

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Cody Barnes v. Selena Scola

Barnes v. Scola · No. 25-cv-10837-RS · Decided January 16, 2026

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 NORTHERN DISTRICT OF
CALIFORNIA 9 CODY BARNES, 10 Case No. 25-cv-10837-RS Plaintiff, 11 v. ORDER
GRANTING EX PARTE 12 MOTION TO PERMIT ALTERNATIVE SELENA SCOLA,
SERVICE ON DEFENDANT SELENA 13 SCOLA Defendant. 14 15 I. INTRODUCTION 16
Plaintiff moves to allow alternative service of process.

In light of Plaintiff’s reasonable 17 diligence in attempting to serve Defendant through standard
service processes, Defendant’s likely 18 awareness of the suit, and Defendant’s ties to the email
and residential addresses which Plaintiff 19 seeks to use for alternative service, Plaintiff’s request
comports with alternative service as 20 permitted under Federal Rule of Civil Procedure 4(e)(1)
and California Code of Civil Procedure 21 Section 413.30.

Accordingly, the motion is granted as set forth below. 22 II. BACKGROUND 23 Plaintiff Cody
Barnes, a professional drag performer and entertainer known as Lexi Love, 24 filed this action
against Defendant Selena Scola (“Scola”) on December 19, 2025, seeking 25 declaratory
judgment of invalidity of Defendant’s U.S. Trademark Reg. No. 7,727,806 for the 26 LEXI LOVE
mark and seeking damages caused by Scola’s own trademark infringement, unfair 27 competition,
and interference with Plaintiff’s business relations and prospective economic 1 show RuPaul’s
Drage Race in January 2025, Defendant has claimed exclusive rights to the “Lexi 2 Love” name,
demanded that affiliated third parties remove Plaintiff from their platforms, and filed 3 takedown
requests against Plaintiff and other third parties promoting Plaintiff’s performances, 4
appearances, and merchandise.

5 On February 10, 2024, Defendant filed to register the LEXI LOVE mark with the U.S. 6 Patent
and Trademark Office (“USPTO”). It was registered on March 18, 2025. In her application, 7
Defendant provided byimagination@gmail.com as her email address and 320 Alabama St, Unit 8
16, San Francisco, CA 94110 as her address.

On her takedown requests, Defendant has provided 9 lexi@lexilove.com as her email address. 10
After filing this suit, Plaintiff’s process server attempted to serve the necessary documents 11 a
total of six times at the residential address provided by Scola to the USPTO. Plaintiff now moves
12 for permission to serve Defendant by email and by USPS Certified Mail to her residential
address.

13 III. LEGAL STANDARD 14 Rule 4(e) of the Federal Rules of Civil Procedure governs the methods by which service 15 may be effectuated. Rule 4(e)(1) permits service by any means permitted by the law of the state in 16 which the case is pending, or the state in which the defendant resides.

Under California law, 17 service may be effectuated by personal delivery to the party, delivery to someone else at the 18 party's usual residence or place of business with mailing after, service by mail with 19 acknowledgment of receipt, service on persons outside the state by certified or registered mail 20 with a return receipt requested, and substituted service by publication if the party to be served 21 cannot "with reasonable diligence" be served in another approved manner.

Cal. Code Civ. Proc. §§ 22 415.10-50. Section 413.30 provides another option: "if a plaintiff, despite exercising reasonable 23 diligence, has been unable to effect service of the summons by any of the methods authorized 24 under this chapter, the court in which the action is pending may, upon motion, direct that 25 summons be served in a manner that is reasonably calculated to give actual notice to the party to 26 be served, including by electronic mail or other electronic technology, and that proof of such 27 service be made as prescribed by the court." Id. § 413.30.

1 Alternative methods of service like email "must also comport with constitutional norms of 2 due process." *Rio Properties, Inc. v. Rio In'l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002). "To 3 meet this requirement, the method of service crafted by the district court must be 'reasonably 4 calculated... to apprise interested parties of the pendency of the action and afford them an 5 opportunity to present their objections.' " Id. at 1016-17 (quoting *Mullane v. Cent.*

Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)). Courts in the Ninth Circuit have interpreted "Rio 7 Properties to permit email service for defendants within the United States pursuant to California 8 Law... 'where email service "is reasonably calculated to give actual notice to the party to be 9 served," particularly where there is evidence that the defendant is evading service.' " *Gnathonic, 10 LLC v. Dingman*, No. 19-cv-01502-VAP (SSX), 2019 WL 13166751, at *2 (C.D.

