

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SIMON BRONNER, et al.,

Plaintiffs,

and SIMON BRONNER,
DERIVATIVELY ON BEHALF OF
NOMINAL DEFENDANT, THE
AMERICAN STUDIES ASSOCIATION,

Derivative Plaintiff,

v.

Case No: 1:16-cv-00740-RC

LISA DUGGAN, et al.,

Defendants.

DEFENDANTS DUGGAN AND MAREZ'S MOTION TO DISMISS

Defendants Lisa Duggan and Curtis Marez, by undersigned counsel and pursuant to F.R.C.P. 12(b), move to dismiss the Complaint and quash service for insufficient service of process and state as follows:

1. The above-referenced Complaint was filed on or about April 20, 2016.
2. On or about May 20, 2016, Plaintiffs filed Affidavits of Service by a Calvin Jones, a private process server, alleging to have served Defendant Lisa Duggan and Defendant Curtis Marez by serving "Sue Bynum, Vice President of Whiteford, Taylor & Preston LLP, authorized to accept service" at the law offices of Whiteford, Taylor & Preston LLP, 1800 M Street, N.W., Suite 450N, Washington, D.C. 20036. See **Exhibits 1 and 2.**

3. The alleged service on these two Defendants is improper because neither were served individually, nor was Sue Bynum authorized to accept service on their behalf.

4. Under F.R.C.P. 4(e), an individual can be served by delivering a copy of the summons and Complaint to the individual personally, or by leaving a copy at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there, or by delivering a copy of the summons and Complaint to an agent authorized by appointment or by law to receive service of process. Rule 4(e) None of that occurred here.

5. Defendant Marez is a resident of the State of California, does not work or reside in the District of Columbia and he has not appointed Res Agent, Inc. or anyone at Whiteford, Taylor & Preston LLP to accept service on his behalf. And, has not been personally served with the Complaint. See, Declaration of Curtis Marez ("Marez Declaration").

6. Defendant Duggan is a resident of the State of New York, does not work or reside in the District of Columbia and she has not appointed Res Agent, Inc. or Whiteford, Taylor & Preston LLP to accept service on her behalf. And, she has not been served personally with the Complaint. See, Declaration of Lisa Duggan ("Duggan Declaration").

7. The person allegedly served on behalf of these Defendants is Sue Bynum, who is a paralegal at the law firm of Whiteford, Taylor & Preston LLP. She also serves as Vice President of Res Agent, Inc., a Maryland corporation which acts as the

Registered Agent for various corporations in the District of Columbia and elsewhere.

8. Res Agent, Inc. is the registered agent authorized to accept service on behalf of the American Studies Association (“ASA”) in the District of Columbia. Ms. Bynum was advised that a process server would be coming to the office to serve papers on ASA. However, when the process server arrived, the private process server also had summonses for Defendants Duggan and Marez. Ms. Bynum advised the process server that while she was obligated in her role with Res Agent, Inc. to accept service on behalf of ASA, she was not authorized to accept service on behalf of the individual Defendants. See, Declaration of Susan Bynum (“Bynum Declaration”).

9. The Affidavits of Service are wrong in stating not only that Sue Bynum was a “Vice President” of Whiteford, Taylor & Preston LLP, which she is not, but also that she in her role as Vice President of Res Agent, Inc. or otherwise was authorized to accept service on behalf of any individual Defendant.

10. Accordingly, service is insufficient pursuant to F.R.C.P. 12(b)(5) and 4(e), and service should be quashed and the case dismissed as to these Defendants.

11. Additionally, Defendants Duggan and Marez understand that Defendant ASA and several other individual Defendants who have been served are filing a Motion to Dismiss the Complaint in its entirety. All of the arguments therein made are applicable to Defendants Duggan and Marez, and form additional reasons to dismiss Defendants Duggan and Marez. These Defendants adopt and incorporate by reference all of the arguments as set forth in ASA and the other individual Defendants’ Motion to Dismiss as if fully set forth herein.

WHEREFORE, the premises considered, Defendants Duggan and Marez request that the Court grant this Motion, quash the service and dismiss the Complaint.

