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3 **UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF NEVADA**

6 THOMAS LAYTON,  
7 Plaintiff,

8 vs.

9 GREEN VALLEY VILLAGE COMMUNITY  
10 ASSOCIATION, dba GREEN VALLEY  
11 VILLAGE HOA, *et al.*,  
12 Defendants.

Case No. 2:14-cv-01347-GMN-GWF

**ORDER**

13 This matter is before the Court on Plaintiff's Motion to Extend Time to Serve (ECF No.  
14 62), filed on May 1, 2017.

15 Pursuant to Fed. R. Civ. P. 6(b) and LR 6, extensions of time may be granted for good cause  
16 shown. Further, Rule 4(m) of the Federal Rules of Civil Procedure – which governs the time limit  
17 of service – allows the court to grant an extension of time for service if the plaintiff can show good  
18 cause for his failure to timely serve a defendant. Rule 4(e) of the Federal Rules of Civil Procedure  
19 provides that the state statutes in which the district court is located are followed in matters  
20 pertaining to service of summons by publication. N.R.C.P. 4(e)(1)(i) states that the court may  
21 permit service by publication if, after due diligence shown, the plaintiff is unable to find the  
22 defendant(s) within the state, or they are avoiding the service of summons. The plaintiff must  
23 prove this to the satisfaction of the court either by affidavit or by a verified complaint. The Nevada  
24 Supreme Court has held that there is no objective, formulaic standard for determining what is, or is  
25 not, due diligence. *Abreu v. Gilmer*, 985 P.2d 746, 749 (1999).

26 Plaintiff requests an extension of time to serve Defendant Joseph Yakubik or, in the  
27 alternative, permission to serve by publication. Plaintiff asserts he has demonstrate due diligence  
28 by making ten (10) separate attempts at effectuating personal service on Defendant. Further,

1 Plaintiff performed searches of the county assessor's office and phone directory. The Court,  
2 therefore, finds that Plaintiff has provided sufficient good cause to warrant a 45 day extension of  
3 time to serve. Plaintiff, however, did not attach an affidavit of due diligence to his motion. The  
4 Court, therefore, denies, without prejudice, Plaintiff's alternative requested relief for leave to serve  
5 Defendant by publication. Accordingly,

6 **IT IS HEREBY ORDERED** that Plaintiff's Motion to Extend Time to Serve (ECF No.  
7 62) is **granted**, in part, and **denied**, in part. Plaintiff shall have until **June 14, 2017** to effectuate  
8 service on Defendant Joseph Yakubik. Plaintiff's request to serve Defendant Yakubik by  
9 publication is **denied**, without prejudice.

10 DATED this 17th day of May, 2017.

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13 GEORGE FOLEY, JR.  
14 United States Magistrate Judge  
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