

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

GREGORY BUNCE, Individually and	)	
as Personal Representative of the	)	
Estate of Peter Bunce, and EVELYN	)	
BUNCE,	)	
	)	Case No. 2:23-cv-133-cr
Plaintiffs,	)	
	)	
v.	)	
	)	
GLOCK, INC., and GLOCK	)	
Ges.m.b.H.,	)	
	)	
Defendants.	)	

**OBJECTION TO PLAINTIFFS’ MOTION FOR ALTERNATIVE SERVICE**

Renzulli Law Firm, LLP (“Renzulli Law Firm”) and Glock, Inc. respectfully submit this opposition to Plaintiffs’ motion for alternative service on Defendant Glock Ges.m.b.H. claiming that service on Defendant Glock Ges.m.b.H.’s counsel of record in prior actions should be deemed proper service in this matter. There is no legal support for this form or method of alternative service of process of an initial pleading on a foreign business entity, and this motion should be denied.

**SUMMARY OF THE ARGUMENT**

Plaintiffs commenced this action on June 23, 2023, almost eight months ago, but have made no efforts to properly serve defendant Glock Ges.m.b.H. in Austria as required by Rule 4(h)(2) of the Federal Rules of Civil Procedure and the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (“Hague Service Convention”). Notwithstanding their complete failure to make any attempt to serve Glock Ges.m.b.H. properly as required by federal law, Plaintiffs now come to this Court requesting leave to serve Glock Ges.m.b.H. through Renzulli Law Firm based on this firm’s representation of Glock Ges.m.b.H. in other unrelated matters in the past. There is no legal support or precedent for

Plaintiffs' argument that Plaintiffs are entitled to alternative service on Glock Ges.m.b.H. via its prior counsel. It is wholly insufficient to order an alternative method for service simply because Glock, Inc. retained Renzulli Law Firm to defend it in this action, or based on Plaintiffs' speculation that Renzulli Law Firm may also appear on behalf of Glock Ges.m.b.H. if it is properly served. Moreover, Plaintiffs' refusal to even attempt proper service upon Glock Ges.m.b.H. for almost eight months, and instead engage in extensive motion practice in an attempt to avoid their service obligations when commencing a lawsuit, has not only caused prejudicial delays to Glock, Inc., but has also unduly burdened this Court. Plaintiffs' motion should be denied; and Plaintiffs should be ordered to commence the process to effectuate proper service on Glock Ges.m.b.H. through the Hague Service Convention within 30 days of the Court's order resolving this motion.

### **PROCEDURAL BACKGROUND**

This lawsuit was commenced on June 23, 2023. Plaintiffs made no efforts to serve the Complaint on either defendant, but instead, filed a motion to extend the deadline to complete service on September 26, 2023. (ECF Doc. 3). The delay in service was allegedly caused by Plaintiffs' counsel having filed the Complaint despite not being admitted to practice law before this Court, and the intention to file an amended complaint once she was admitted. While this motion was initially denied (ECF Doc. 4), a renewed motion for the same relief was granted on October 6, 2023. (ECF Doc. 7).

Plaintiffs filed a First Amended Complaint on October 5, 2023, which was mailed to Defendant Glock, Inc. with a Notice of Waiver of Service by Plaintiffs' counsel on or about October 16, 2023. Defendant Glock, Inc. waived service on November 15, 2023. Also on October 16, 2023, Plaintiffs' counsel mailed a copy of the pleadings<sup>1</sup> to "Glock Ges.m.b.H. c/o its

---

<sup>1</sup> The purported "service packet" included the summonses, civil cover sheet, notice and waiver forms, and Plaintiffs' original and First Amended Complaint. *See* ECF Doc. 9 at ¶ 2.

subsidiary Glock, Inc. and National Registered Agents, Inc.” (ECF Doc. 9-1, p. 7). Glock, Inc. received these papers on October 19, 2023, and on October 20, 2023, Glock, Inc. returned the papers to Plaintiffs’ counsel. (ECF Doc. 9-1, p. 1).

