

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Menon v. Geovera Holdings, Inc.

No. 2:24-CV-01819-TLN-SCR (E.D. Cal. July 3, 2025) · No. 2:24-CV-01819-TLN-SCR · Decided July 3, 2025

SUMMARY

This proposed order addresses substitute service of a Federal Rule of Civil Procedure 45 subpoena on third-party witness Qudsia Omar. Based on repeated unsuccessful personal-service attempts and alleged evasion, the court authorizes service by certified mail.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 3, 2025
DOCKET	2:24-CV-01819-TLN-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought authorization to serve a Rule 45 subpoena on a third-party witness by an alternative method after unsuccessful attempts at personal service.
PRECEDENTIAL VALUE	unknown

TOPICS

- service of process
- civil procedure
- contempt
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation

QUESTIONS PRESENTED

- Whether the court should authorize substitute service of a Rule 45 subpoena by certified mail after diligent but unsuccessful attempts at personal service.

HOLDINGS

1. After personal service was attempted and the third-party witness apparently evaded service, the court authorized plaintiff to serve the subpoena by certified mail.

KEY QUOTATIONS

“Federal Rule of Civil Procedure 45(b)(1) states that “[s]erving a subpoena requires delivering a copy to the named person....” (at 1)

“Because personal service was attempted but the witness apparently evaded service, the Court authorizes Plaintiff to serve Ms. Omar via certified mail.” (at 1)

FACTUAL BACKGROUND

Plaintiff sought to depose Qudsia Omar and serve her with a subpoena under Federal Rule of Civil Procedure 45. The initial service attempt failed because defendants had provided an incorrect address, but plaintiff located another address through public-record databases. A process server attempted service four times; although Omar confirmed that she lived at the address, she refused to accept service until consulting an attorney and then allegedly evaded service attempts for five days.

PROCEDURAL HISTORY

Plaintiff noticed the deposition of Qudsia Omar and attempted to serve her with a subpoena and document demand. After an incorrect address was supplied in defendants' initial disclosures, plaintiff located an alternative address and attempted personal service four times; Omar allegedly refused to accept service and evaded subsequent attempts. The court authorized service by certified mail.

DISPOSITION

other

CASES CITED

- Fujikura Ltd. v. Finisar Corp., 2015 WL 5782351, at *5 (N.D. Cal. Oct. 5, 2015)
- Chambers v. Whirlpool Corp., 2016 WL 9451361, at *2 (C.D. Cal. Aug. 12, 2016)
- Steve McCurry Studios, LLC v. Web2Web Mktg., Inc., 2014 WL 1877547, at *2 (N.D. Cal. May 9, 2014)
- CNC Software, LLC v. Glob. Eng'g Ltd. Liab. Co., 2022 WL 4137585, at *1 (N.D. Cal. Aug. 2, 2022)
- Pennwalt Corp. v. Durand-Wayland, Inc., 708 F.2d 492, 494 n.5 (9th Cir. 1983)

OPINION

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UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10
DEEPAK MENON, an individual, Case No.: 2:24-CV-01819-TLN-SCR 11 12 Plaintiff,

[PROPOSED] ORDER AUTHORIZING SUBSTITUTE SERVICE OF SUBPOENA 13 vs. TO
THIRD-PARTY WITNESS 14 GEOVERA HOLDINGS, INC., a Delaware corporation,
GEOVERA INVESTMENT 15 GROUP, LTD., a Cayman Islands Exempt Company, and DOES 1
through 50, inclusive, 16 17 Defendants.

18 19 20 Plaintiff seeks to depose Qudsia Omar. On June 10, 2025, pursuant to Rule 45 of the 21
Federal Rules of Civil Procedure, Plaintiff gave Defendant notice of the intended deposition and
22 demand for documents. But Plaintiff's initial service attempt failed, because the address 23
provided by Defendants in their initial disclosures was incorrect. Using public records 24
databases, Plaintiff located an alternative address for Ms. Omar.

After ascertaining the correct 25 address for Ms. Omar, the process server attempted service four
times. See Declaration of 26 Gustavo Mendez, Dkt. 25. Although Ms. Omar confirmed she resided
at the address, she stated 27 1 || she would not accept service until consulting with her attorney.
She then evaded service attempts 2 || over the next five days. /bid.

3 Federal Rule of Civil Procedure 45(b)(1) states that "[s]erving a subpoena requires 4 || delivering
a copy to the named person...." While this may initially require attempt(s) to 5 || personally serve
the subpoena, "Courts are more inclined to grant [] alternative service where the 6 || serving party
has provided sufficient evidence of its earlier diligence in attempting to effectuate 7 || personal
service." *Fujikura Ltd. v. Finisar Corp.*, 2015 WL 5782351, at *5 (N.D.

Cal. Oct. 5, 8 || 2015); see also *Chambers v. Whirlpool Corp.*, 2016 WL 9451361, at *2 (C.D. Cal.
Aug. 12, 9 || 2016). The Court also notes that California law allows for alternative methods for
service if a 10 || party diligently attempted personal service. See, e.g., *Steve McCurry Studios,
LLC v. Web2Web 11 || Mktg., Inc.*, 2014 WL 1877547, at *2 (N.D. Cal. May 9, 2014) (authorizing
service of subpoenas 12 || by email pursuant to Federal Rule of Civil Procedure 4(e)(1) and
Section 413.30 of the 13 || California Code of Civil Procedure after Plaintiff made a reasonable
effort to personally serve 14 || the subpoenas); *CNC Software, LLC vy.*

Glob. Eng'g Ltd. Liab. Co., 2022 WL 4137585, at *1 15 || (N.D. Cal. Aug. 2, 2022) (finding that
the Court could authorize service of the complaint by 16 || email under California Civil Procedure
Code § 413.30, but declining to do so because the 17 || plaintiff "failed to establish good cause to
permit service by email at this time"). 18 Because personal service was attempted but the witness
apparently evaded service, the 19 || Court authorizes Plaintiff to serve Ms. Omar via certified mail.

The Court notes that it "may 20 || hold in contempt a person who, having been served, fails
without adequate excuse to obey the 21 || subpoena or an order related to it." Fed. R. Civ. P. 45(g).
See also *Pennwalt Corp. v. Durand- 22 || Wayland, Inc.*, 708 F.2d 492, 494 n.5 (9th Cir. 1983)
("[A] subpoena duces tecum is itself a court 23 || order, and noncompliance may warrant contempt
sanctions."").

24 Accordingly, IT IS ORDERED that: Service of the subpoena directed to Ms. Omar shall 25 || be
completed by certified mail. fork Dated: July 3, 2025. 28 SEAN Cc. RIORDAN UNITED
STATES MAGISTRATE JUDGE

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