/s/ John J. Hathway

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Dwight W. Stone, Esq. #MD22698
Stacey Pine, Esq. #1029133
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(202) 659-6800
jhathway@wtplaw.com
dstone@wtplaw.com
spine@wtplaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 9th day of June, 2016,
via the Court's electronic filing system, upon the following:

Jerome M. Marcus, Esquire
Jonathan Auerbach, Esquire
Marcus & Auerbach
1121 N. Bethlehem Pike
Suite 60-242
Spring House, PA 19477

Scott Neal Godes, Esquire
Devin J. Stone, Esquire
Barnes & Thornburg LLP
1717 Pennsylvania Avenue, N.W.
Suite 500
Washington, D.C. 20006-4623

L. Rachel Lerman, Esquire
2029 Century Park East
Suite 300
Los Angeles, CA 90067

Attorneys for Plaintiffs

/s/ John J. Hathway
John J. Hathway

Simon Bronner, et al.

Plaintiff

vs.

Case No: 1:16-cv-00740-RC

Lisa Duggan, et al.

Defendant

AFFIDAVIT OF SERVICE

I, Calvin Jones, a Private Process Server, being duly sworn, depose and say:

That I have been duly authorized to make service of the Summons, Civil Cover Sheet, Certificate Rule LCvR 7.1, and Complaint for Derivative and Direct Claims in the above entitled case.

That I am over the age of eighteen years and not a party to or otherwise interested in this action.

That on 05/19/2016 at 1:24 PM, I served Lisa Duggan with the Summons, Civil Cover Sheet, Certificate Rule LCvR 7.1, and Complaint for Derivative and Direct Claims at Whiteford Taylor & Preston LLP, 1800 M Street, NW, Suite 450N, Washington, DC 20036 by serving Sue Bynum, Vice President of Whiteford Taylor & Preston LLP, authorized to accept service.

Sue Bynum is described herein as:

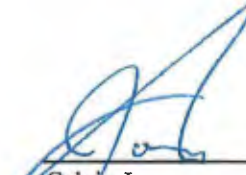
Gender: Female Race/Skin: White Age: 60 Weight: 190 Height: 5'5" Hair: Gray Glasses: No

I do solemnly declare and affirm under penalty of perjury that I have read the foregoing information set forth herein is correct to the best of my knowledge, information, and belief.

5-20-16

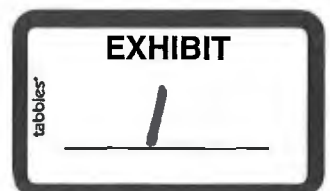
Executed On




Calvin Jones

Client Ref Number: N/A
Job #: 1508800

Capitol Process Services, Inc. | 1827 18th Street, NW, Washington, DC 20009 | (202) 667-0050



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Simon Bronner, et al.

Plaintiff

vs.

Case No: 1:16-cv-00740-RC

Lisa Duggan, et al.

Defendant

AFFIDAVIT OF SERVICE

I, Calvin Jones, a Private Process Server, being duly sworn, depose and say:

That I have been duly authorized to make service of the Summons, Civil Cover Sheet, Certificate Rule LCvR 7.1, and Complaint for Derivative and Direct Claims in the above entitled case.

That I am over the age of eighteen years and not a party to or otherwise interested in this action.

That on 05/19/2016 at 1:24 PM, I served Curtis Marez with the Summons, Civil Cover Sheet, Certificate Rule LCvR 7.1, and Complaint for Derivative and Direct Claims at Whiteford Taylor & Preston LLP, 1800 M Street, NW, Suite 450N, Washington, DC 20036 by serving Sue Bynum, Vice President of Whiteford Taylor & Preston LLP, authorized to accept service.

Sue Bynum is described herein as:


Gender: Female Race/Skin: White Age: 60 Weight: 190 Height: 5'5" Hair: Gray Glasses: No

I do solemnly declare and affirm under penalty of perjury that I have read the foregoing information set forth herein is correct to the best of my knowledge, information, and belief.

