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| **Supreme Court** |  | |
| **County of** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | |
| **Present: Hon.** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **Index Number:** | |
| **Plaintiff(s)** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
| ***-against-*** | **Property Address:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Defendant(s)** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
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Before the court in this residential mortgage foreclosure action is plaintiff’s motion for, among other things, an order pursuant to CPLR 315-316 and CPLR 1201-1202 allowing service by publication upon, and appointment of a guardian-ad-litem for, the unknown heirs of [*decedent’s name*].

Where an intestate mortgagor’s heirs cannot be identified and located through the exercise of due diligence, and plaintiff demonstrates that service pursuant to sections 1, 2, and 4 of CPLR 308 would be impractical, CPLR 308(5) and CPLR 315 authorize service by publication. Due diligence is measured by what is reasonable under the circumstances. [*Insert case citations*].

In support of its motion, plaintiff presents an affirmation of due diligence of [*affiant’s name*], dated [*insert date*], which reveals several deficiencies in plaintiff’s efforts in identifying and locating the decedent’s heirs:

[*Describe the deficiencies*]

Plaintiff has therefore failed to establish a need to serve decedent’s unknown heirs by publication and/or to appoint a Guardian-Ad-Litem to represent their interests.

Accordingly, it is hereby

ORDERED that the motion is denied, without prejudice.

This constitutes the order of the court.

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|  | **ENTER:** |
| Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | **Judge Signature** |