

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
(609) 989-2040

CHAMBERS OF
TONIANNE J. BONGIOVANNI
UNITED STATES MAGISTRATE JUDGE

U.S. COURTHOUSE
402 E. STATE STREET, RM 6052
TRENTON, NJ 08608

April 24, 2015

LETTER ORDER

Re: Mincing Trading Corporation v. Aromatic Ingredients S.A.E.
Civil Action No. 13-931 (FLW)

Dear Counsel:

This matter comes before the Court upon Plaintiff Mincing Trading Corporation's ("Plaintiff") request for leave to use an alternative method of service to serve Defendant Aromatic Ingredients S.A.E. ("Defendant"). Plaintiff's motion is unopposed. The Court has fully reviewed and considered all arguments made in support of, and in opposition to, Plaintiff's Motion. The Court considers Plaintiff's Motion without oral argument pursuant to L.Civ.R. 78.1(b). For the reasons set forth more fully below, Plaintiff's motion is GRANTED.

Plaintiff brings this cause of action for breach of warranty and to be indemnified by Defendant for supplying Plaintiff with defective basil, which Plaintiff in turn supplied to Kerry, Inc. Defendant is a business entity based in Egypt, where traditional means of service have become impracticable.

Plaintiff retained APS International, Ltd. ("APS"), an international legal support service company, for the translation of the Summons and Complaint and service of process to the Ministry of Justice, which is the Central Authority in Egypt. APS transmitted the service documents to the

Central Authority and sent two letters thereafter requesting service. Plaintiff argues that despite its efforts, it may never complete service according to the method specifically enumerated in the Hague Convention because of the state of civil unrest and political turmoil in Egypt. Plaintiff now seeks an alternative method of service under Fed R. Civ. P. 4(f)(3) or, in the alternative, an additional extension of time to effectuate service.

Plaintiff attempted to serve Defendant through the official channels of the Hague Convention, but service has not been completed. Plaintiff argues that alternative service is appropriate under both Rule 4(f)(2) and 4(f)(3). Rule 4(f)(2) provides that an individual may be served:

- (2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:
 - (A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;
 - (B) as the foreign authority directs in response to a letter rogatory or letter of request; or
 - (C) unless prohibited by the foreign country's law, by:
 - (i) delivering a copy of the summons and of the complaint to the individual personally; or
 - (ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt....

Rule 4(f)(3) allows for service “by other means not prohibited by international agreement, as the court orders.”

Here Plaintiff seeks to serve Defendant via LinkedIn and email. Plaintiff contends that the proposed alternative methods it seeks to use are permissible because Egypt has not specifically objected to its proposed methods of service and Egypt’s objection to Article 10 of the Hague Convention does not prohibit such service as the proposed methods are not specifically enumerated in Article 10. As a result, Plaintiff argues that this Court has the authority to permit service by LinkedIn and email. Further, Plaintiff cites *Gurung v. Malhotra*, 279 F.R.D. 215 (S.D.N.Y. 2011) to demonstrate that service by email comports with due process where it is

demonstrated that the email is likely to reach the defendant. Plaintiff also contends that here Defendant is already on notice of the pendency of this litigation because it retained two law firms to represent its interests in the prior litigation between Plaintiff and Kerry Inc.

The Court has already given Plaintiff multiple extensions of time to serve Defendant. It does not appear that additional time will help Plaintiff serve Defendant by traditional means. Due to the difficulties associated with serving a foreign entity, specifically one located in Egypt, Plaintiff's good faith efforts to serve Defendant through the official channels of the Hague Convention have been futile and the Court finds permitting an alternative service method to be warranted here. In light of the fact that the alternative methods proposed by Plaintiff have not been specifically objected to by Egypt, coupled with the fact that it appears Defendant would actually receive notice of this litigation through same, the Court grants Plaintiff's motion. Plaintiff may serve Defendant via LinkedIn and the email addresses set forth in Plaintiff's Memorandum [Docket Entry No. 17] and Supplemental Memorandum [Docket Entry No. 18].

IT IS SO ORDERED.

**IT IS FURTHER ORDERED THAT THE CLERK OF THE COURT
TERMINATE DOCKET ENTRY NO. 17.**

s/ Tonianne J. Bongiovanni
TONIANNE J. BONGIOVANNI
United States Magistrate Judge