

4. Having exhausted efforts at the registered agent's address, DCOH then pursued service at 2603 Augusta, Houston, Texas 77057, an address determined through diligent investigation.

Nevertheless, this attempt also met with failure. [Exhibit 3]

5. Ultimately, after exploring all available avenues, DCOH's counsel attempted service through the Secretary of State. [Exhibit 4]

6. Throughout this time, DCOH's counsel also sent numerous email to KENNARD's principal owner and representative who also happens to be an attorney.

6. It's noteworthy that despite being locked out of the premises central to this litigation for over a year now, to this day KENNARD has persistently and knowingly used 5120 Woodway Ste. 10010, Houston, Texas 77056 as its address in court filings, both in this case and others.

7. A review of the Texas Bar's attorney lookup also shows that Kennard's principal owner and representative Alfonso Kennard is still using 5120 Woodway Ste. 10010, Houston, Texas 77056 as his firm's address.

7. As evidenced above, any shortcomings in service stem from KENNARD's lack of cooperation and attempts to evade service rather than any lack of diligence on DCOH's part.

Argument and Authority

8. In Texas, a plaintiff can serve a defendant through the Secretary of State when the defendant's registered agent cannot be found at its registered office with reasonable diligence. *Acadian Props. Austin, LLC v. KJMonte Invs., LLC* 650 S.W.,3d 98; *AES Valves, LLC v. Kobi Int'l, Inc.* 2020 Tex. App. LEXIS 3207; *MG Int'l Menswear, Inc. v. Robert Graham Designs LLC*, 2019 Tex. App. LEXIS 1150.

9. Even when there is a defect in service of process, it does not defeat amenability to service of process and only serves to provide the defendant with more time to answer. *City of Houston v. Bryant*, 516 S.W.3d 47; *Wright v. Sage Eng'g, Inc.*, 137 S.W.3d 238; *Wuxi Taihu Tractor Co. v. York Group, Inc.* 2014 Tex. App. LEXIS 12888.

9. In this instance, DCOH's legal representation demonstrated exceptional diligence in attempting to serve KENNARD through its registered agent. However, KENNARD's failure to provide an updated address in court filings and with the Texas State Bar obstructed these service efforts, which KENNARD now alleges were erroneous. Consequently, service was accomplished through the Texas Secretary of State.

10. Given the evident dilatory intent behind KENNARD's motion, Plaintiff DCOH respectfully urges this Court to reject the motion in its entirety. Alternatively, DCOH requests the Court to partially deny the motion and grant KENNARD additional time to submit its response.

Prayer

WHEREFORE PREMISES CONSIDERED, Plaintiff DCOH asks this Court to deny in whole, KENNARD'S MOTION TO QUASH SERVICE.

Respectfully Submitted,

/s/ Ricardo Guerra

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Certificate of Certificate

I hereby certify that the foregoing Response to Defendant’s Motion to Quash Service was served on all parties through their respective counsel through the electronic filing system pursuant to Texas Rules of Civil Procedure on April 2, 2024.

/s/ Ricardo Guerra

Attorney

Unofficial Copy Office of Marilyn Burgess District Clerk

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