

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

GRAHAM SCHREIBER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:12cv852 GBL/JFA
	)	
LORRAINE LESLEY DUNABIN, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**VERISIGN, INC.’S<sup>1</sup>  
MOTION TO QUASH SERVICE OF PROCESS**

VeriSign, Inc., by counsel, respectfully moves this Court to quash the service of process purportedly served on “Verisign Global Registry Services” herein, and to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(5):

The grounds for this motion are set forth in VeriSign’s Brief in Support of Motion to Quash, filed herewith.

**“ROSEBORO NOTICE”**

Pursuant to Local Civil Rule 7(K) and *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), undersigned counsel advises plaintiff of the following:

- (1) Plaintiff is entitled to file a response opposing the motion; any such response must be filed within twenty (20) days of the date on which this Motion to Dismiss was filed.
- (2) The Court could dismiss the action on the basis of defendants’ moving papers if

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<sup>1</sup> The Movant, VeriSign, Inc., is not a party named in this action. However, the Plaintiff named “Verisign Global Registry Services” as a party, and, for avoidance of doubt -- presuming that the Plaintiff may have intended to name it as a party -- VeriSign, Inc. is filing the instant motion.

plaintiff does not file a response.

(3) Plaintiff must identify all facts stated by defendants with which the plaintiff disagrees and must set forth the plaintiff's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury).

(4) Plaintiff is also entitled to file a legal brief in opposition to the one filed by the defendants.

Appearing specially and for the limited purpose  
of challenging service of process

/s/ Timothy B. Hyland  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 17th day of September, 2012, true copies of the foregoing, together with copies of the Notice of Electronic Filing associated therewith, were mailed, first class mail, postage prepaid, to the following non-registered users of the ECF system:

Graham Schreiber  
5303 Spruce Avenue  
Burlington, Ontario  
Canada L7L 1N4

Lorraine Lesley Dunabin  
1 Chalder Farm Cottages, Chalder Lane  
Sidlesham, Chichester, West Sussex  
United Kingdom PO20 7RN

and that true copies of the foregoing were transmitted through the Court's ECF system the same date to:

Jeremy David Engle, Esquire  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20006

Walter Dekalb Kelley, Jr., Esquire  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001

Tara Lynn Renee Zurawski, Esquire  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001

/s/ Timothy B. Hyland  
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Defendants.	)	

**VERISIGN, INC.’S<sup>1</sup> BRIEF IN SUPPORT OF  
MOTION TO QUASH SERVICE OF PROCESS**

I. INTRODUCTION

In his Complaint, the Plaintiff has named six defendants, including one identified as “Verisign Global Registry Services” (“VGRS”). This entity does not exist. However, the Plaintiff has filed a return of service [Dkt. 23] stating that “VeriSign GRS” was served on August 20, 2012. According to the return of service, the Summons was “Sent via UPS from Canada.” [Dkt. 23], to James Hubler at “Verisign GRS”.<sup>2</sup>

VeriSign, Inc. has filed the instant motion to quash the purported service of process, in an abundance of caution, in the event that it is in fact the intended target of the claims against VGRS.

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<sup>1</sup> The Movant, VeriSign, Inc., is not a party named in this action. However, the Plaintiff named “Verisign Global Registry Services” as a party, and, for avoidance of doubt -- presuming that the Plaintiff may have intended to name it as a party -- VeriSign, Inc. is filing the instant motion .

<sup>2</sup> Mr. Hubler is an employee of VeriSign, Inc. A Declaration of James Hubler is attached hereto. See Hubler Decl. ¶ 1.

II. ARGUMENT

A. **To the extent that VeriSign, Inc. is the intended defendant, service is improper and inadequate.**

Service of the summons and complaint on a corporation is governed by Fed. R. Civ. P.

4(h):

Unless federal law provides otherwise or the defendant's waiver has been filed, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served:

(i) in a judicial district of the United States:

(A) in the manner prescribed by Rule 4(e)(1) for serving an individual; or

(B) by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant . . . .

Rule 4(e)(1), in turn, as it applies here permits service to be effected in the manner prescribed by law for Virginia State Court summonses.

Here, it is beyond dispute that the summons and complaint were not delivered to an officer, a managing or general agent, or other agent authorized to receive service of process on VeriSign, Inc. See Hubler Decl. ¶¶ 3-6. Therefore, even had service been directed to an existing entity – which it was not – service was not valid under Fed. R. Civ. P. 4(h).

