

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

ALYSSON MILLS, IN HER CAPACITY  
AS RECEIVER FOR ARTHUR LAMAR  
ADAMS AND MADISON TIMBER  
PROPERTIES, LLC,

*Plaintiff,*

v.

BUTLER SNOW LLP; BUTLER SNOW  
ADVISORY SERVICES, LLC; MATT  
THORNTON; BAKER, DONELSON,  
BEARMAN, CALDWELL & BERKOWITZ  
PC; ALEXANDER SEAWRIGHT, LLC;  
BRENT ALEXANDER; and JON  
SEAWRIGHT,

*Defendants.*

Case No. 3:18-cv-00866-CWR-BWR

**Hon. Carlton W. Reeves**

**MEMORANDUM BRIEF IN SUPPORT OF BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ PC'S UNOPPOSED MOTION FOR LEAVE TO EFFECT  
SERVICE OF SUBPOENAS ON TWO INVESTORS BY ALTERNATIVE MEANS**

Baker, Donelson, Bearman, Caldwell & Berkowitz P.C. (“Baker Donelson”) moves for leave to effect service of subpoenas for documents and deposition testimony upon two Alexander Seawright Timber Fund I, LLC (“ASTFI”) investors—who will be called “Investor A” and “Investor B” to protect their privacy<sup>1</sup>—by alternative means, specifically, by sending copies to their last-known email addresses, and mailing copies of the subpoenas by First Class Mail to their home addresses.

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<sup>1</sup> Consistent with the Protective Order entered in the consolidated discovery action, *see* ECF No. 6 (3:22-cv-36), Baker Donelson omits Investor PII from this Memorandum. Baker Donelson has also redacted all references to Investor PII from the exhibits attached to its Motion. For identification purposes, Investor A is the investor who signed the subscription agreement that is Bates-stamped BAKER\_MILLS\_0000229, and Investor B is the investor who signed the subscription agreement that is Bates-stamped BAKER\_MILLS\_0000141.

1. Investors A and B (both of whom are highly sophisticated medical doctors practicing in a lucrative specialty, and one of whom (Investor B) profited over \$50,000 from his ASTFI investments) possess information that, in the view of law firm Baker Donelson, tends to disprove the allegations that Alysson Mills, the court-appointed Receiver for the estates of Lamar Adams and Madison Timber Properties, LLC, has asserted against it—yet those investors have spent weeks actively evading Baker Donelson’s attempted service of subpoenas.

2. More particularly, Baker Donelson expects Investors A and B to testify, *inter alia*, that they never spoke to anyone representing Baker Donelson about their investments in ASTFI; that they did not rely on any representations made by Baker Donelson in deciding to invest in ASTFI; and that they did not believe that Alexander’s and Seawright’s personal business, ASTFI, was “backed,” “promoted,” and “vetted” by Baker Donelson. Such testimony would rebut the Receiver’s (untrue) allegations that “[i]nvestors reasonably believed that their investment[s] in Madison Timber” were “backed and promoted by, and had been vetted by, Baker Donelson,” ECF No. 57, Amend. Compl. at 23, and that Baker Donelson “assist[ed] Adams by recruiting new investors to Madison Timber,” *id.* at 35.

3. Baker Donelson has made numerous attempts to serve the subpoenas upon Investors A and B pursuant to Federal Rule of Civil Procedure 45. These efforts include:

- a. On December 4, 2024, Baker Donelson sent the document subpoenas to Investors A and B by email, and inquired whether they consented to accepting service of the subpoenas by email. Investors A and B did not respond. Baker Donelson sent a follow-up email to both Investors A and B on December 12, 2024. Again, Investors A and B did not respond. *See* Mot. Ex. A (Emails to Investors A and B).

