

**CAUSE NO. 2017-25871**

<b>3S Real Estate Investments, LLC, Plaintiff,</b>	§	<b>IN THE DISTRICT COURT</b>
	§	
	§	
v.	§	<b>OF HARRIS COUNTY, TEXAS</b>
	§	
<b>Richard Hernandez a/k/a Rick Hernandez, Defendant.</b>	§	<b>165th JUDICIAL DISTRICT</b>
	§	

**PLAINTIFF'S SECOND MOTION FOR SUBSTITUTE SERVICE OF PROCESS**

Plaintiff, 3S Real Estate Investments, LLC, asks the Court to authorize substitute service on Defendant, Richard Hernandez.

**INTRODUCTION**

1. Plaintiff, 3S Real Estate Investments, LLC, sued Defendant, Richard Hernandez, for conversion and breach of contract.
2. This suit arises from Plaintiff remitting a prepayment to Defendant for the installation of insulation at a residential construction site and the Defendant failing to perform the agreed upon services.

**BACKGROUND**

3. Defendant's usual place of business is 2624A Yale Street, Houston, Texas 77008.
4. Plaintiff first attempted to serve Defendant on five occasions by personal delivery but has not been successful despite Plaintiff's due diligence. On June 14<sup>th</sup>, 15<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, and 27<sup>th</sup>, 2017, Jeffrey McDaniel attempted to personally serve Defendant at his usual place of business, but each time was unable to locate the Defendant. *See Ex. A*, Affidavit of Due Diligence. On three of these attempts, Mr. McDaniel was greeted by Defendant's daughter, an employee of Defendant's business. *Id.*
5. Next, Plaintiff requested that a Harris County Constable attempt to serve Defendant by personal delivery. On April 16<sup>th</sup> and May 3 and 15<sup>th</sup>, 2018, Deputy Arthur St. John attempted service but Defendant avoided service. *See Ex. B*, Constable Return of Individual. On certain of these attempts, Deputy St. John spoke with Defendant or a family member, but was unable to serve Defendant. *Id.*
6. Plaintiff has attempted to locate the Defendant but as not been successful despite Plaintiff's due diligence. Plaintiff attempted to identify work and home addresses for Defendant, but Defendant has had employees and family obstruct service; he has been unwilling to provide an address or date to be served; and he is evading service. *See Ex. C*, Plaintiff's Attorney's Affidavit.

## ARGUMENT & AUTHORITIES

7. Because Plaintiff has not been able to serve Defendant, Plaintiff asks the Court to authorize Plaintiff to serve Defendant by publication in the Daily Court Review. See Tex. R. Civ. P. 109, 116.

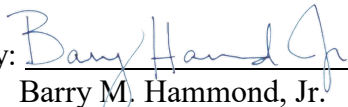
## CONCLUSION

8. Defendant has previously received notice of Plaintiff's claims by certified mail. *See* Plaintiff's Original Petition. Additionally, Defendant's office staff has allowed Defendant to avoid being served, which has unnecessarily delayed the prosecution of Plaintiff's claims. Authorizing Plaintiff's request for substitute service on Defendant will not unduly burden Defendant and will allow the Court to properly and efficiently adjudicate Plaintiff's claims.

## PRAYER

For these reasons, Plaintiff asks the Court to authorize substitute service on Defendant.

Respectfully submitted,

By:  \_\_\_\_\_

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