

CAUSE NO. 199-596-97

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DSC COMMUNICATIONS CORPORATION,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff	§	
	§	
VS.	§	COLLIN COUNTY, TEXAS
	§	
EVAN BROWN,	§	
	§	
Defendant.	§	
	§	199TH JUDICIAL DISTRICT

**MOTION FOR SUBSTITUTED SERVICE**

TO THE HONORABLE JUDGE OF SAID COURT:

DSC COMMUNICATIONS CORPORATION, Plaintiff in the above-entitled and numbered cause, makes this Motion for substituted service of process on the Defendant, EVAN BROWN, and, in support of this Motion, would show:

I.

As stated in the Affidavit of Eric W. Pinker, attached hereto as Exhibit "A", and incorporated by reference the same as if fully copied and set forth at length herein, the Defendant's usual place of abode is 2705 Chadbourne Drive, Plano, Collin County, Texas 75023.

II.

As stated in the attached Affidavit, service of process on the Defendant has not been successful. Despite numerous attempts to serve the Defendant at the address given above as Defendant's place of abode, it has not been possible to serve the Defendant for the reason that neither the Defendant, nor anyone else, will ever come to the door.

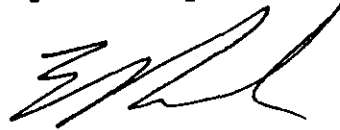
FILED 11/13/97

1 III.

2 Further, the attached Affidavit shows that the Defendant may  
3 be given notice of this suit if the process serve leaves a copy of  
4 the petition, the citation, all notices and Court orders, attached  
5 to the front door of Defendant's usual place of abode at the address  
6 given above.

7 WHEREFORE, Plaintiff requests that this Court order service on  
8 Defendant, Evan Brown, by affixing a copy of the Plaintiff's  
9 Petition, together with the citation, all notices and Court orders  
10 to the front door of Defendant's place of abode, to-wit: 2705  
11 Chadbourne Drive, Plano, Collin County, Texas, 75023, and that a  
12 true copy of this Court's Order for Substituted Service be attached  
13 to and included with the other papers to be so served.

14 Respectfully submitted,

15 

16 \_\_\_\_\_  
17 MICHAEL P. LYNN  
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19 ERIC W. PINKER  
20 Bar Card No. 16016550  
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21 Attorneys in Charge for Plaintiff,  
22 DSC COMMUNICATIONS CORPORATION

23 

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Local Counsel for Plaintiffs,  
DSC COMMUNICATIONS CORPORATION

**EXHIBIT "A"**

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CAUSE NO. 199-596-97

DSC COMMUNICATIONS CORPORATION, Plaintiff  
VS.  
EVAN BROWN, Defendant.  
IN THE DISTRICT COURT OF  
COLLIN COUNTY, TEXAS  
199TH JUDICIAL DISTRICT

AFFIDAVIT OF ERIC W. PINKER

THE STATE OF TEXAS §  
COUNTY OF COLLIN §

BEFORE ME, the undersigned Notary Public, on this day personally appeared ERIC W. PINKER, who, being by me first duly sworn on oath, deposed and said:

"My name is Eric W. Pinker. I am over the age of 18 years and am fully competent to testify to the matters stated in this Affidavit. I have personal knowledge of the facts and statements contained in this Affidavit, and each of them is true and correct.

"I am in all things competent to make oath of the facts stated in this Affidavit.

"I am one of the attorneys of record representing DSC Communications Corporation ('DSC') in connection with this matter. In connection with my representation of DSC, I arranged for a process server by the name of Alan Michael Clary to serve the Defendant, Evan Brown, with citation, process and all pleadings on file in this matter. Mr. Clary is a properly authorized process server under the Rule 103, Texas Rules of Civil Procedure.

1 "After becoming employed to serve process in this cause, Mr.  
2 Clary attempted to serve Defendant Brown on multiple instances,  
3 including one attempt on Friday, April 25, 1997, several attempts  
4 on Saturday, April 26, 1997, and several attempts on Monday, April  
5 28, 1997. In fact, at my direct instructions, Mr. Clary waited in  
6 front of Defendant's residence from 1:00 to 4:00 p.m. on Monday,  
7 April 28, 1997. At 3:00 p.m., Mr. Clary saw an adult male enter  
8 the house. At that time, he went to the front door, knocked and  
9 rang the door bell for approximately one hour, but no one answered  
10 the door. As such, despite these repeated efforts to perfect  
11 personal service on Defendant Brown, Mr. Clary has been  
12 unsuccessful in perfecting such personal service. Each of these  
13 attempts to perfect service was made at Defendant Brown's residence,  
14 located at 2705 Chadbourne Drive, Plano, Texas. On each instance,  
15 no one answered the door when Mr. Clary presented himself at that  
16 residence.

17 "It is imperative that DSC be permitted to serve Defendant  
18 Brown immediately. DSC has obtained a Temporary Restraining Order  
19 in this case, and a Temporary Injunction hearing is currently  
20 scheduled for Friday, May 2, 1997. Moreover, pursuant to the  
21 Court's Order and Amended Order Expediting Discovery, Defendant  
22 Brown's deposition is scheduled for Wednesday, April 30, 1997.

23 "DSC and the undersigned believe that Defendant Brown will be  
24 given effective notice of this suit by attaching true copies of the  
25 citation, petition and court orders to the door of Defendant's

1 residence at 2705 Chadbourne Drive, Plano, Texas, pursuant to the  
2 provisions of Rule 106(b), Texas Rules of Civil Procedure."

3 Further affiant saith not.

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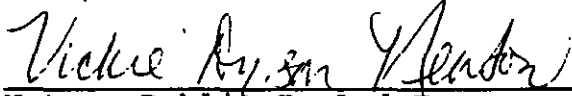
  
ERIC W. PINKER

6

7 SUBSCRIBED AND SWORN TO BEFORE ME by the said ERIC W. PINKER,  
8 on this the 25<sup>th</sup> day of April, 1997, to certify which witness my  
9 hand and seal of office.

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Notary Public In And For  
The State of Texas

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13

VICKIE DYSON NEWTON  
(Print or Type Name of Notary)

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My Commission Expires: 2/9/99

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