Docket #0141 Date Filed: 9/5/2023

United States Courts
Southern District of Texas
FILED

SEP 05 2023

Nathan Ochsner, Clerk of Court

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re: Tehum Care Services, Inc Debtor.	Case No: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati Plaintiff, Vs. Sarah Tirschwell, et al., Defendants.	Adv. Pro. No. 23-03072 (CML)

OBJECTION TO ECF 102 DECLARATION

Plaintiff submits the following objections to ECF 102 and his declaration.

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TABLE OF AUTHORITIES

CASES

Flores v Safadi (In re Safadi) 2010 Bankr. Lexis 1979 (Bankr. D Ariz. 2010)----------2

Rebein v Adkins (III Inc) 2006 Bankr. Lexis 707 (Bankr. Kansas 2006)---------- 2, 3

MEET AND CONFER

¶Plaintiff contacted counsel by email and counsel asked for the docket entry showing

SUMMARY OF THE OBJECTION

¶ May 19, 2023 the Clerk mailed Plaintiff the summons (see attached envelope) which was delivered to Plaintiff on May 30, 2023 (see attached log). Plaintiff on June 1, 2023 had the Defendant served. Under the Rules, there is no need to prove the summons and complaint were received only that they were mailed. Rebein v Adkins (III Inc) 2006 Bankr. Lexis 707 (Bankr. Kansas 2006) see also Flores v Safadi (In re Safadi) 2010 Bankr. Lexis 1979 (Bankr. D Ariz. 2010)

SUMMARY OF ECF 102

¶ Counsel states that there is a docket entry that on May 19, 2003 summons were issued but there is a subsequent entry that summons were not issued. (Dkt. 102 pp 2 at 3, 4) He states at 5 that Plaintiff failed to serve Coverys.

RELEVANT FACTS

¶ May 19, 2023 the Clerk of this court issued the summons and mailed these to Plaintiff. (See attached envelope copy)

¶ These were served by mail upon Coverys at 1 Financial Center 13th Floor, Boston MA 02111 (see declaration at 2)

¶ Plaintiff filed the proof of service with the court.(See declaration at 2)

¶ Not having received any response, he moved for default.

IT IS AMAZING THAT DEFENDANT RECIVED THE REQUEST FOR DEFAULT BUT NOT THE SUMMMONS AND COMPLAINT SERVED

¶May 19, 2023 the Clerk mailed Plaintiff the summons (see attached envelope) which was delivered to Plaintiff on May 30, 2023 (see attached log). Plaintiff on June 1, 2023 had the Defendant served. Under the Rules, there is no need to prove the summons and complaint were received only that they were mailed. Rebein v Adkins (III Inc) 2006 Bankr. Lexis 707 (Bankr. Kansas 2006) see also Flores v Safadi (In re Safadi) 2010 Bankr. Lexis 1979 (Bankr. D Ariz. 2010)

¶ Service has been made.

¶It is amazing that Defendant has received the request for default, but not the summons.

¶ Defendant's argument lacks merit and hence should be overruled.

CONCLUSION

¶ The motion should be denied and as Defendant was not candid with the court default should be entered.

Respectfully submitted,

Anant Kumar Tripati

DECLARATION OF ANANT KUMAR TRIPATI

¶ I, Anant Kumar Tripati declare under the penalty of perjury these facts are true and correct and I can so testify:

¶ 1 May 19, 2023 the Clerk mailed me the summons (see attached envelope) which was delivered to Plaintiff on May 30, 2023 (see attached log).

¶ 2 On June 1, 2023 had the Defendant served upon Coverys at 1 Financial Center 13th Floor, Boston MA 02111

¶ 3 The proof of service and summons are filed with the court.

¶ 4 In prison we are not allowed to make documents with certain types of court seals. Because of this I do not have a copy of the return.

I declare under the penalty of perjury these facts are true and correct and I can so testify.

8/23/23

Anant Kumar Tripati

CERTIFICATE OF SERVICE

The Plaintiff hereby certifies that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all parties requesting notice/ all parties who have entered appearance.

State of ARIZONA, County of YUMA

This instrument was acknowledged before me

this 23 day of August, 2023

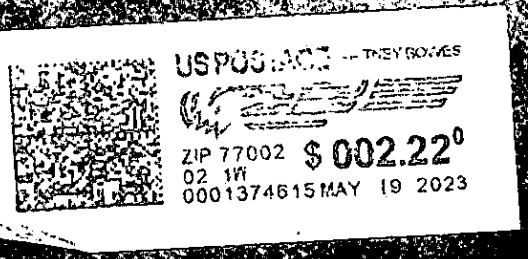
by Anant Kumar Tripati

A. Lugo, Notary Public

A. LUGO
Notary Public - Arizona
YUMA COUNTY
Commission # 581596
Expires May 1, 2024

CLERK
ED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
POST OFFICE BOX 61010
HOUSTON, TEXAS 77208

OFFICIAL BUSINESS



Anant Kumar Tripati
ADC# 102081
PO Box 8909
Yuma, AZ 85349

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ARI DEPT OF CORRECTIONS
INC G LEGAL MAIL

LEGAL CORRESPONDENCE SHALL BE OPENED AND INSPE ONLY IN THE PRESENCE OF TH IF INMATE IS NOT ON UNIT, RETURN LETTER UNOPENED TO

FOR CONTRABAND (ADC IMP 302.4). EX MAIL ROOM

DATE	INMATE NAME	ADC #	BED #	COMMENTS/TRACKING	SIGNATURE	DATE	SENDER
0							
0							2
0							
05/30/23	TRIPATI	102081	Y09/4D15		[signature]	5/30	CLERK US DIST COURT SOUTHERN DIST OF TEXAS/PO BOX 61010/HOUSTON TX 77208

SUPERVISOR SIGN: [signature] DATE: 5/30/23 STAFF SIGN: [signature] DATE: 5/30/23

CIBOLA UNIT

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