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SUPERIOR COURT OF CALIF
COUNTY OF TUOLUMNE

CLERK



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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF TUOLUMNE

10 ODD FELLOWS SIERRA RECREATION
11 ASSN, INC.,

12 Plaintiff,

13 v.

14 MANUEL SOARES, JR., et al.,

15 Defendants.

Case No. CV 48735

EX PARTE APPLICATION FOR ORDER
FOR PUBLICATION OF SUMMONS
[CCP §415.50]

17 Plaintiff, through its attorney of record, hereby applies for an order directing service of
18 summons on ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE
19 RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN
20 THE COMPLAINT ADVERSE TO PLAINTIFF'S TITLE, OR ANY CLOUD ON
21 PLAINTIFF'S TITLE THERETO, by publication in a newspaper of general circulation, pursuant
22 to Code of Civil Procedure Section 415.50.

23 Such application is made upon the ground that said defendants cannot with reasonable
24 diligence be located and served in any other manner specified in Code of Civil Procedure sections
25 415.10 through 415.30, and that as shown by the complaint on file herein, a cause of action for
26 quiet title exists against said defendants or they are necessary or proper parties to the action.

27 Such application is based on the attached declaration of Roger A. Brown, Lawyer, for
28 Plaintiff, the points and authorities set forth below, and the complete files and records of this

APP FOR PUBLICATION

#23-00 R#63918

1 action.

2 POINTS AND AUTHORITIES IN SUPPORT OF MOTION

3 Code of Civil Procedure section 763.010(b) authorizes the service of summons by
4 publication in quiet title actions:

5 (b) If upon affidavit it appears to the satisfaction of the court that
6 the plaintiff has used reasonable diligence to ascertain the identity
7 and residence of and to serve summons on the persons named as
8 unknown defendants and persons joined as testate or intestate
9 successors of a person known or believed to be dead, the court
10 shall order service by publication pursuant to Section 415.50 and
11 the provisions of this article....

12 Code of Civil Procedure section 415.50 states in relevant part:

13 (a) A summons may be served by publication if upon affidavit it
14 appears to the satisfaction of the court in which the action is
15 pending that the party to be served cannot with reasonable diligence
16 be served in another manner specified in this article and that:

17 (1) A cause of action exists against the party upon whom service is
18 to be made or he or she is a necessary or proper party to the action;
19 or

20 (2) The party to be served has or claims an interest in real or
21 personal property in this state that is subject to the jurisdiction of
22 the court or the relief demanded in the action consists wholly or in
23 part in excluding the party from any interest in the property.

24 The action is an action to quiet title to certain real property. The declaration filed
25 herewith by Plaintiff's counsel establishes the elements which the court must find to issue the
26 order for service by publication. Plaintiff has exercised reasonable diligence to locate any
27 unnamed and unknown persons claiming an interest in the estate or the property. Among other
28 things, plaintiff has obtained a litigation guaranty policy of title insurance to ascertain the identities
of any persons who may have or claim an interest in the property. Since this is a quiet title action,
Plaintiff has a cause of action against any person, known or unknown, who claims any interest in
the subject property. Unless Plaintiff serves the unknown claimants by publication, it will not be
able to obtain a judgment quieting title against such persons and its relief will be only partially
effective.

Accordingly, Plaintiff respectfully requests the court to issue an order permitting service of
summons by publication on ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR
EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY

1 DESCRIBED IN THE COMPLAINT ADVERSE TO PLAINTIFF'S TITLE, OR ANY
2 CLOUD ON PLAINTIFF'S TITLE THERETO, by publication in a newspaper of general
3 circulation, pursuant to Code of Civil Procedure Section 415.50.

4 Dated: *March 20, 2002*

Roger A. Brown

ROGER A. BROWN
Attorney for Plaintiff

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