



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0151
October 10, 2024

Robert Tate

CLAIMANT

v.

Lynne Crofton

RESPONDENT

ORDER DISMISSING CLAIM WITHOUT PREJUDICE

On May 18, 2024, claimant Robert Tate (Tate) filed this claim before the Copyright Claims Board (Board) against respondent Lynne Crofton (Crofton). (Dkt. 1). The Board found the claim compliant and issued a Notice of Compliance and Direction to Serve on May 30, 2024. (Dkt. 7). A claimant has 90 days after receiving the Notice of Compliance to file a proof of service or waiver of service form with the Board. 17 U.S.C. § 1506(g); 37 C.F.R. § 222.5(b)(3)(i), (c)(5). “If a claimant fails to complete service . . . within that 90-day period, the Copyright Claims Board shall dismiss the proceeding without prejudice.” 17 U.S.C. § 1506(v)(1).

On July 10, 2024, Tate filed a proof of service form that stated Crofton had been served at her residence on June 19, 2024. (Dkt. 8). The 90-day period for Tate to complete service ended on August 29, 2024. On August 30, 2024, Crofton’s attorney submitted a request to link his eCCB user account with the claim so he could act on her behalf in this proceeding. (Dkt. 12). On September 3, 2024, through that attorney, Crofton filed documents seeking dismissal based on failure to serve, or in the alternative, to quash service. (Dkt. 14, 15). Without giving her current address, Crofton asserted that she had not lived at the address where Tate’s proof of service claimed that service was made since 2022. *Id.* On September 5, 2024, the Board ordered Tate to show cause why the proceeding should not be dismissed for failure to serve and to file a valid proof of service (Dkt. 16). Tate filed a response to that order on September 9, 2024 (Dkt. 17). Crofton filed a request for dismissal on September 12, 2024, and Tate filed a response to the request on September 14, 2024 (Dkt. 18, 19).

During the service period, Crofton plainly sought to frustrate Tate’s ability to effect proper service. Tate made a second attempt at service on or about July 8, 2024, upon attorneys who had represented Crofton in an earlier dispute between the parties. While that is not proper service, Crofton’s attorneys informed her of the attempt and provided her with the materials delivered by Tate’s process server. (Dkt. 15 ¶¶ 3, 8-11 & Exh. B). Crofton made no attempt to contact Tate, *see* Dkt. 17 at 1, and waited to oppose service until after the service window closed. On September 16, 2024, the Board issued an order directing Crofton to provide her address to Tate so that even if this proceeding was dismissed, cat-and-mouse games could be avoided in the future. (Dkt. 20). Crofton has not disclosed her address to Tate, despite that directive. Instead, she filed a request for reconsideration of that order on September 27, 2024. (Dkt. 21). Spuriously, she denied that her home address was “relevant to the ‘resolution of a claim, counterclaim, or defense,’” *id.* at 2 (*quoting* 17 U.S.C. § 1503(a)(1)(D)), though it was one of the central points

in her defense of failure to serve. Crofton's indecorous conduct barely skirts the limits of proper representations to the Board. *See* 37 C.F.R. § 232.2.

However, the Board cannot conclude based on the information before it that service was proper and that the case can proceed. Furthermore, on September 30, 2024, Tate filed the text of an email addressed to Crofton's attorney, in which Tate inquired if the attorney could "accept service on [Crofton's] behalf for this case and what potentially will be some kind of refilling of the case due to the current case not being served correctly." (Dkt. 22). Based on the parties' filings, the Board finds that service was not valid, as Tate now concedes.

"In order to proceed with a claim against a respondent," valid service and proof of service within 90 days of the Notice of Compliance is mandated without exception. 17 U.S.C. § 1506(g). The Board therefore dismisses this proceeding without prejudice. 17 U.S.C. § 1506(v)(1). Dismissal without prejudice means Tate may raise his allegations again by filing a new claim either before the Board or in federal court.

Dismissal also means that Crofton's current address is no longer relevant to this proceeding, so the order directing her to provide her address and her request to reconsider that order are both moot. Accordingly, the Board closes this case.

Copyright Claims Board