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5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 ***

9 CURTIS FIREBAUGH,
an individual,

10 Plaintiff,

11 vs.

12 THE UNITED STATES OF AMERICA,
13 BRIAN BERTOLINI, an individual,
14 TIM VEDDER, an individual,
and DOES I-X, inclusive,

15 Defendants.

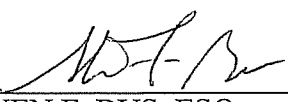
Civil Action No.: 3:12-cv-00242

**ORDER GRANTING
EX PARTE MOTION
FOR EXTENSION OF TIME FOR
SERVICE OF SUMMONS**

16 Plaintiff, CURTIS FIREBAUGH, by and through his undersigned Counsel, STEVEN F. BUS,
17 ESQ., of The Law Offices of Steven F. Bus, Ltd., hereby moves this Honorable Court for an order to
18 extend the time for service of summons as to Defendant TIM VEDDER.

19 This Motion is made pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and is
20 based upon the Affidavit of Steven F. Bus, Esq. attached hereto, the Memorandum of Points and
21 Authorities submitted herewith, and all the pleadings and papers on file herein.

22 DATED this 7th day of August, 2012

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24 
25 STEVEN F. BUS, ESQ.
Law Offices of Steven F. Bus, Ltd.
611 Sierra Rose Drive
Reno, Nevada 89511
26 (775) 825-2700
Attorney for Plaintiff

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 STATEMENT OF FACTS

4 Plaintiff filed his Complaint on May 3, 2012. At the time the Complaint was filed, to the
5 Plaintiff's knowledge, his former employer, Bertolini Trucking, Inc. was no longer in business. The
6 individual Defendants, BRIAN BERTOLINI and TIM VEDDER, were also formerly employed by
7 Bertolini Trucking, Inc. Bertolini Trucking, Inc. had a principal place of business at one time in
8 Marysville, California. Plaintiff then began to investigate the current whereabouts of both
9 Defendants BRIAN BERTOLINI and TIM VEDDER. Plaintiff was unable to locate an existing
10 address for either Defendant. Plaintiff then obtained copies of the bankruptcy pleadings for Bertolini
11 Trucking, Inc. to ascertain any possible address. In fact, even the bankruptcy Trustee, Mr. Aceituno,
12 was contacted for any possible information regarding the current whereabouts of said Defendants.
13 Despite Plaintiff's extensive efforts to determine the current location of BRIAN BERTOLINI and
14 TIM VEDDER, Plaintiff was unsuccessful. The only address Plaintiff could locate was the former
15 address of Bertolini Trucking, Inc. at 3742 North Beale Road, Marysville, California. Since this was
16 the only address Plaintiff could obtain, Plaintiff opted to attempt service at this address for both said
17 Defendants. BRIAN BERTOLINI was successfully served at the Beale Road address but BRIAN
18 BERTOLINI indicated that TIM VEDDER was not at that address. See Exhibit "1". Plaintiff is
19 under the understanding that TIM VEDDER is a long haul trucker and his current whereabouts are
20 unknown. All of the Defendants with exception of TIM VEDDER have now been served.

21 Given that Plaintiff is unaware of current address for TIM VEDDER nor does it appear the
22 BRIAN BERTOLINI has any information as well, Plaintiff is requesting to extend the service period
23 for an additional ninety (90) days so that service can be made upon the Defendant, TIM VEDDER.

24 II

25 EXTENSION OF TIME FOR SERVICE SHOULD BE

26 GRANTED BECAUSE PLAINTIFF HAS SHOWN GOOD CAUSE

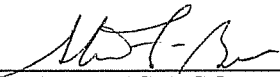
27 FRCP 4 (m) states as follows:

28 (m) *Time Limit for Service.* If a defendant is not served within 120 days after

1 **the complaint is filed, the court - on motion or on its own after notice to the**
2 **plaintiff - must dismiss the action without prejudice against the defendant or**
3 **order that service be made within a specified time. But if the plaintiff shows**
4 **good cause fo that failure, the court must extend the time for service for an**
5 **appropriate period. . .**

6 In this case, the Plaintiff has demonstrated good cause. The Plaintiff took extensive efforts
7 to attempt to locate a physical address for TIM VEDDER without any success. Plaintiff then
8 attempted service at last known address hoping to be successful but service was unsuccessful.
9 Given that unlike the State Courts in Nevada, the Federal Rules of Procedure do not provide for
10 publication of summons, Plaintiff is requesting the additional time in order to be able to physically
11 serve Defendant TIM VEDDER. Plaintiff has demonstrated good cause in not serving the
12 Summons and Complaint within the 120 day period. Based on the foregoing, Plaintiff requests he
13 be granted an additional ninety (90) day extension within which to serve the Summons and
14 Complaint on Defendant TIM VEDDER.

15 DATED this 7th day of August, 2012.

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17 _____
18 STEVEN F. BUS, ESQ.
19 Law Offices of Steven F. Bus, Ltd.
20 611 Sierra Rose Drive
21 Reno, Nevada 89511
22 (775) 825-2700

23 Attorney for Plaintiff

24 IT IS SO ORDERED:

25 
26 _____
27 UNITED STATES MAGISTRATE JUDGE

28 DATED: August 20, 2012.