

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00824-REB-MEH

FIRST AMERICAN MORTGAGE, INC.,

Plaintiff,

v.

FIRST HOME BUILDERS OF FLORIDA,
K. HOVNANIAN FIRST HOMES, LLC,
FIRST HOME TITLE,
BUILDERS MORTGAGE COMPANY, LLC,
FIRST MORTGAGE LENDERS OF FLORIDA, LLC,
D'ALESSANDRO & WOODYARD, INC.,
GATES D'ALESSANDRO & WOODYARD, INC.,
PATRICK LOGUE, an individual, and
JAMES SUBLETT, an individual,

Defendants.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on September 27, 2010.

The Plaintiff's "Ex Parte" Motion for Substitute Service [[filed September 24, 2010; docket #51](#)] is **denied without prejudice**. Rule 4(e)(1) provides that an individual may be served by following state law in the state where service is made. Fed. R. Civ. P. 4(e)(1); *see also* Fed. R. Civ. P. 4(h)(1)(A) (service of corporations). Plaintiff provides no legal authority, and the Court has found none, requiring that a plaintiff seek leave of court before pursuing substituted service under Florida law. *See Smith v. Leaman*, 826 So.2d 1077, 1078 (Fla. App. 2 Dist. 2002) (after determining through investigation that defendant was concealing his whereabouts, the plaintiff filed an affidavit describing the efforts to serve defendant and informing the court that substituted service had been made on the Secretary of State in compliance with applicable statutes).

The Plaintiff may re-file the motion identifying the proper legal authority if it determines that it must do so in accordance with federal or state law.