



**In the Matter of a Support Proceeding Noel B, Petitioner, - against-- Anna Maria A,
Respondent**

Docket No. F00787-13/14B

FAMILY COURT OF NEW YORK, RICHMOND COUNTY

2014 N.Y. Misc. LEXIS 4708

September 12, 2014, Decided

NOTICE: NOT APPROVED BY REPORTER OF DECISIONS FOR REPORTING IN STATE REPORTS.

JUDGES: [*1] Gregory L. Gliedman, Support Magistrate.

OPINION BY: Gregory L. Gliedman

OPINION

DECISION AUTHORIZING SUBSTITUTED SERVICE OF PROCESS

The instant decision is with respect to this court's determination as to substituted service, specifically service by via the Facebook social networking service.

The Petitioner filed the instant action seeking to modify the order of child support based on the alleged emancipation of the sole subject child.

The Petitioner appeared today and stated the he was unable to effect service upon the Respondent. He presented an affidavit dated July 6, 2014, in which the affiant noted that the Respondent was unknown to the occupant of the Respondent's last known address, who is described as a tenant of one month.

The Petitioner then described under oath the other efforts he made to try and locate the Respondent to effectuate service. The Petitioner stated that he called and sent text messages to his daughter (the parties now emancipated 22 year old child) to request the Respondent's location, but that no one answered the call or replied to his text messages and voicemail. He also called and sent a text message to his son (the subject child on the instant petition) requesting that information, [*2] but again there was no reply of any kind. He also did a search on the Google search engine, but was unable to find any location for the Respondent. The court notes that the support collection unit ("SCU") continues to have the Respondent's last known address on file for the Respondent, meaning that all correspondence and communication with respect to the funds she is receiving for child support are sent to that address. The court further notes that the Respondent provided that same address to the court when she sent an electronic testimony application to the court in March, 2013 in connection with a prior matter between the parties.

In describing his efforts to the court the Petitioner stated that he is aware that the Respondent maintains an active social media account with Facebook. The Petitioner's current spouse maintains her own Facebook account, and has posted photos that have been "liked" by the Respondent as recently as July, 2014.

Facebook is a social networking website that allows its users to interact with friends, relatives, acquaintances and individuals with common interests. Due to its online nature, there are no geographic limitations on Facebook - people with whom an individual [*3] interacts with on Facebook can be as close as the house next door or as far away as a continent on the other side of the world. See e.g., *38 Misc.3d 1022 (Richmond County Supreme Court, 2013)*. As of June 30, 2014 Facebook has 1.32 billion monthly active users worldwide. See <http://newsroom.fb.com/company-info/>.

"Liking' on Facebook is a way for Facebook users to share information with each other. The 'like' button, which is represented by a thumbs-up icon, and the word "like" appear next to different types of Facebook content...[a]ny Facebook user who 'likes' a specific Page or posted content remains in control of his or her 'like' at all times and is free to "unlike" the Page or content by clicking an "unlike" button provided by Facebook." See *Mattocks v. Black Entertainment Television LLC*, 2014 WL 410594 (S.D.Fla., 2014) (internal citations omitted).

CPLR § 308 states in relevant part:

Personal Service upon a natural person shall be made by any of the following methods...

5. In such manner as the court, upon motion without notice, directs, if service is impracticable under paragraphs one¹, two² and four³ of this section.

1 Actual service upon the person.

2 Service upon a person of suitable age and discretion at the residence or place of business of the person to be served.

3 Affix and mail service.

The court finds that service under *CPLR* § 308 (1,2 and 4) are impracticable. The Petitioner [*4] has made diligent efforts to locate the Respondent, but has been unable to obtain an address where service can be made.

However, despite the absence of a physical address, the Petitioner does have a means by which he can contact the Respondent and provide her with notice of the instant proceedings, namely the existence of an active social media account.

While this court is not aware of any published decision wherein a New York state court has authorized service of process by means of social media, other jurisdictions have allowed such service. See *Whoshere, Inc. v. Orun*, 2014 WL 670817 (E.D. Va.), *Federal Trade Commission v. PCCare247 Inc.*, 2013 WL 841037 (S.D.N.Y.). The court notes that in both those matters service via Facebook was directed to be made in connection with other means of service.

Pursuant to *CPLR* § 308(5) the court authorizes substituted service by the following method: the Petitioner is to send a digital copy of the summons and petition to the Respondent via the Facebook account, and follow up with a mailing of those same documents to the previously used last known address. The Respondent can receive communications via social media, whereas her actual physical whereabouts are uncertain. The method detailed here by the court provides the best chance of the Respondent [*5] getting actual notice of these proceedings.

Dated: September 12, 2014

Gregory L. Gliedman, Support Magistrate