



Order Authorizing Substituted Service and Appointing a Guardian-Ad-Litem

GAL Appointment

(09/2024)

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Supreme Court

County of _____

Plaintiff(s)

-against-

Defendant(s)

Index Number:

Property Address:

UPON the Summons, Complaint, and Notice of Pendency filed in this action on _____, the Notice of Motion dated _____, the affirmation by _____, Esq., and the affirmation of _____, affirmed on _____, all of which allege a good and sufficient cause of action against defendant, _____, and that such defendant cannot be personally served within the State of New York,

AND Plaintiff having submitted to the court sufficient proof that the whereabouts of said defendant or his/her representatives cannot with due diligence be ascertained, and that Plaintiff has been and will be unable to make personal service of the Summons and Complaint in a manner prescribed by law for service within the State of New York, and that service of the Summons and Complaint upon said defendant pursuant to CPLR 308(1), CPLR 308(2), and CPLR 308(4) is impracticable and that service cannot be made by any prescribed method with due diligence;

NOW, on motion by _____, attorney(s) for Plaintiff, together with the exhibits annexed thereto, it is hereby

ORDERED that Plaintiff is granted leave to file and serve a supplemental summons, amended complaint, and amended pendency in a form consistent with the moving papers; and it is further

ORDERED that service of the supplemental summons in this action be made upon the defendant, _____, together with a notice and brief statement of the nature of the action, the relief sought, and a brief description of the property, by mailing a copy of the summons and complaint to the defendant's last known residence

_____, defendant's last known business address _____ and by (check all that apply):



- Publishing the supplemental summons together with a notice and brief statement of the nature of the action, the relief sought, and a brief description of the property in two (2) newspapers, at least one which shall be in the English language, namely

_____ and

_____, both of which are published and distributed in

_____ County, where the property is located.

_____ County, where the defendant resides.

Such publication shall be made once each week for four (4) consecutive weeks, the first of which shall be made within sixty (60) days after the date of entry of this order

And it is further ORDERED that Plaintiff, on or before the first day of publication as set forth herein, shall also serve additional copies of the summons, complaint, and notice of pendency in this action upon:

Name: _____

Address: _____

Phone: _____ E-mail: _____

who is hereby designated to appear herein as guardian-ad-litem and Military Attorney on behalf of the defendant, who may be an absentee, infant or incompetent, or unknown successors in interest of the defendant who may be deceased, or who may be in military service, all for the purpose of protecting and defending the interests of the defendant in this action; and it is further

ORDERED that said appointment shall not be effective until the guardian-ad-litem appointed herein files an acknowledged consent and qualifying affirmation in the form annexed hereto; and it is further

ORDERED that the guardian-ad-litem shall file a final report and affirmation of services within 30 days of being discharged as guardian-ad-litem for defendant in this matter; and it is further

ORDERED, that the guardian-ad-litem appointed herein shall be paid \$_____ upon the filing of a notice of appearance on behalf of the defendant, and provision shall be made in the Judgment of Foreclosure and Sale for an additional fee, payable upon transfer of title, or as otherwise ordered by the court, upon the filing with the court a final report and affirmation of services by the guardian-ad-litem; and it is further

ORDERED, that by accepting this appointment the guardian ad litem certifies that he/she is in compliance with Part 36 of the Rules of Chief Judge (22 NYCRR Part 36, including, but not limited to section 36.2 (c)) ("Disqualifications from appointment") and section 36.2 (d) ("Limitations on appointment based on compensation"); and it is further

ORDERED that the guardian-ad-litem appointed herein is hereby to accept service of the summons, complaint, and notice of pendency in this action on defendant's behalf, and to answer or otherwise respond to the complaint on defendant's behalf, and to appear in court on defendant's behalf if ordered by the court to do so; and it is further

ORDERED that the guardian-ad-litem appointed herein shall not have the authority to waive any affirmative defenses, or to waive notice of any hearings before any referees appointed by this court in this case, or to waive notice of any motions or applications in this case, unless otherwise ordered by the court; and it is further



ORDERED should the defendant be in the default and be in the military service of the United States of America, the guardian-ad-litem shall represent the defendant's interests in accordance with the Soldiers' and Sailors' Civil Relief Act and Military Law of 1940, as amended, and the Military Laws of the State of New York; and it is further

ORDERED that the amended caption read as follows:

Plaintiff(s)

-against-

AND IF HE/SHE BE DEAD, ANY AND ALL PERSONS UNKNOWN TO PLAINTIFF, CLAIMING, OR WHO MAY CLAIM TO HAVE AN INTEREST IN, OR GENERAL OR SPECIFIC LIEN UPON THE REAL PROPERTY DESCRIBED IN THIS ACTION; SUCH UNKNOWN PERSONS BEING HEREIN GENERALLY DESCRIBED AND INTENDED TO BE INCLUDED IN WIFE, WIDOW, HUSBAND, WIDOWER, HEIRS AT LAW, NEXT OF KIN, DESCENDANTS, EXECUTORS, ADMINISTRATORS, DEVISEES, LEGATEES, CREDITORS, TRUSTEES, COMMITTEES, LIENORS, AND ASSIGNEES OF SUCH DECEASED, ANY AND ALL PERSONS DERIVING INTEREST IN OR LIEN UPON, OR TITLE TO SAID REAL PROPERTY BY, THROUGH OR UNDER THEM, OR EITHER OF THEM, AND THEIR RESPECTIVES WIVES, WIDOWS HUSBANDS, WIDOWERS, HEIRS AT LAW, NEXT OF KIN, DESCENDANTS, EXECUTORS, ADMINISTRATORS DEVISEES, LEGATEES, CREDITORS, TRUSTEES, COMMITTEES, LIENORS, AND ASSIGNS, ALL OF WHOM AND WHOSE NAMES, EXCEPT AS STATED, ARE UNKNOWN TO PLAINTIFF, UNITED STATES OF AMERICA, ACTING THROUGH THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, PEOPLE OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, THROUGH THE IRS

Defendant(s)

Index Number:

Property Address:

and it is further ORDERED that

This constitutes the order of the court.

ENTER:

Dated: _____

Judge Signature