
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

YUNG-KAI LU,

Plaintiff,

v.

UNIVERSITY OF UTAH, et al.,

Defendants.

ORDER AND MEMORANDUM DECISION
GRANTING DEFENDANTS' UNOPPOSED
MOTION TO PERMIT SERVICE AND
FILING BY EMAIL AND DENYING
PLAINTIFF'S MOTION FOR LEAVE TO
FILE AND SERVE DOCUMENTS VIA
EMAIL

Case No. 2:13-cv-984 TC

District Judge Tena Campbell

Magistrate Judge Brooke Wells

Pending before the court are two motions. First an unopposed motion filed by Defendants that seeks to allow service of pleadings, motions and similar papers under Federal Rule 5(b)(2)(E) via e-mail.¹ Second, is a similar motion filed by Plaintiff that requests permission for alternate service for delivery of court documents and related responses.² The reason for these motions is to help facilitate the resolution of this case because Plaintiff Yung-Kai resides in Taiwan and has difficulties delivering and receiving documents in this matter.

Defendants' motion is unopposed and after considering it the court **GRANTS** the motion as set forth below.³

Plaintiff's motion seeks to use an on-line mailing service, www.mailaletter.com to help effectuate his participation in this case. Defendants oppose this motion to the extent "that

¹ [Docket no. 33](#).

² [Docket no. 36](#).

³ [Docket no. 33](#).

Plaintiff is seeking to use this website to effectuate service on the unserved defendants.”⁴ In addition, Defendants argue that to the extent Plaintiff is using this website to effectuate filing and service of papers other than service of process, such as motions and the like [with the court and counsel for Defendants] the request is moot.”⁵

The court agrees with Defendants’ arguments. By granting Defendants’ unopposed motion much of Plaintiff’s motion is MOOT. Further, the court will not permit Plaintiff to effectuate service via this website when there is already a pending Motion to Quash Service of Process. Accordingly, Plaintiff’s motion is DENIED.⁶

ORDER

As set forth above Plaintiff’s motion is **DENIED** and Defendants’ unopposed motion is **GRANTED**.⁷

It is hereby

ORDERED that the Clerk shall accept and place on the docket documents sent by Plaintiff Yung-Kai Lu from his e-mail address (yklueup@yahoo.com) for filing in this case only. Plaintiff shall provide all necessary information for the clerk to properly identify and docket said documents, and provide an e-mail return receipt showing the date and time of the docketing of the document. It is further

ORDERED that Plaintiff may serve documents, other than the initial summons and complaint, upon Counsel for Defendants, via e-mail (to kkaiser@utah.gov, szeller@utah.gov,

⁴ Response p. 2, [docket no. 37](#).

⁵ *Id.*

⁶ [Docket no. 36](#).

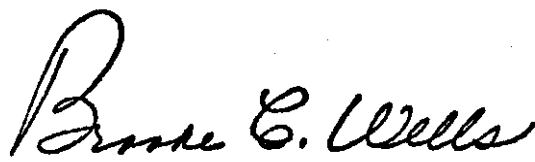
⁷ The undersigned notes that this procedure is based in large part upon that proposed by Magistrate Judge Pead prior to his recusal. *See* docket text order, [docket no. 27](#).

and clesmes@utah.gov). Adding Counsel for Defendants as a recipient on any documents emailed to the Court shall comply with this Order. Counsel for Defendants may serve documents, other than the initial summons and complaint, upon Plaintiff via e-mail. This Order shall constitute the consent, in writing, required by Federal Rule of Civil Procedure 5(b)(2)(E). Plaintiff is notified that this Order is not a substitute for proper service of process pursuant to Rule 4, Federal Rules of Civil Procedure. Defendants' Motion to Quash remains pending, and this Order does not constitute a judicial declaration that Plaintiffs' attempts at service was, or was not, sufficient. It is further

ORDERED that Plaintiff is to provide electronic copies of all motions and other filings to both the Clerk's Office (utdecf_clerk@utd.uscourts.gov) and the chambers email for the undersigned (utdecf_wells@utd.uscourts.gov) in addition to serving any such items upon Defendants via e-mail.⁸

IT IS SO ORDERED.

DATED this 27 February 2015.



Brooke C. Wells
United States Magistrate Judge

⁸ Documents filed by Defendants are also to be e-filed with a corresponding certificate of mailing embedded in them that indicates Plaintiff was served via e-mail.