Instead of making any attempt to properly serve Glock Ges.m.b.H. as required by federal law, on November 23, 2023, Plaintiffs filed a Motion to Deem Service Complete on Defendant Glock Ges.m.b.H., wherein Plaintiffs argued that “[e]ach service packet was mailed to the registered agent for Glock, Inc., because that entity is a wholly owned subsidiary of Defendant Glock Ges.m.b.H.” *See* ECF Doc. 9 at ¶ 2. The undersigned counsel, on behalf of Glock, Inc., timely filed a response to Plaintiffs’ motion establishing that Glock, Inc. was not an agent of Glock Ges.m.b.H. and was not authorized to accept service on behalf of Glock Ges.m.b.H. *See* ECF 10. In reply, Plaintiffs pivoted from arguing that service on Glock, Inc. was sufficient, to claim that service on Glock, Inc.’s counsel, Renzulli Law Firm, should be deemed proper service of process on Glock Ges.m.b.H. (ECF Doc. 13). This argument was based on Renzulli Law Firm’s prior representations of this foreign entity in unrelated matters and Plaintiffs’ assumption that it would represent Glock Ges.m.b.H. in this case. Glock, Inc. filed a motion for leave to file a sur-reply to address the new issues raised in Plaintiffs’ Reply and further oppose the motion on December 29, 2023, which was granted by this Court on January 14, 2024. However, by Text Order dated January 26, 2024, the Court stated, “The court generally does not rule on the sufficiency of service unless it is raised as a defense.” (ECF Doc. 23). Thus, Plaintiffs’ Motion to Deem Service Complete on Defendant Glock Ges.m.b.H. was in effect denied.

On February 2, 2024, Plaintiffs responded to the Court’s Text Order by filing the instant Motion for Alternative Service wherein Plaintiffs again seek leave from the Court to serve Glock Ges.m.b.H. by an alternative means: serving Glock, Inc.’s counsel of record, Renzulli Law Firm.

Thus, this motion seeks the same relief that Plaintiffs requested, albeit improperly, in their reply to the prior motion.

By filing this motion, Plaintiffs admit that they have made no attempts to properly serve Glock Ges.m.b.H., notwithstanding that this lawsuit was commenced by them in June 2023. Further, despite receipt of the Sur-Reply filed in response to their initial motion (ECF Doc. 15-1), and the clear case law refuting the same relief being requested herein, Plaintiffs boldly seek leave to serve Renzulli Law Firm on behalf of Glock Ges.m.b.H.

### **ARGUMENT**

Plaintiffs' motion seeking alternative service lacks legal merit and must be denied because (1) Renzulli Law Firm does not have authority to accept service on behalf of Glock Ges.m.b.H., (2) Plaintiffs have not attempted service on Glock Ges.m.b.H. by any means sufficient under federal law before seeking leave from this Court to use an alternate method of service almost eight months after commencing this action, and (3) the filing of numerous motions regarding service upon Glock Ges.m.b.H., instead of Plaintiffs making a good faith effort to timely and properly serve Glock Ges.m.b.H., is an unnecessary burden upon this Court, and has caused delays which prejudice Defendant Glock, Inc.

#### **I. Renzulli Law Firm Does Not Have Authority to Accept Service on Behalf of Glock Ges.m.b.H.**

Plaintiffs' motion seeking alternative service must be denied because Renzulli Law Firm does not have authority to accept service on behalf of Glock Ges.m.b.H. "It is manifest that ... the courts of [a] state may not secure jurisdiction over [a foreign defendant] unless proper service of process is made. This requires that the service must be upon someone who is legally recognized as a proper person to receive the same on behalf of the corporation." *De Claire Mink Ranches v. Fed. Foods, Inc.*, 192 F. Supp. 148, 151 (N.D. Iowa 1961). "Service of process on an attorney not

authorized to accept service for his client is ineffective.” *Mhina v. Bank of Am., N.A., Corp.*, No. 23-96-CV, 2023 WL 6873045, at \*2 (2d Cir. Oct. 18, 2023). Plaintiffs’ attempt to unilaterally confer authority to Renzulli Law Firm on behalf of Glock Ges.m.b.H. is improper and must fail as a matter of law.

