

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

AUTO-OWNERS INSURANCE
COMPANY

Plaintiff,

v.

EMERALD STAR CASINO & RESORTS,
INC., BONNIE L. CATO, BRUCE E.
CORRIGAN, and TINA J. CORRIGAN,

Case No.: 8:09-cv-1129-T-24 MAP

Defendants.

ORDER

This cause comes before the Court on an unopposed Motion to Execute Alternative Service by Publication and Issue Notice of Action by Clerk filed by Plaintiff Auto-Owners Insurance Company (“Auto-Owners”). (Doc. No. 19.) Auto-Owners has been unable to effectuate actual service of process on Defendant Emerald Star Casino & Resorts, Inc. or Defendant Bonnie L. Cato because, it appears, that these defendants have been concealing their whereabouts. Auto-Owners now seeks to have the Clerk issue a Notice of Action as authorized by Florida Statutes 49.011 and 49.021 for constructive service by publication.

Federal Rules of Civil Procedure 4(e) and 4(h) together permit service on an individual and on a corporation to be completed in accordance with state law. Florida Statutes 49.011 and 49.021 provide for constructive service by publication when a defendant conceals his or her whereabouts. In accordance with that procedure, Auto-Owners has filed an affidavit of its counsel that establishes the due diligence and the elements to support service of process by

publication on these defendants. Therefore, Auto-Owners requests leave of the Court to execute service of process on Defendants Emerald Star Casino & Resorts, Inc. and Bonnie L. Cato by publication of a Notice of Action in the *St. Petersburg Times*, which is the main newspaper in Pinellas County wherein the defendants were last known to be located.

Auto-Owners sufficiently has demonstrated that constructive service of process under Florida Statutes 49.041 and 49.051 is necessary, as these defendants have attempted to conceal their whereabouts in order to avoid actual service. Accordingly, Auto-Owners motion is **GRANTED**. The Clerk is directed to issue the attached Notice of Action as to Defendants Emerald Star Casino & Resorts, Inc. and Bonnie L. Cato.

DONE AND ORDERED at Tampa, Florida, this 8th day of January, 2010.


SUSAN C. BUCKLEW
United States District Judge

Copies to: Counsel of record

Attachment: Notice of Action