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9 **UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF NEVADA**

10  
11 In re: ) Case No.: 15-10110-LED  
12 )  
13 AMERI-DREAM REALTY, LLC, ) Chapter 7  
14 )  
Debtor. )  
15 )  
16 \_\_\_\_\_ )  
VICTORIA NELSON, In Her Capacity As The )  
17 Chapter 7 Trustee Of AMERI-DREAM ) Adv. Proceeding No.: 15-01087-LED  
18 REALTY, LLC, )  
19 Plaintiff, )  
20 )  
21 vs. )  
22 )  
23 ELSIE PELADAS-BROWN, )  
24 Defendant. )  
25 \_\_\_\_\_ )

26 **EX PARTE MOTION FOR AN ORDER ALLOWING**  
27 **SERVICE UPON DEFENDANT BY PUBLICATION**

28 The Chapter 7 Trustee, Victoria L. Nelson (the “Trustee” or “Plaintiff”), by and  
29 through her attorneys, Schwartz Flansburg PLLC, hereby moves this Court for the entry of an  
30 order allowing service upon defendant Elsie Peladas-Brown (“Brown” or the “Defendant”) by  
31 publication (the “Motion”). In support of the Motion, the Trustee respectfully states as follows:  
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**Preliminary Statement**

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2 1. On May 21, 2015, the Trustee filed a complaint against Brown alleging claims  
3 for breach of fiduciary duty, common law misrepresentation, negligent misrepresentation and  
4 declaratory relief, thereby commencing the above-captioned adversary proceeding.  
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6 2. As stated in the Complaint, Brown is believed to be a resident of the State of  
7 Nevada, but upon information and belief, Brown may have fled to the Philippines.  
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9 3. As set forth herein and in the Declaration of Janine Lee, attached hereto as  
10 **Exhibit A**, numerous attempts have been made to locate the current whereabouts of Brown,  
11 both in Nevada, and in the Philippines. Unfortunately, the Trustee has been unable to locate  
12 Brown. Accordingly, the Trustee asks that the Court allow service to be made on Brown by  
13 publication in the Las Vegas Review Journal, a newspaper of general circulation in Las Vegas,  
14 Nevada, the location of Brown's last known address.  
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18 **Argument**

19 4. Bankruptcy Rule 7004(c) provides as follows:  
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21 If a party to an adversary proceeding to determine or protect rights in property in  
22 the custody of the court cannot be served as provided in Rule 4(e)-(j) F.R.Civ.P.  
23 or subdivision (b) of this rule, the court may order the summons and complaint to  
24 be served by mailing copies thereof by first class mail, postage prepaid, to the  
25 party's last known address, and by at least one publication in such manner and  
26 form as the court may direct.

26 Fed. R. Bankr. P. 7004(c).

27 5. Moreover, Rule 4(e)(1) of the Federal Rules of Civil Procedure, in turn, provides  
28 that "service of an individual . . . may be effected in any judicial district of the United States  
29 pursuant to the law of the state in which the district court is located. . . ." Rule 4(e)(1) of the  
30 Nevada Rules of Civil Procedure permits service by publication where the court determines that  
31 upon affidavit that the person upon whom service is to be made resides out of the state; has  
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1 departed from the state; has, by concealment, sought to avoid service, or otherwise, after due  
2 diligence, cannot be found. Nev. R. Civ. P. 4(e)(1).

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4 6. In this matter, the Trustee, through her counsel, exercised due diligence in their  
5 efforts to locate and personally serve Brown, but those efforts proved fruitless. There is no  
6 reason to believe that further efforts will meet different results, and will like require significant  
7 costs and expenses to the Trustee.

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9 7. Specifically, as set forth in the Lee Declaration attached hereto as **Exhibit A**, the  
10 Trustee's counsel has done the following, as set forth in the timeline below:

- 11 • 5/21/2015 – inquire with Ryan Works, Esq., counsel for Ameri-Dream Realty,  
12 LLC, and counsel for Brown's ex-husband, regarding Brown's whereabouts;
- 13 • 5/26/2015 – inquire with Lance Maningo, Esq., Brown's attorney who  
14 represented her in her divorce;
- 15 • 5/27/2015 – mail copy of summons and complaint to Brown at her last known  
16 address in Las Vegas, Nevada;
- 17 • 5/29/2015 – inquire with Alex Villanueva, Esq, an attorney in Manila,  
18 Philippines, regarding location and possible service of defendant in the  
19 Philippines; and
- 20 • 6/12/2015 – e-mail copy of summons and complaint to Brown at her last known  
21 e-mail address, which e-mail was not returned as undeliverable.

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24 8. Moreover, the Trustee's counsel is in the process of obtaining pricing for the  
25 services of a private investigator in the Philippines, but as the Trustee and her counsel are not  
26 positive Brown is in the Philippines (she could be residing in Nevada), the Trustee submits that  
27 service by publication will be the most efficient and cost effective manner of serving Brown  
28 with the summons and complaint.  
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1           9.       Accordingly, the Trustee submits that service by publication in the Las Vegas  
2 Review Journal is necessary and appropriate, and requests that the Court enter an order granting  
3 the same.  
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5                       WHEREFORE, the Trustee respectfully requests that the Court enter an order: (i)  
6 allowing service of Brown by publication; and (ii) granting such other relief this Court deems  
7 necessary and appropriate.  
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9                       Dated this 22nd day of June, 2015.  
10

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