

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

Jose DeCastro,

Plaintiff,

v.

Clark County Nevada, et al.,

Defendants.

Case No. 2:25-cv-899-APG-BNW

Order

Pending before the Court is Plaintiff’s motion for alternative service on Defendants Judge Zimmerman, Judge Leavitt, and Deputy District Attorney Botelho.¹ ECF No. 15. Plaintiff seeks permission to effectuate alternative service on these defendants through certified mail.

Rule 4 of the Federal Rules of Civil Procedure establishes the methods for service of civil complaints filed in federal court. Federal Rule 4(e)(1) allows for service following the laws of the state in which the federal court is located. Under Nevada Rule of Civil Procedure 4.4(b)(1), a plaintiff may serve a party through alternative means if the methods of service provided for in Rules 4.2 (service within Nevada), 4.3 (service outside Nevada), and 4.4(a) (statutory service) are impracticable. Under Rule 4.4(b)(2), a motion seeking an order for alternative service must provide affidavits, declarations or other evidence demonstrating:

- (i) the due diligence that the plaintiff undertook to locate and serve the defendant; and
- (ii) the defendant's known, or last known contact information including address, phone numbers, email addresses, social media accounts, or other information used to communicate with the defendant ...

The motion must also outline the proposed alternative service method and explain why it comports with due process. Nev. R. Civ. P. 4.4(b)(2)(B). Under Nevada Rule of Civil Procedure

¹ Defendant Botelho made an appearance and did not argue improper service. As a result, Plaintiff’s request as to Defendant Botelho is denied as moot.

1 4.4(b)(3), if the Court orders alternative service, the plaintiff must also make reasonable efforts to
2 provide additional notice under Rule 4.4(d) and mail a copy of the summons and complaint as
3 well as any order authorizing the alternative service to the defendant's last-known address.
4 Nevada Rule of Civil Procedure 4.4(d) provides that, in addition to any other service method, the
5 court may order a plaintiff to make reasonable efforts to provide additional notice of the
6 commencement of the action by other methods like certified mail, telephone, voice message,
7 email, social media, "or any other method of communication."

8 The alternative methods of service must comport with due process. *Rio Props., Inc. v. Rio*
9 *Int'l Interlink*, 284 F.3d 1007, 1016 (9th Cir. 2022). Due process requires that a defendant in a
10 civil action be given notice of the action that is reasonably calculated to apprise the defendant of
11 the pendency of the action and afford the defendant an opportunity to present his or her objection.
12 *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

13 Plaintiff has not shown that service of process under Nevada Rule of Civil Procedure
14 4.2(d) is impracticable. Indeed, he has not even provided an argument that his prior attempts to
15 serve these defendants complies with the appropriate subsection of that statute. As a result, this
16 Court will deny Plaintiff's motion without prejudice and will extend the deadline for service of
17 process to allow Plaintiff an opportunity to comply with the statute.

18 **IT IS THEREFORE ORDERED** that Plaintiff's motion (ECF No. 15) is DENIED
19 without prejudice.

20 **IT IS FURTHER ORDERED** that Plaintiff shall have until February 2, 2026, to serve
21 Defendants Zimmerman and Leavitt.

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23 DATED: December 18, 2025.

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25 BREND A WEKSLER
26 UNITED STATES MAGISTRATE JUDGE
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