

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE**  
KENT COUNTY COURTHOUSE  
38 THE GREEN  
DOVER, DELAWARE 19901  
PHONE: (302) 735-3910

CHARLES W. WELCH, III  
JUDGE

May 10, 2017

Gary W. Alderson, Esq. Elzufon Austin Tarlov & Mondell, P.A. 300 Delaware Avenue, Suite 1700 P O Box 1630 Wilmington, DE 19899-1630	Ms. Nina Shahin 103 Shinnecock Road Dover, DE 19904
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RE: Nina Shahin v. JKMR, Inc. d/b/a "The UPS Store," et al.  
C.A. No.: CPU5-14-000379

Defendant JKMR, Inc.'s Motion to Strike Praecipe and Quash Summons

Dear Mr. Alderson and Ms. Shahin:

This letter constitutes the Court's decision on Defendant JKMR, Inc.'s (hereinafter referred to as "JKMR"), motion to strike the plaintiff's praecipe and quash the plaintiff's summons for United Parcel Services of America, Inc. (hereinafter referred to as "UPS"), and United Parcel Service (UPS) Store, Inc. (hereinafter referred to as "UPS Store"). The motion is granted.

As you are aware, on November 23, 2016, the plaintiff filed two praecipes directing the Sheriff of Kent County to serve a Summons and Amended Complaint upon UPS and the UPS Store "through their agent-franchisee" JKMR. On that date, the plaintiff also filed a summons directing the Sheriff of Kent County to summon "the above named defendants and serve upon said defendants through their agent-franchisee" JKMR. JKMR asserts that it has no legal relationship with either UPS or the UPS Store and, thus, cannot accept service on behalf of those

entities. The plaintiff contends that service upon UPS and the UPS Store by serving JKMR is sufficient as JKMR is an “agent” of those entities.

After carefully reviewing the plaintiff’s pleadings, it appears that she misunderstands the concept of service upon a corporation. The Court first takes judicial notice that based on official records kept by the State of Delaware Division of Corporations, both UPS and the UPS Store are incorporated in Delaware, and, thus, are Delaware Corporations. Pursuant to 8 *Del. C.* § 321(a), “service of legal process upon any corporation of this State shall be made by delivering a copy personally to any officer or director of the corporation in this State, or the registered agent of the corporation in this State ....” The Court would like to emphasize the words “registered agent.” A registered agent for service is a distinct “person”<sup>1</sup> capable of accepting service on behalf of another. This status is separate from the concept of agency, upon which the plaintiff relies in her argument supporting adequate service. The concept of agency deals with conferring liability upon a principle for the conduct of the principle’s agent. Therefore, even if JKMR is an agent for UPS and/or the UPS Store, the plaintiff must still properly serve those defendants in accordance with 8 *Del. C.* § 321(a) by serving their “registered agent.”

On February 14, 2017, this Court requested that the parties provide additional information about UPS and the UPS Store, including their state of incorporation, their corporate structure and the listed registered agents of each of them. As provided by JKMR and the Delaware Division of Corporations, the Court takes judicial notice of the following:

(1) United Parcel Service of America, Inc. - Registered Agent

Corporation Service Company  
2711 Centerville Rd., Suite 400  
Wilmington, DE 19808

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<sup>1</sup> “Person” can include either an individual or legal entity, such as a corporation.

(2) The UPS Store, Inc. - Registered Agent

Corporation Service Company  
2711 Centerville Rd., Suite 400  
Wilmington, DE 19808

Based on State of Delaware official records, it is apparent that JKMR is not the registered agent for any other defendant to this action. The registered agent for UPS and the UPS Store is the Corporation Service Company, located in Wilmington, Delaware. The plaintiff, therefore, failed to properly affect service on UPS and the UPS Store when she directed the Sheriff of Kent County to serve a Summons and Amended Complaint upon JKMR "as an agent" of the named defendants United Parcel Service (UPS) Store, Inc., and United Parcel Service (UPS) of America, Inc. The plaintiff should have instead directed service upon the registered agent for those Delaware corporations as listed above.

In light of improper service pursuant to 8 *Del. C.* § 321(a), JKMR's motion to strike the plaintiff's praecipe and quash the plaintiff's summons for UPS and the UPS Store is GRANTED.

**IT IS SO ORDERED.**

Sincerely,



Charles W. Welch, III

CWW:mek