



1 diligence be found within the state, or by concealment seeks to avoid the service of summons.” Nev.  
2 R. Civ. P. 4(e)(1). There are several factors courts consider to evaluate a party’s due diligence, including  
3 the number of attempts made to serve the defendant at his residence and other methods of locating  
4 defendants, such as consulting public directories and family members. *See Price*, 787 P.2d at 786-87;  
5 *Abreu v. Gilmer*, 985 P.2d 746, 747 (Nev. 1999); *McNair v. Rivera*, 874 P.2d 1240, 1241 (Nev. 1994).

6 In this case, Vegas Property attempted to serve Frink Family Living Trust at one address on one  
7 occasion. Docket No. 71 at 8. This showing is woefully deficient to allow service by publication.<sup>1</sup> As  
8 an initial matter, the supervisor of the business at that address appears to know “Willie Frink.” *Id.* No  
9 indication has been made whether any effort was made to confirm whether “Willie Frink” is the trustee  
10 or to obtain further contact information from the company supervisor so that service could be completed.  
11 *See id.* Moreover, the additional efforts to locate Frink Family Living Trust are also lacking. In  
12 particular, the affidavit in several instances simply states that various matches were found in public  
13 records, without explaining what follow-up efforts were made or why the results obtained were  
14 insufficient to locate Frink Family Living Trust or allow follow-up efforts. *See, e.g.*, Docket No. 71 at  
15 11 (“I conducted a search through the Clark County Assessors by last name and found 7 various  
16 recordings”). The Court fails to discern how finding potential matches shows that service by publication  
17 is appropriate. Moreover, it appears that the affiant did not have the potential first name of the trustee,  
18 which potentially appears to be “Willie” from other aspects of the record. *See id.* (“The information  
19 provided to me was the Defendant’s last name. No first names were given”);<sup>2</sup> *but see id.* at 8 (upon  
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23 <sup>1</sup> The motion and supporting papers are at times difficult to follow, and appear to have been cut-and-  
24 pasted from papers filed in other cases without appropriately modifying them. For example, the motion  
25 states that “FRINK does not reside at the address associated with it in Nevada, 7617 Boca Raton Drive.”  
26 Docket No. 71 at 3. The motion then references the “Affidavit of Attempts at **3123 Alder Grove Court.**”  
*Id.* (emphasis in original). The actual address at which service was attempted was neither of those, and was  
instead 7121 W. Craig Road. *Id.* at 8.

27 <sup>2</sup> Although not entirely clear since the party to be served is a trust, the court assumes the  
28 “Defendant’s last name” refers to “Frink.”

1 attempting service, supervisor of business mentioned “Willie Frink”). In short, Vegas Property has not  
2 shown the diligence required to order service by publication.<sup>3</sup>

3 The motion to serve by publication will be **DENIED** without prejudice.

4 IT IS SO ORDERED.

5 DATED: April 11, 2018

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8 NANCY J. KOPPE  
9 United States Magistrate Judge  
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25 <sup>3</sup> Vegas Property incorrectly states that the deadline to complete service is April 25, 2018, based on  
26 the counterclaim’s filing date of December 26, 2017. Docket No. 71 at 3. That is wrong. Rule 4(m) of the  
27 Federal Rules of Civil Procedure was amended several years ago to reduce the presumptive time for service  
28 from 120 days to 90 days. *See* Advisory Committee Notes, Fed. R. Civ. P. 4 (2015 amendment). To the  
extent Vegas Property seeks an extension to that deadline, it must file a proper motion addressing the  
relevant standards.