Cal. Oct. 2, 11 2019) (quoting *Cisco Sys., Inc. v. Shaitor*, No. 18-cv-00480-LB, 2018 WL 3109398, at *3 (N.D. 12 Cal. June 25, 2018) (collecting cases1)). In sum, email service is permitted when plaintiff 13 demonstrates reasonable diligence in attempts to serve the defendant and service by email is 14 reasonably calculated to give actual notice to the defendant.

15 IV. DISCUSSION2 16 Plaintiff's process server attempted to serve the necessary documents at the residential 17 address provided by Defendant to the USPTO a total of six times, at various times of day, between 18 December 23, 2025 and January 8, 2026. By January 6, 2026, Defendant's name had been 19 removed from the intercom, and the process server was denied access to the building for his 20 remaining attempts.

Plaintiff's counsel was unable to find an updated address for the Defendant 21 despite checking public records databases, court filings, property records, company records, and 22 Defendant's social media and other webpages.

In fact, these searches verified the address 23 24 1 Aevoe Corp. v. Pace, No. C 11-3215 MEJ, 2011 WL 3904133, at *1 (N.D. Cal. Sept. 6, 2011); Steve McCurry Studios, LLC v. Web2Web Mktg., Inc., No. C 13-80246 WHA, 2014 WL 1877547, 25 at *2-3 (N.D. Cal. May, 9, 2014); United Health Servs., Inc. v. Meyer, No. C 12-6197 CW, 2013 WL 843698, at *2 (N.D. Cal. Mar.

6, 2013). 26 2 Plaintiff's motion, and description of the attempts to serve Defendant therein, are supported 27 sufficiently by declaration and evidentiary exhibits. See Dkt 12-1. 1 Plaintiff's server used when attempting to reach Scola. These efforts reflect the requisite 2 "reasonable diligence" for service under Section 413.30. Cal. Code Civ. Proc. 8§ 415.30.

See Rio 3 Properties, Inc., 284 F.3d 1007, 1016-17 (9th Cir. 2002); Gnathonic, 2019 WL 13166751, at *2 4 (collecting cases where evidence of evasion weighed in favor of substitute service by email); Bein 5 || v. Bechtel-Jochim, 6 Cal. App. 4th 1387, 1392 (1992) (Generally, "two or three attempts at 6 || personal service at a proper place should fully satisfy the requirement of reasonable diligence and 7 allow substituted service to be made," especially where the process server was denied access to the 8 defendant's home by the gate guard.).

9 Service by email using at byimagination @ gmail.com and lexi@lexilove.com and by USPS 10 Certified mail at 320 Alabama St, Unit 16, San Francisco, California 94110 is "reasonably 11 calculated" to give Defendant actual notice. See Rio Properties, Inc., 284 F.3d 1007, 1016-17 (9th 12 || Cir. 2002). Defendant provided the residential address and the byimagination @ gmail.com email 5 13 address to the USPTO when registering the LEXI LOVE mark in 2024 and 2025.

In August 2025, 14 || Defendant provided the lexi@lexilove.com address in various takedown requests filed since 3 15 August 2025 with large social media platforms. Moreover, since Defendant posted screenshots of 16 || the Complaint on X.com, Defendant is aware of the suit and thus likely aware that service has 3 17 been or will be attempted, meaning both Defendant is likely evading service and less likely 18 || unwittingly to miss emails or mail attempting to serve her.

19 V. CONCLUSION 20 Plaintiff is permitted to serve Defendant via the Summons, Complaint, and all other 21 required documents in accordance with the Court's Order (Dkt. 6) and Local Rule 4-2 via email at 22 byimagination@ gmail.com and lexi@lexilove.com and USPS Certified Mail to 320 Alabama St, 23 Unit 16, San Francisco, California 94110. 24 || ITISSO ORDERED.

25 Dated: January 16, 2026 26, 7 ICHARD SEEBORG _ Chief United States District Judge 28 ORDER GRANTING EX PARTE MOTION CASE No. 25-cv-10837-RS