- b. On December 23, 2024, Baker Donelson sent the document subpoenas to Investors A and B by certified mail. Those mailings were returned to Baker Donelson as not deliverable, with notations on the envelopes indicating that Investors A and B had refused to accept delivery. *See* Mot. Ex. B (Certified Mail Envelopes).
- c. On January 13, 2025, Baker Donelson hired a process server to effectuate personal service of the subpoenas on Investors A and B. The process server made numerous attempts to serve Investors A and B, both at their home and business addresses, but was prevented from making service. *See* Mot. Ex. C (Declaration of Process Server).
- d. Specifically, with respect to Investor A, the process server attempted to serve Investor A at his residence on January 15, 2025, but was unable to gain entry to his gated neighborhood. The process server called Investor A's cell phone and left a voicemail, and also sent him a text message, but received no response. On January 17, 2025, the process server attempted to serve Investor A at his work, but the receptionist told the process server that Investor A was unavailable. Then, on February 3, 2025, the process server again attempted to serve Investor A at his residence. The process server observed someone inside Investor A's home—and there were three vehicles parked at the residence, one of which appeared to be the vehicle registered to Investor A—but no one would answer the door. *See* Mot. Ex. C (Declaration of Process Server).

- e. With respect to Investor B, the process server attempted to serve Investor B at his residence on January 15, 2025, but the woman who answered the door told the process server that Investor B was unavailable and could not come to the door. She then closed the door on the process server. On January 16, 2025, the process server attempted to serve Investor B at his work. The receptionist told the process server that Investor B was out for lunch and would return approximately one hour later but, when the process server returned at that time, the receptionist stated that Investor B was out for the remainder of the day. That same day, January 16, 2025, the process server went to Investor B's residence. He knocked on the door and rang the doorbell, but no one answered. The process server then called and texted Investor B's cell phone, but received no response. On February 3, 2025, the process server attempted to serve Investor B at his residence. Although there were lights on in the home and the garage door was open, nobody answered the front door. *See* Mot. Ex. C (Declaration of Process Server).

4. Courts regularly authorize service of subpoenas upon nonparties through alternative means where, as here, a party has been unable to effectuate personal service despite diligent efforts. *See, e.g., Plumbers Loc. 98 Defined Benefit Pension Fund v. Dan Allor Plumbing & Heating Company*, 2024 WL 4220664, at \*1 (E.D. Mich. Sept. 17, 2024) (granting plaintiffs' motion for alternate service upon nonparty witness where plaintiffs' process server "made three unsuccessful attempts to serve [witness] at her home" and "[t]wice, [the process server] saw a woman matching [the witness's] description inside the house, but [she] refused to answer the door"); *Hellmich v. Mastiff Contracting, LLC*, 2017 WL 11632081, at \*2–3 (C.D.

Cal. May 11, 2017) (granting party’s motion to serve subpoena by mail where the party’s previous attempts to serve the nonparty—including contacting him by phone, email, and attempting personal service at his last known address—“demonstrate that [the nonparty] is attempting to evade service”); *Knopf v. Esposito*, 2020 WL 6589593, at \*2 (S.D.N.Y. Nov. 11, 2020) (allowing party to serve subpoena on nonparty by email where they “already attempted on three occasions to serve him at his residence and [] left a copy of the subpoena there”).

5. The deadline to serve document subpoenas and questionnaires on investors is February 28, 2025. *See* ECF No. 153 at 2. Baker Donelson accordingly seeks leave to effectuate service of the subpoenas on Investors A and B through alternative means—specifically, by sending copies of the subpoenas by email to their last-known email addresses, and mailing copies of the subpoenas by First Class Mail to the home addresses at which service was attempted.

6. Baker Donelson informed counsel for all other parties by email that Baker Donelson intended on Thursday, February 13, to file a motion for leave to effect service of the subpoenas on these two witnesses through alternative means, and Baker Donelson requested that counsel “let us know if anyone has any objection.” No party raised any objection.

Dated this 13th day of February, 2025

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ PC**

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*Counsel for Defendant Baker, Donelson,  
Bearman, Caldwell & Berkowitz PC*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2025, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

/s/ Hope E. Daily  
Hope E. Daily (*pro hac vice*)