

(Our file no: 113953-02:KLC)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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TRAVIS PADILLA,

Index No: 20885/2018E

Plaintiff,

-against-

**AFFIRMATION**

JOHN TERRENCE and SAYANON  
THONGTHAWATH,

Defendants.

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KARA L. CAMPBELL, ESQ., an attorney duly licensed to practice law in the State of New York, affirms the following under penalty of perjury:

1. I am associated with the firm of Of Counsel to JACOBY & MEYERS, LLP, attorneys for the plaintiff, TRAVIS PADILLA, and in such capacity, I am fully familiar with the facts and proceedings had herein through a file maintained by this office.

2. This affirmation is submitted in support of the plaintiff's motion requesting that this Court issue an order pursuant to CPLR §§ 308(5); 306(b), directing service of process upon the defendant SAYANON THONGTHAWATH, through his insurance carrier, Progressive Insurance Company, and, extending the plaintiff's time to serve a summons and complaint upon the defendant, SAYANON THONGTHAWATH, for an additional one hundred and twenty-day period past the date of an order issued in regard to this motion.

3. This action was brought by TRAVIS PADILLA to recover for injuries he sustained in a motor vehicle accident that occurred on June 13, 2016 on Orchard Beach Road, located in the Bronx, New York. At the time of the accident, Mr. PADILLA was a passenger in a vehicle owned by SAYANON THONGTHAWATH and operated by JOHN TERRENCE,

when TERRENCE lost control of the vehicle and it struck a boulder. Mr. PADILLA suffered severe and diverse personal injuries as a result of the accident.

4. This office was retained by the plaintiff, and to that end, a summons and verified complaint was drafted and filed with the Bronx County Clerk's office on January 23, 2018. (A copy of the summons and verified complaint is annexed hereto as **Exhibit "A"**). The defendant, JOHN TERRENCE, was served with process on April 8, 2018. He has not interposed an Answer yet. To date, service has not been effected upon the defendant, SAYANON THONGTHAWATH, thus prompting the within motion.

5. Pursuant to the police accident report, it indicated that the defendant SAYANON THONGTHAWATH resided at 43-15 53<sup>rd</sup> Street, Apartment 1, Queens, New York. (See copy of Police Accident Report annexed as **Exhibit "B"**).

6. Attempts were made to serve the defendant at the aforesaid address on January 30, 2018 and February 3, 2018. At the time of the second attempt, the process server was advised by a resident that Mr. THONGTHAWATH had moved two years prior. (A copy of the Affidavit of Attempted Service is annexed as **Exhibit "C"**).

7. Prior to this, our office sent a Claim Letter to Progressive Insurance Company as that was the carrier identified in the Police Accident Report that insured the defendant vehicle. (A copy of the Claim Letter to Progressive is annexed as **Exhibit "D"**).

8. On July 27, 2016, our office received a response from Progressive Insurance Company acknowledging the claim, indicating their insured as the SAYANON THONGTHAWATH, and setting up a claim number. (A copy of Acknowledgement Letter from Progressive is annexed as **Exhibit "E"**).

9. Additional efforts were made to search for a current address for SAYANON THONGTHAWATH. On December 14, 2017, a Department of Motor Vehicle search indicated an address at 4315 53<sup>rd</sup> Street, 1<sup>st</sup> Floor, Woodside, New York. (See copy of

DMV search annexed as **Exhibit “F”**). Thereafter a search via the U.S. Postal Service was made for that address. It was returned indicating, “No change of address on file”. (See copy of US Postal Service response annexed as **Exhibit “G”**). A Person Search was conducted showing that the defendant resided at 3966 48<sup>th</sup> Street, Sunnyside, New York. (A copy of the search result is annexed as **Exhibit “H”**). A U.S. Postal Service search was made for this address which came back indicating, “Not known at address”. (See copy of search result annexed as **Exhibit “I”**).

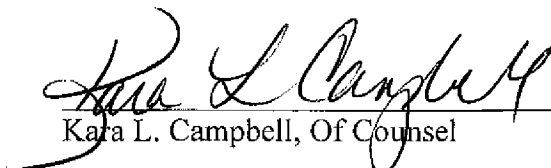
10. During this time, our office has been in communication with Progressive Insurance Company, and has exchanged documentation, concerning this claim. (Various correspondence from Progressive concerning this claim is annexed as **Exhibit “J”**).

11. Based upon the foregoing, it is respectfully submitted to this Court that although attempts are still being made, service has become impracticable upon the defendant, SAYANON THONGTHAWATH, as his whereabouts is unknown. Therefore, it is requested that this Court order service upon the defendant, SAYANON THONGTHAWATH, by service a copy of the summons & verified complaint upon the appropriate insurance carrier, Progressive Insurance Company, 3 Dakota Drive, Suite 200, N New Hyde Park, New York, 11042-1119 , by certified mail, return receipt requested and by sending a copy of the summons & verified complaint to the defendant by regular mail, at his last known address of 43-15 33<sup>rd</sup> Street, Queens, New York.

11. It is also respectfully requested that as service has not been effected upon the defendant, SAYANON THONGTHAWATH, that the time to effect service of process upon SAYANON THONGTHAWATH be extended for one hundred and twenty (120) days beyond the date of any order issued by this court in this regard.

WHEREFORE, it is respectfully requested that this Court issue an Order granting plaintiff's motion in its entirety, and for such other and further relief that this Court deems just and proper.

Dated: **May 21, 2018**  
Newburgh, New York

  
Kara L. Campbell, Of Counsel