

**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.

**OPINION**

1 Robert W. Ottinger (SBN 156825) Melanie L. Proctor (SBN 228971) 2 THE OTTINGER  
FIRM, P.C. 2108 N Street, Suite N 3 Sacramento, CA 95816 robert@ottingerlaw.com 4  
melanie@ottingerlaw.com Tel: 415-262-0096 5 Fax: 212-571-0505 6 Attorneys for Plaintiff 7 8  
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