In addition, VeriSign Inc. is a Delaware corporation authorized to transact business in Virginia. See Hubler Decl. ¶ 1. Accordingly, under Virginia law, VeriSign, Inc. may be served (a) through personal service on any officer, director, or its Virginia registered agent; or (b) through substituted service, where applicable, on the Secretary of the Commonwealth or the

Clerk of the State Corporation Commission. See Virginia Code § 8.01-301. Service here was not personally made (or otherwise made) on the registered agent or any officer or director of VeriSign, Inc. See Hubler Decl. ¶¶ 3, 5. Therefore, there has been no valid service of process in this case.

Absent an election by a defendant to waive service of process, “[a]ttempted service through mailing of the notice and request is ineffectual . . . [and] at that point, the plaintiff must seek to accomplish personal service on the defendant.” Convergence Tech. (USA), LLC v. Microloops Corp., 711 F. Supp. 2d 626, 631 (E.D. Va. 2010) (quoting Johnson v. Warner, 2009 WL 586730, at \*1 (W.D. Va. Mar. 6, 2009) (citing Armco, Inc. v. Penrod-Stauffer Bldg. Sys. Inc., 733 F.2d 1087, 1089 (4th Cir.1984)). Therefore, the Plaintiff’s sending of the Complaint to an employee of a party not named in the Complaint cannot be valid service. Service of the summons on “Verisign Global Registry Services” herein must therefore be quashed.

**B. The Plaintiff, who purports to have signed the return of service, is not competent to effect service.**

It is axiomatic that only a non-party may serve a summons and complaint. See Fed. R. Civ. P. 4(c)(2). Proof of service “must be by the server’s affidavit.” Fed. R. Civ. P. 4(l)(1). Therefore, *a priori*, the affidavit of service cannot be executed by a party. Here, however, the “Proof of Service” filed with the Court [Dkt. 23] is signed by the Plaintiff, Graham Schreiber. Mr. Schreiber is not permitted to effect service, and service by him is invalid even were it otherwise validly made. See Reading v. United States, 506 F. Supp. 2d 13, 19 (D.D.C. 2007) (even where service by certified mail is permitted, the sending of such certified mail by the plaintiff invalidates service under Rule 4(c)). Service therefore in any event therefore does not comply with the applicable rules, and is invalid.

III. CONCLUSION

For the foregoing reasons, service of the summons and complaint herein on “Verisign Global Registry Services” should be quashed. In the alternative, to the extent the Court believes VeriSign, Inc. is obligated to respond to the Complaint, VeriSign, Inc. respectfully requests that it be granted additional time to do so.

Appearing specially and for the limited purpose  
of challenging service of process

/s/ Timothy B. Hyland  
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**DECLARATION OF JAMES T. HUBLER**

I, James T. Hubler, declare as follows:

1. I am an employee of VeriSign, Inc. VeriSign, Inc. is a corporation organized under the laws of the State of Delaware, and is authorized to transact business in Virginia. I work in VeriSign, Inc.’s legal department, in Reston, Virginia.

2. There is no entity associated with VeriSign, Inc. bearing the name “VeriSign Global Registry Services.”

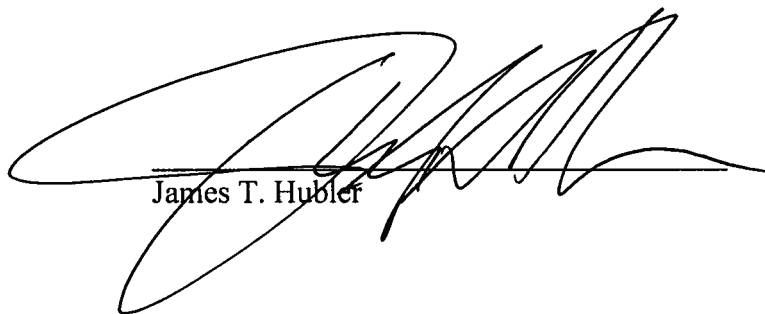
3. I am not an officer or director of VeriSign, Inc., nor any entity associated with VeriSign, Inc.

4. I am not a managing or general agent authorized by appointment or by law to receive service of process for or on behalf of VeriSign, Inc., nor any entity associated with VeriSign, Inc.

5. I am not VeriSign, Inc.’s registered agent in any jurisdiction, nor am I the registered agent for any entity associated with VeriSign, Inc.

6. I am not authorized to receive or accept service of process for or on behalf of VeriSign, Inc. not any entity associated with VeriSign, Inc.

I declare under the penalties of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 7 day of September, 2012, at Reston, Virginia.



James T. Hubler