In their motion, Plaintiffs primarily allege that because Renzulli Law Firm has represented Glock Ges.m.b.H. in prior lawsuits and Glock Ges.m.b.H. is a foreign company, Plaintiffs should be entitled to forego any attempt to properly serve Glock Ges.m.b.H. In essence, Plaintiffs are asking this Court for a pass on their obligations when commencing a lawsuit, simply for convenience. However, even if there was any merit to a “convenience” excuse for alternative service, their request to merely serve attorneys who have previously represented Glock Ges.m.b.H. in unrelated litigations is improper. The Second Circuit has rejected this exact argument.

For example, in *Mhina, supra*, the plaintiff attempted to serve the defendants via the attorneys who represented the defendants in a prior lawsuit between the same parties. The Second Circuit rejected the plaintiff’s argument that service of process on the defendants’ prior counsel was sufficient because the plaintiff “was obligated to serve *the defendants* as prescribed by Rule 4, not the attorneys who represented them in a prior lawsuit.” *Id.* (emphasis as original). The Court emphasized that there is no requirement that a defendant maintain a relationship with the same attorney in multiple lawsuits, thus even where attorneys have represented a defendant in similar and/or multiple lawsuits previously, it is improper to permit service on a defendant’s prior attorneys who have not made an appearance to represent the defendant in the present suit. *Id.*

Similarly, in *U.S. v. Ziegler Bolt and Parts*, the United States Government attempted to serve the defendant by mailing the complaint to Defendant Ziegler’s attorney. *United States v. Ziegler Bolt & Parts Co.*, 111 F.3d 878, 880 (Fed. Cir. 1997). The Federal Circuit noted that while

“an agent’s authority to accept service may be implied in fact ... [A] party, however, cannot fabricate such implied authority from whole cloth to cure a deficient service, but must present facts and circumstances showing the proper relationship between defendant and its alleged agent.” *Id.* at 881. The court then found that the “mere relationship between a defendant and his attorney does not, in itself, convey authority to accept service.” *Id.* (citing *Grandbouche v. Lovell*, 913 F.2d 835, 837 (10th Cir.1990); *Ransom v. Brennan*, 437 F.2d 513, 518–19 (5th Cir.1971); *United States v. General Int’l Mktg. Group*, 742 F. Supp. 1173, 1177 (Ct. Int’l Trade 1990)). In fact, the court held “[E]ven where an attorney exercises broad powers to represent a client in litigation, these powers of representation alone do not create a specific authority to receive service.” *Id.* (citing *Santos v. State Farm Fire & Cas. Co.*, 902 F.2d 1092, 1094 (2d Cir.1990); *Schultz v. Schultz*, 436 F.2d 635, 639–40 (7th Cir.1971)). Ultimately, the court in *Ziegler* held that despite its counsel representing it throughout the litigation after raising the lack of service defense, nothing in the attorney’s efforts in defending his client specifically authorized him to accept service of process on behalf of his client. *Id.* at 882.

