

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 18-cv-10949

Hon. Matthew F. Leitman

v.

DEIDRE B. JOHNSON,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR
VERIFICATION FOR ALTERNATE SERVICE (ECF #5)**

On March 23, 2018, the United States of America (“Plaintiff”) filed this action against Defendant Deidre B. Johnson for failure to make payments on a student debt. (*See* Compl., ECF #1.) On that same day, the Court issued a Summons for Defendant. (*See* Summons, ECF #2.) On July 27, 2018, Plaintiff filed an ex parte motion with an attached affidavit from a process server asking that the Court order alternative service of Defendant. (*See* ECF #5.) In the affidavit attached to the motion, the process server explains that he has unsuccessfully attempted to personally serve Defendant at her last known address on four different occasions. (*See id.* at Pg. ID 29.) Plaintiff also states that it attempted to serve Defendant by certified mail, but the mail was returned as unclaimed. (*See id.* at Pg. ID 31.)

Federal Rule of Civil Procedure 4(e)(1) states that “an individual may be served in a judicial district of the United States by following state law for serving a summons in an action brought in the courts of general jurisdiction in the state where the district court is located or where service is made.” Michigan Court Rule 2.105 governs service of process in the State of Michigan and it states in relevant part that process may be served on a resident or non-resident individual by:

1. delivering a summons and a copy of the complaint to the defendant personally; or
2. sending a summons and a copy of the complaint by registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the defendant acknowledges receipt of the mail. A copy of the return receipt signed by the defendant must be attached to proof showing service under subrule (A)(2).

MCR 2.105(A)(1)-(2). “On a showing that service of process cannot reasonably be made as provided by this rule, [a] court may by order permit service of process to be made in any other manner reasonably calculated to give [a] defendant actual notice of the proceedings and an opportunity to be heard.” MCR 2.105(I)(1). “A request for an order under [MCR 2.105(I)] must be made in a verified motion dated not more than 14 days before it is filed. The motion must set forth sufficient facts to show that process cannot be served under this rule and must state the defendant's address or last known address, or that no address of the defendant is known. If the name or present address of the defendant is unknown, the moving party must set forth facts

showing diligent inquiry to ascertain it. A hearing on the motion is not required unless the court so directs.” MCR 2.105(I)(2).

In Michigan, substituted service “is not an automatic right.” *Krueger v. Williams*, 300 N.W.2d 910, 915 (Mich. 1981). “A truly diligent search for an absentee defendant is absolutely necessary to supply a fair foundation for and legitimacy to the ordering of substituted service.” *Id.* at 919.

The Court is persuaded that service under MCR 2.105(A)(1)-(2) cannot reasonably be made so that substituted service is required. Plaintiff details reasonably diligent efforts to serve Defendant as provided in MCR 2.105(A)(1)-(2). Plaintiff’s attempt to serve by certified mail was unsuccessful, and the process server unsuccessfully attempted to personally serve Defendant at her last known address on four occasions at different times of the day on different days of the week. Substituted service is thus warranted.

Accordingly, for all the reasons stated above, **IT IS HEREBY ORDERED THAT** Plaintiff’s Motion for Verification for Alternate Service (ECF #5) is **GRANTED.**

IT IS FURTHER ORDERED THAT Plaintiff shall serve Defendant by doing both of the following: (1) mailing the Complaint, Summons, and this Order to 20855 Lasher Rd. Apt E605, Southfield, MI 48033 and (2) tacking or firmly affixing the Complaint, Summons, and this Order to the door at 20855 Lasher Rd. Apt E605, Southfield, MI 48033.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: August 1, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 1, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764