

21<sup>ST</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF LIVINGSTON

STATE OF LOUISIANA

NO. 145273

DIVISION "C"

J.A.H. ENTERPRISES, INC.

VERSUS

BLH EQUIPMENT, L.L.C., JAMES BLAKE EVERETT, SAM EVERETT,  
AND ELA MISSION, L.L.C.

FILED: \_\_\_\_\_  
DEPUTY CLERK

**EX PARTE MOTION TO APPOINT ATTORNEY TO REPRESENT  
NON-RESIDENT DEFENDANTS (ABSENTEES)**

NOW INTO COURT, through undersigned counsel, comes plaintiff, J.A.H. Enterprises, Inc., which respectfully represents:

1.

Plaintiff moves the Court, *ex parte*, for an order appointing an attorney-at-law to represent the non-resident (Mississippi domiciled) defendants -- BLH Equipment, LLC, James Blake Everett, Same Everett, and ELA Mission, LLC -- pursuant to La. C.C.P. article 5091.

2.

Article 5091 allows the court to appoint a lawyer to represent "[a] nonresident or absentee who has not been served with process, either personally or through an agent for the service of process, and who has not waived the objection to jurisdiction."

3.

Each defendant is a nonresident and therefore an "absentee" under La. C.C.P. article 5251, which defines "absentee" as a person who is either a nonresident of the State of Louisiana or one who was domiciled here but has departed without appointing an agent, or a person whose whereabouts are unknown, or who cannot be found and served after a diligent effort.

4.

Pursuant to L.A. R.S. 13:3204, Plaintiff will serve process on that attorney-at-law appointed to represent the defendants, so the case can proceed contradictorily.

5.

The relief is requested because Plaintiff attempted to serve the defendants at their last known address in Mississippi via the long arm statute.

FILED  
CLERK OF COURT  
PARISH OF LIVINGSTON  
2016 JAN 22 AM 11:18  
C. J. Jackson  
DEPUTY CLERK

6.

Plaintiff's Petition for Damages and Declaratory Relief was filed herein on May 30, 2014. Service was attempted under the long arm statute by having the United States Postal Service deliver the Citation and Petition to BLH Equipment, L.L.C., James Blake Everett, Sam Everett, or ELA Mission, L.L.C. The Defendants refused to accept service and/or return the certified mail receipt card, although such may not be required by La. R.S. 13:3204 for effective service of process.

7.

Thereafter, on August 25, 2014, Plaintiff filed a motion asking the Court (pursuant to Article 1293 of the Louisiana Code of Civil Procedure) to appoint Interstate Process Service, L.L.C., a juridical person, to make service of process on the Defendants named above. The Court issued that order on August 27, 2014.

8.

Interstate Process Service has attempted to serve the defendants had several different addresses in Mississippi after the opinion in August 2014.

9.

When service was attempted at Blake Everett's home address, a person who identified herself as his "ex-wife" stated that he can be served at an address in Destin, Florida. The address provided was 3520 Old Hwy. 98, Destin, Florida. Service was attempted at the address of December 2014, at which time it was discovered that the municipal address was vacant lot next to the "Crabtrap Restaurant."

10.

Given the substantial efforts to serve the defendants with process, Plaintiff believes the only way to move the litigation forward is to have the Court exercise its authority under La. C.C.P. article 5091 with the appointment of a lawyer to represent these persons so the case can be tried to a conclusion against them. The language of article 5091 states that the Court "shall" appoint a lawyer for the defendants upon ex parte application of the plaintiff.

WHEREFORE, plaintiff, J.A.H. Enterprises, Inc., respectfully prays for a court order appointing an attorney at law pursuant to Article 5091 to represent the Defendants and to allow service of process to be made on that attorney within the meaning of the Long Arm Statute, La.

R.S. 13:3204, such that the case can proceed contradictorily against said attorney, and that the fees and costs of this appointment be taxed as costs against the Defendants in this matter.

Respectfully submitted,

**SCANDURRO & LAYRISSON, L.L.C.**



---

STEPHEN O. SCANDURRO, Bar No. 20362

JEAN-PAUL LAYRISSON, Bar No. 20917

607 St. Charles Avenue

New Orleans, LA 70130

Telephone: (504) 522-7100

Facsimile: (504) 529-6199

21<sup>st</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF LIVINGSTON

STATE OF LOUISIANA

NO. 145273

DIVISION "C"

J.A.H. ENTERPRISES, INC.

VERSUS

BLH EQUIPMENT, L.L.C., JAMES BLAKE EVERETT, SAM EVERETT,  
AND ELA MISSION, L.L.C.

FILED: \_\_\_\_\_  
DEPUTY CLERK

**ORDER**

CONSIDERING THE ABOVE AND FOREGOING EX PARTE MOTION TO APPOINT ATTORNEY TO REPRESENT NON-RESIDENT DEFENDANTS (ABSENTEES):

IT IS HEREBY ORDERED that \_\_\_\_\_ be appointed to represent BLH EQUIPMENT, L.L.C., JAMES BLAKE EVERETT, SAM EVERETT, AND ELA MISSION, LLC in this proceeding pursuant to the terms and conditions of Article 5091 of the Louisiana Code of Civil Procedure, such that this matter may proceed contradictorily against said appointee;

IT IS FURTHER ORDERED that all fees and all costs associated with the motion and the appointment of an attorney at law be taxed as costs against the Defendants in this matter.

Amite, Louisiana, this \_\_\_\_\_ day of January, 2016.

\_\_\_\_\_  
JUDGE

FILED  
CLERK OF COURT  
PARISH OF LIVINGSTON  
2016 JAN 22 AM 11:13  
*W. Mason*  
DEPUTY CLERK