In another case directly on point, the Southern District of New York was asked to determine if service on counsel for a defendant from a “prior related state court proceeding” was sufficient in the instant matter. *J & L Parking Corp. v. United States*, 834 F. Supp. 99, 102 (S.D.N.Y. 1993), *aff’d sub nom. J & L Parking Corp. v. United States*, 23 F.3d 397 (2d Cir. 1994). There, the court held, “J & L seems to argue that Feldman was indeed authorized, if not by appointment then by law, to accept service by the mere fact that the law firm in which she worked represented the University in an earlier, completed, albeit related action. We find no merit in this argument.” *Id.* In fact, the court noted, “This court has specifically stated that an attorney does not become a client’s agent for service of process simply because she represented the client in an earlier action.” *Id.* (*see*

also *Nhoung Van Nguyen v. Lucky*, No. EDCV181452JGBSPX, 2018 WL 10014508, at \*1 (C.D. Cal. Aug. 13, 2018); *Keyes v. Edison Banks*, No. CV 7:18-23-KKC, 2019 WL 13242653, at \*1 (E.D. Ky. Jan. 3, 2019)). Thus, whether or not Renzulli Law Firm represented Glock Ges.m.b.H. in prior unrelated matters, or may represent it in this litigation, is irrelevant to the inquiry of whether it is a proper agent for service of process under the present set of circumstances; and courts have affirmatively held that prior representation alone does not make such counsel an agent for service of process.

Finally, Plaintiffs continue to stubbornly and mistakenly rely upon *Cooper Indus. Inc. v. Brit. Aerospace, Inc.*, 102 F.R.D. 918 (S.D.N.Y. 1984), based on “important language” defendant allegedly ignored. However, notwithstanding that *Cooper* dealt exclusively with service of discovery devices, which are wholly different issues from service of process of a pleading to initiate a lawsuit, in *Cooper*, defendant’s counsel specifically advised opposing counsel “to make all such requests through him” regarding requests to the foreign, non-party entity. *Id.* at 919. Thus, counsel in *Cooper* expressly agreed to accept service of the discovery device. In this case, Renzulli Law Firm never indicated to Plaintiffs’ counsel that the pleadings intended for Glock Ges.m.b.H. should be sent to them or would be accepted on behalf of Glock Ges.m.b.H.

Plaintiffs also incorrectly cite *Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694 (1988), in this motion since that case dealt with issues related to service on a domestic subsidiary of a foreign parent corporation. Plaintiffs have abandoned their prior request to serve Glock, Inc. on behalf of Glock Ges.m.b.H., thus this case is inapposite. Further, Glock, Inc. is not a “domestic subsidiary” of, or “wholly owned” by Glock Ges.m.b.H. Thus, the requisite control factor as a condition precedent to even start a *Volkswagenwerk* analysis is missing because Glock Ges.m.b.H. only owns half of Glock, Inc. See ECF Doc. 10-1, Guevara Decl. ¶ 5.

But even if the Court feels compelled to conduct an analysis of whether Glock, Inc. is an “involuntary agent” as described by the Supreme Court in *Volkswagenwerk*, Plaintiffs’ argument still fails. In *Volkswagenwerk*, the Supreme Court specifically addressed the situation of an attempted service of process on a foreign “parent” by serving its domestic, “wholly owned” subsidiary pursuant to Illinois law. Thus, any reliance on Illinois statutes and the wording therein, including the use of the term “involuntary agent” by the Supreme Court, is not relevant here.

The Supreme Court in *Volkswagenwerk* held that the Hague Service Convention was not the exclusive method of service on foreign corporations in all jurisdictions, and that under certain conditions, serving its domestic subsidiary under state law as the foreign corporation’s involuntary agent for service could be proper. However, even in that case, the Supreme Court cautioned:

**The Convention provides simple and certain means by which to serve process on a foreign national.** Those who eschew its procedures risk discovering that the forum’s internal law required transmittal of documents for service abroad, and that the Convention therefore provided the exclusive means of valid service.

486 U.S. at 706 (emphasis added). The Supreme Court thus held that the law of the forum is controlling, and if service on a defendant’s “involuntary agent” is sufficient under a forum state’s service rules, then resorting to the Hague protocols is not required. *Id.* 706-07. However, the Supreme Court clearly contemplated that this may not be available in every state.

