

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRIAN WADE,

Plaintiff,

vs.

BRIAN SANDOVAL, Governor State of Nevada,
et al.,

Defendants.

Case No. 2:16-cv-00129-JCM-GWF

ORDER

This matter is before the Court on Plaintiff’s Motion for Service by Publication and for Extension of Time to Serve First Amended Complaint on Defendant Doris Bashford, aka Doris Hendricks, aka Doris Parenteau (ECF No. 41), filed on October 4, 2016.

Pursuant to Fed. R. Civ. P. 6(b) and LR 26-4, extensions of time may be granted for good cause shown. Further, Rule 4(m) of the Federal Rules of Civil Procedure – which governs the time limit of service – allows the court to grant an extension of time for service if the plaintiff can show good cause for his failure to timely serve a defendant. Rule 4(e) of the Federal Rules of Civil Procedure provides that the state statutes in which the District Court is held are followed in matters pertaining to service of summons by publication. N.R.C.P. 4(e)(1)(i) states that the court may permit service by publication if, after due diligence shown, the plaintiff is unable to find the defendant(s) within the state, or they are avoiding the service of summons. The plaintiff must prove this to the satisfaction of the court either by affidavit or by a verified complaint. The Nevada Supreme Court has held that there is no objective, formulaic standard for determining what is, or is not, due diligence. *Abreu v. Gilmer*, 985 P.2d 746, 749 (1999).

Plaintiff represents that he has attempted service upon Defendant Bashford at multiple

1 addresses. Plaintiff represents that he has again unsuccessfully attempted service upon Defendant
2 Bashford based upon information provided by NPERS. Therefore, Plaintiff requests an additional
3 sixty (60) days to serve Defendant Bashford. The Court finds that Plaintiff has provided sufficient
4 good cause to warrant an extension of time to serve Defendant Bashford. Plaintiff also requests that
5 he be permitted to serve Defendant Bashford by publication. Plaintiff has demonstrated due diligence
6 in attempting service on Defendant Bashford that would warrant permitting service by publication.
7 Accordingly,

8 **IT IS HEREBY ORDERED** Plaintiff's Motion for Service by Publication and for Extension
9 of Time to Serve First Amended Complaint (ECF No. 41) is **granted** as follows:

- 10 1. Defendant Bashford may be served by Plaintiff through publication of the summons
11 and complaint in this case at least once a week for four (4) consecutive weeks in the
12 Nevada Legal News, which is a newspaper of general circulation published in Las
13 Vegas, Nevada. Said service must be effectuated on or before **December 1, 2016**.

14 DATED this 6th day of October, 2016.

15
16 
17 GEORGE FOLEY, JR.
18 United States Magistrate Judge
19
20
21
22
23
24
25
26
27
28