

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America, for the use and)
benefit of H.M.E. and H.M.E. Inc. Individually)
))
Plaintiffs,)
))
vs.)
))
Fidelity and Deposit Company of Maryland,)
et. al.,)
))
Defendants.)

ORDER

Case No. 1:16-cv-004

Before the court is plaintiffs’ “Motion for Appointment of Person to Serve Process.” Plaintiffs’ request that the court appoint Frank Slapikas, Jr. as a Special Process Server in this case pursuant to Fed. R. Civ. P. 4(c)(3), which provides: “At the plaintiff’s request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.”

Absent an explicit mandate to appointment a process server, it is generally accepted that the court appointment of a process server “will be necessary only when the process server needs to be invested with the authority that accompanies a court order.” Allstate Ins. Co. v. Weir, 531 F. Supp.2d 674, 679 (E.D.N.C. 2008) (quoting 4A Charles A. Wright and Arthur R. Miller, Federal Practice & Procedure § 1091 (3d ed.2002)); cf. Zarro v. Spitzer, No. 1:06–CV–1166, 2008 WL 4399442, at *1-2 (N.D.N.Y. Sept. 23, 2008) (recognizing that, when not explicitly mandated, the appointment of a special process server is left to the court’s discretion).

Plaintiffs are neither a seaman nor proceeding in *forma pauperis*. Moreover they neither

assert that Mr. Slapikas needs special court authority to accomplish service nor indicate why special authority is necessary. Allstate Ins. Co. v. Weir, 531 F. Supp.2d at 679. Rather, they merely requests the appointment of Frank Slapikas, Jr. as a process server. Plaintiffs' motion (Docket No. 5) is therefore **DENIED**. No court order is necessary to allow Slapikas to serve process, but if plaintiffs feels that special court authority is needed, it must describe the reasons supporting its motion with particularity.

IT IS SO ORDERED.

Dated this 26th day of February, 2016.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court