

with someone of suitable age and discretion who resides there; or
(C) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

Rule 4(e) does not provide for service by mail, but this Court also examines the state law for the relevant states. New Jersey law allows service by mail under certain circumstances. New Jersey Court Rule 4:4-4 states:

- (b) Obtaining In Personam Jurisdiction by Substituted or Constructive Service.
 - (1) By Mail or Personal Service Outside the State. If it appears by affidavit satisfying the requirements of R. 4:4-5(b) that despite diligent effort and inquiry personal service cannot be made in accordance with paragraph (a) of this rule, then, consistent with due process of law, in personam jurisdiction may be obtained over any defendant as follows:

...

- (C) mailing a copy of the summons and complaint by registered or certified mail . . .
- (c) Optional Mailed Service. Where personal service is required to be made pursuant to paragraph (a) of this rule, service, in lieu of personal service, may be made by registered, certified or ordinary mail, provided, however, that such service shall be effective for obtaining in personam jurisdiction only if the defendant answers the complaint or otherwise appears in response thereto, and provided further that default shall not be entered against a defendant who fails to answer or appear in response thereto.

Plaintiff has not properly served either Defendant under any of the service provisions of the New Jersey Court Rules. Plaintiff has filed no affidavit demonstrating that, despite diligent effort and inquiry, personal service could not be made. Furthermore, New Jersey Court Rule 4:4-4(c) bars entry of default based on service by certified mail.

This Court next looks to the law of Texas. Texas Rule of Civil Procedure 106 states:

- (a) Unless the citation or an order of the court otherwise directs, the citation

shall be served by any person authorized by Rule 103 by

(1) delivering to the defendant, in person, a true copy of the citation with the date of delivery endorsed thereon with a copy of the petition attached thereto, or

(2) mailing to the defendant by registered or certified mail, return receipt requested, a true copy of the citation with a copy of the petition attached thereto.

The proofs of service filed by Plaintiff do not show that the mailing was by registered or certified mail with return receipt requested.

This Court next looks to the law of Arizona. Arizona Rule of Civil Procedure 4.1(d) requires personal service on individuals. Alternative service may be available under Rule 4.1(k), but only by leave of the Court and on motion. Plaintiff has not applied to this Court for alternative service.

Because Plaintiff has not satisfied any of the applicable rules for service, Plaintiff's request for entry of default against Defendants Hugo Campuzano and Dan Daniels will be denied. Plaintiff is granted an additional 75 days from the date of entry of this Order to effect proper service upon any Defendant.

For these reasons,

IT IS on this 19th day of August, 2013, hereby

ORDERED that Plaintiff's requests for default against Defendants Hugo Campuzano and Dan Daniels are **DENIED**; and it is further

ORDERED that Plaintiff is granted an additional 75 days from the date of entry of this Order to effect proper service upon any Defendant.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J