



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0169

September 17, 2024

Cindy Kroth

CLAIMANT

v.

Jenna Schebell

RESPONDENT

## ORDER DISMISSING CLAIM WITHOUT PREJUDICE

On June 7, 2024, the claimant filed claim 24-CCB-0169 with the Copyright Claims Board (Board). On June 13, 2024, the Board found this claim compliant and issued a Notice of Compliance and Direction to Serve.

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); 37 C.F.R. § 222.5(c)(5).

On August 5, 2024, the claimant filed a proof of service indicating that the respondent had been served by certified mail in accordance with New Jersey state law. Under N.J. R. 4:4-3(a), service by certified mail is permitted only if personal service cannot be effected after a reasonable and good faith attempt, which must be specifically described in the proof of service required by N.J. R. 4:4-7. N.J. R. 4:4-7 mandates that if service is made by mail, the party making service must provide an affidavit detailing the failure to effect personal service and the diligent inquiry to locate the defendant's residence, business, or employment. Additionally, the return receipt card or electronic confirmation of delivery, including an image of the recipient's signature, must be filed as part of the proof.

On August 6, 2024, the Board emailed the claimant requesting an affidavit detailing her attempts at personal service, along with the return receipt card or confirmation of delivery. The Board advised that if no attempts at personal service, as defined in N.J. R. 4:4-4 or 17 U.S.C. § 1506(g), had been made before serving by certified mail, the claimant would need to attempt personal service first. The Board further clarified that if, after good faith attempts, the claimant could not personally serve the respondent, she could then proceed with service by certified mail.

On August 30, 2024, the claimant emailed the Board asking if she still needed to attempt to serve the respondent, given that the respondent had requested to link herself to the claim in eCCB. On September 3, 2024, the Board informed the claimant that service by certified mail is only permitted under the New Jersey rules of service in special circumstances, which had not been met. The Board noted that notifying the respondent by certified letter does not constitute proper service and warned that the service issue must be resolved by the service deadline, or the claim could be dismissed. On the same day, the claimant acknowledged this information and stated that if the case were dismissed, she would refile to allow more time for service.

The claimant did not file a valid proof of service or waiver of service form for the respondent within 90 days.

Accordingly, the Board dismisses this proceeding without prejudice and closes this case. 17 U.S.C. § 1506(v)(1).

Dismissal without prejudice means the claimant may raise the allegations again by filing a new claim.

Copyright Claims Board