

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)**

CASE NO. 09-80479-CIV-HURLEY/HOPKINS
(Ancillary Proceeding to U.S.D.C. Case No. 08-81565-CIV-HURLEY/HOPKINS)

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

Plaintiff,

v.

GEORGE JULIUS THEODULE, an individual,

Defendant.

**PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO SERVE PROCESS ON
DEFENDANT GEORGE JULIUS THEODULE**

Plaintiff JONATHAN E. PERLMAN, Esq., as court appointed Receiver of Creative Capital Consortium, LLC, et al. ("the Receiver"), pursuant to Rules 4(m) and 6(b)(1) of the Federal Rules of Civil Procedure, moves for a 120-day extension of time to serve process on Defendant George Julius Theodule ("Theodule") up to and including November 19, 2009. In support of this Motion, the Receiver states as follows:

1. On March 25, 2009, the Receiver commenced this suit against the Defendant to avoid and recover fraudulent transfers, for unjust enrichment, and imposition of a constructive trust, equitable lien or resulting trust.¹

2. Pursuant thereto, undersigned counsel for the Receiver retained the services of Joseph G. Rodriguez and Countywide Process Service ("Countywide") to effectuate service of process on Theodule.

¹ The Receiver subsequently filed an Amended Complaint on June 9, 2009 [DE # 5].

3. On April 13, 2009 Countywide received the Summons and Complaint to be served on Theodule at the address of 2108 New London Place, Sneville, GA 30078, where several unsuccessful attempts were made to perfect service.

4. On June 9, 2009 Countywide retained the services of another process server to assist with the investigation of and service of process on Theodule. Upon further investigation, an additional address for Theodule was discovered at 514 Amanda Drive, Lithonia, GA 30058.

5. Service was attempted at the Lithonia, GA address, yet it was discovered that this was a fictitious address. Further research with local fire and police departments confirmed the non-existence of this address. (See Process Server's Affidavit of Attempted Service, attached hereto as Exhibit "A.")

6. Additionally, the Receiver attempted to perfect service of process via U.S. Postal Service Certified Mail (Article No. 7008 1140 0002 9927 5856) at 10176 Sheila Court, Building 19, Wellington, FL 33414.² Nevertheless, the document was "returned to sender attempted, not known."

7. For the good cause shown, the Receiver seeks an extension of time to serve process on Theodule. Good cause means a valid reason for delay. Varela v. Velez, 814 F.2d 821, 823 (1st Cir. 1987); Hibernia Nat'l Bank v. Carner, 758 F. Supp. 382, 386 (M.D. La. 1991); see also FED. R. CIV. P. 4 committee notes (1993 amendment); Coleman v. Cranberry Baye Rental Agency, 202 F.R.D. 106, 109 (N.D.N.Y. 2001) (finding good cause excusing delay in service of process "[d]ue to the extraordinary difficulty plaintiffs experienced in locating [the defendant] despite diligent efforts"); Wilson v. Transworld Systems, Inc., Case No. 5:00-CV-

² This address become known to the Receiver through the course of his ongoing investigation, as an address linked to one of the Defendant's known bank accounts.

135-OC-10, 2000 WL 1310658 (M.D. Fla. Sept. 1, 2000) (extending time to serve complaint where good cause shown by the plaintiff).

8. Here, the Receiver has repeatedly and unsuccessfully attempted service of process on the Defendant at multiple addresses in two different states. The Receiver is of the belief that the Defendant is deliberately and intentionally evading service of process. Accordingly, for the good cause shown, the Receiver seeks a 120-day extension of time to serve process on Defendant up through and including November 19, 2009.

9. This motion is made in good faith and is not interposed for the purpose of delay.

10. The parties will not be harmed or prejudiced if this Court grants the relief requested herein.

11. A proposed Order is attached hereto as Exhibit "B."

WHEREFORE, the Receiver requests that this Court enter an Order granting a 120-day extension of time to serve process on Defendant George Julius Theodule up to and including November 19, 2009.

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Dated: July 23, 2009
Miami, Florida

Respectfully submitted,

By: /s/ Harris J. Koroglu

David C. Cimo

Florida Bar No.: 775400

dcimo@gjb-law.com

David P. Lemoie

Florida Bar No.: 188311

dlemoie@gjb-law.com

Harris J. Koroglu

Florida Bar No.: 32597

hkoroglu@gjb-law.com

GENOVESE JOBLOVE & BATTISTA, P.A.

