-16-09)</sup> to Timm's counsel in the *Drew* case: Kent L. Freudenberg, Esq.. Process shall be mailed to Gregory Timm at 11776 N. 119th St., Scottsdale, Arizona on or before the date of delivery to Mr. Freudenberg. ~~⊗~~ And also to

Dated: December 16, 2009, 2009

Defendant Gregory  
D. Timm at his  
e-mail address  
of GregoryTimm@aol.com



MICHAEL J. WATANABE  
U.S. MAGISTRATE JUDGE  
DISTRICT OF COLORADO