5-20-16

Executed On




Calvin Jones

Client Ref Number: N/A
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SIMON BRONNER, et al.	:
	:
Plaintiffs,	:
	:
v.	: 1:16-cv-00740-RC
	:
LISA DUGGAN, et al.	:
	:
Defendants.	:

DECLARATION OF CURTIS MAREZ

1. I am over the age of 18 and have personal knowledge of the facts set forth herein.

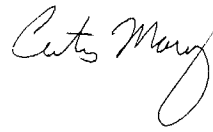
2. I am a resident of the State of California.

3. I do not work in the District of Columbia, nor do I reside in the District of Columbia.

4. ResAgent, Inc. is not authorized to accept service of the Complaint or any other legal papers on my behalf, nor is anyone at the law firm of Whiteford, Taylor & Preston, LLP.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 8th day of June, 2016.

A handwritten signature in cursive script that reads "Curtis Marez". The signature is written in black ink and is positioned above the printed name.

Curtis Marez

IN THE UNITED STATES DISTRICT COURT
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SIMON BRONNER, et al.,

Plaintiffs,

and SIMON BRONNER,
DERIVATIVELY ON BEHALF OF
NOMINAL DEFENDANT, THE
AMERICAN STUDIES ASSOCIATION,

Derivative Plaintiff,

v.

Case No: 1:16-cv-00750-RC

LISA DUGGAN, et al.,

Defendants.

DECLARATION OF LISA DUGGAN

1. I am over the age of 18 and have personal knowledge of the facts set forth herein.
2. I am a resident of the State of New York.
3. I do not work in the District of Columbia nor do I reside in the District of Columbia.
4. ResAgent, Inc. is not authorized to accept service of the Complaint or any other legal papers on my behalf, nor is anyone at the law firm of Whiteford, Taylor & Preston, LLP.
5. I have not been served with the Complaint in the above captioned case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 9 day of June, 2016.



Lisa Duggan

2086542

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SIMON BRONNER, et al.,

Plaintiffs,

and SIMON BRONNER,
DERIVATIVELY ON BEHALF OF
NOMINAL DEFENDANT, THE
AMERICAN STUDIES ASSOCIATION,

Derivative Plaintiff,

v.

Case No: 1:16-cv-00750-RC

LISA DUGGAN, et al.,

Defendants.

DECLARATION OF SUSAN M. BYNUM

1. I, Susan M. Bynum, am a paralegal at the law firm of Whiteford, Taylor & Preston, LLP.

2. ResAgent, Inc. is a Maryland Corporation authorized to do business in the District of Columbia. ResAgent, Inc. acts as the registered agent for various corporations in the District of Columbia.

3. I am a Vice President of ResAgent, Inc.


4. ResAgent, Inc. is the registered agent authorized to accept service on behalf of The American Studies Association as their registered agent in the District of Columbia.

5. ResAgent, Inc. is not authorized to accept service on behalf of Lisa Duggan or Curtis Marez.

6. I was advised that a process server would be coming to ResAgent's office to make service on The American Studies Association. The process server came to the office on May 19, 2016. When the process server arrived he had summonses on behalf of The American Studies Association, Lisa Duggan and Curtis Marez. I advised the process server that I was not authorized to accept service on behalf of Lisa Duggan and Curtis Marez.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 9th day of June, 2016.



Susan M. Bynum

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SIMON BRONNER, et al.,

Plaintiffs,

and SIMON BRONNER,
DERIVATIVELY ON BEHALF OF
NOMINAL DEFENDANT, THE
AMERICAN STUDIES ASSOCIATION,

Derivative Plaintiff,

v.

LISA DUGGAN, et al.,

Defendants.

Case No: 1:16-cv-00750-RC

**ORDER GRANTING DEFENDANTS DUGGAN AND MAREZ'S
MOTION TO DISMISS**

Upon consideration of the motion to dismiss and to quash service filed by the Defendants Lisa Duggan and Curtis Marez, and any opposition filed thereto, it is this ____ day of _____, 2016,

ORDERED that the Motion is GRANTED, that service of process on these Defendants is quashed, and that the Complaint is hereby dismissed with prejudice against these Defendants in its entirety.

Rudolph Contreras, Judge

cc: All counsel of record