4400 Bank of America Tower

100 Southeast Second Street

Miami, Florida 33131

Tel: (305) 349-2300

Fax: (305) 349-2310

Attorneys for Receiver

Jonathan E. Perlman, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2009, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Harris J. Koroglu

Harris J. Koroglu

SERVICE LIST

**JONATHAN E. PERLMAN, ESQ., as court appointed Receiver of Creative Capital
Consortium, LLC, et al. v. George Julius Theodule
CASE NO. 09-80479-CIV-HURLEY/HOPKINS
United States District Court, Southern District of Florida**

David C. Cimo, Esq.
Florida Bar No. 775400
dcimo@gjb-law.com

David P. Lemoie, Esq.
Florida Bar No. 188311
dlemoie@gjb-law.com

Harris J. Koroglu, Esq.
Florida Bar No. 32597
hkoroglu@gjb-law.com

GENOVESE JOBLOVE & BATTISTA, P.A.
Bank of America Tower, 44th Floor
100 Southeast Second Street
Miami, FL 33131
Telephone: (305) 349-2300
Facsimile: (305) 349-2310
Attorneys for Plaintiff

EXHIBIT “A”

UNITED STATES DISTRICT
COURT, SOUTHERN DISTRICT
OF FLORIDA

CASE #09-80479-CIV-
RYSKAMP/VITUNAC

JONATHAN E. PERLMAN, ESQ.
AS COURT APPOINTED RECEIVER OF
CREATIVE CAPITAL CONSORTIUM, LLC,
ET AL.,

Plaintiff,

VS.

GEORGE THEODULE, AN INDIVIDUAL, ET AL.

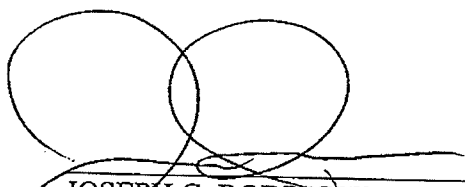
Defendant,

AFFIDAVIT OF ATTEMPTED SERVICE

BEFORE ME THIS DAY PERSONALLY APPEARED JOSEPH G. RODRIGUEZ,
WHO BEING DULY SWORN, DEPOSES AND SAYS:

1. THAT I AM THE OWNER OF COUNTYWIDE PROCESS SERVICE AND INVESTIGATIONS.
2. THAT ON APRIL 13, 2009, COUNTYWIDE PROCESS SERVICE AND INVESTIGATIONS RECEIVED A SUMMONS AND COMPLAINT TO BE SERVED ON THE DEFENDANT, GEORGE JULIUS THEODULE AT THE ADDRESS OF 2108 NEW LONDON PLACE, SNELLVILLE, GA 30078, WITH REFERENCE TO THIS MATTER.
3. THAT SEVERAL ATTEMPTS WERE MADE AT THE ADDRESS PROVIDED ON THE SUMMONS, 2108 NEW LONDON PLACE, SNELLVILLE, GA 30078, AND THE SERVER WAS UNABLE TO MAKE CONTACT.

4. THAT ON JUNE 9, 2009, COUNTYWIDE PROCESS SERVICE AND INVESTIGATIONS PERFORMED AN INVESTIGATION AND LOCATED A POSSIBLE ADDRESS OF 514 AMANDA DRIVE, LITHONIA, GA 30058. SERVICE WAS ATTEMPTED AT THIS ADDRESS BY A LICENSED PROCESS SERVER WHO ADVISED THE ADDRESS DID NOT EXIST. FURTHER RESEARCH WITH THE LOCAL FIRE AND POLICE DEPARTMENTS CONFIRMED THE SAME.
5. FURTHER INVESTIGATION INTO THIS MATTER INDICATES SEVERAL OTHER POSSIBLE ADDRESSES LOCATED IN FLORIDA AND CALIFORNIA THAT HAVE YET TO BE ATTEMPTED.
6. AFFIANT FURTHER SAYETH NOT.



JOSEPH G. RODRIGUEZ
COUNTYWIDE PROCESS SERVICE AND INVESTIGATIONS

SWORN AND SUBSCRIBED BEFORE ME THIS

22nd DAY OF July 2009.

NOTARY PUBLIC:

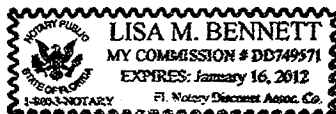


EXHIBIT “B”

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
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Plaintiff,

v.

GEORGE JULIUS THEODULE, an individual,

Defendant.
_____ /

**ORDER GRANTING PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO SERVE
PROCESS ON DEFENDANT GEORGE JULIUS THEODULE**

THIS CAUSE came before the Court on the Plaintiff's *Motion for Extension of Time to Serve Process on Defendant George Julius Theodule* (the "Motion"). This Court, having reviewed the pleadings and file, the relief requested, being otherwise duly advised in the premises, and for good cause appearing, does hereby ORDER AND ADJUDGE as follows:

1. The Motion is GRANTED.
2. Plaintiff shall have a 120-day extension of time to serve process on Defendant George Julius Theodule through and including November 19, 2009.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this ____ day of _____, 2009.

DANIEL T. K. HURLEY
United State District Court Judge

Copies Furnished:
All Counsel of Record