The analysis conducted by the Supreme Court in the *Volkswagenwerk* case is not relevant here, because Vermont does not have a law making a law firm or a wholly owned subsidiary options to serve as involuntary agents for service on a foreign client or parent, or any similar law that would authorize service of Glock Ges.m.b.H. through Renzulli Law Firm or Glock, Inc.

Plaintiffs have come forward with no evidence that Renzulli Law Firm has express or implied in fact authority to accept service of process on behalf of Glock Ges.m.b.H. in this matter.



Of course, that is because Glock Ges.m.b.H. did not give any such authority to Renzulli Law Firm related to this matter. *See* Ex. A - C. Renzulli Declaration.

## **II. Plaintiffs Have Not Made Any Attempt to Properly Serve Glock Ges.m.b.H.**

Plaintiffs commenced this action almost eight months ago and have not attempted service on Glock Ges.m.b.H. by any means sufficient under federal law before improperly seeking leave from this Court to use an alternate method of service. As Plaintiffs correctly note, whether allowing alternative methods of service under Rule 4(f)(3) is in the sound discretion of the Court, which generally requires a showing that the plaintiff “has reasonably attempted to effectuate service on the defendant.” *See Baliga on behalf of Link Motion Inc. v. Link Motion Inv.*, 385 F. Supp. 2d 212, 220 (S.D.N.Y. 2019). Here, Plaintiffs have not made any attempts to serve process on Glock Ges.m.b.H. pursuant to federal law.

Specifically, Plaintiffs have not attempted service outside “any judicial district of the United States,” i.e. in Austria pursuant to the Hague Service Convention as required to properly serve Glock Ges.m.b.H. pursuant to federal law.<sup>2</sup> Instead, Plaintiffs initially “attempted” service upon Glock Ges.m.b.H. by mailing the Complaint, Summons issued to Glock Ges.m.b.H., civil cover sheet, two copies of a notice and acknowledgement of service form, two waiver forms, and the First Amended Complaint to “Glock Ges.m.b.H. c/o its subsidiary Glock, Inc. and National Registered Agents, Inc.” (ECF Doc. 9-1, p. 7). Glock, Inc. is not any type of agent authorized to accept service of process on behalf of Glock Ges.m.b.H. *See* Declaration of Carlos Guevara (ECF Doc. 10-1); *see also* Fed. R. Civ. Pro. 4(h)(1)(B).

Additionally, notwithstanding the lack of merit to Plaintiffs’ argument that service on a law firm is somehow sufficient as to one of its former or current clients, Plaintiffs never served Renzulli

---

<sup>2</sup> Austria became a signatory to the Hague Service Convention in November 2019, and service to Austria pursuant to the Hague Convention was permitted starting September 2020.

Law Firm with the legal papers intended for Glock Ges.m.b.H. Plaintiffs simply mailed two sets of papers to Glock, Inc.'s agent for service of process (ECF Doc. 9 at ¶ 2), and then filed their prior motion to deem service complete, followed by this motion for alternative service.

Consequently, the delays complained of by Plaintiffs which may occur if they are required to go through the proper procedures to serve Glock Ges.m.b.H. are in reality completely due to Plaintiffs and/or their counsel. The matter was originally filed on June 23, 2023, and there was no effort to serve either defendant within the 90-day period allotted pursuant to F.R.C.P. 4(m). If Plaintiffs had commenced the process of serving Glock Ges.m.b.H. through the Hague Service Convention in July of 2023, that process would now most likely be complete. Thus, Plaintiffs have unclean hands in making a delay-based argument as the only delays have been caused by Plaintiffs' refusal to make any attempt to effectuate service on Glock Ges.m.b.H. by any manner appropriate under federal law.

### **CONCLUSION**

There is no legal support for Plaintiffs' argument that service on Glock Ges.m.b.H. can be properly made through service on its prior counsel, Renzulli Law Firm. Nor is there any reason that Plaintiffs cannot validly serve Glock Ges.m.b.H. through the Hague Service Convention as required by federal law. Accordingly, Plaintiffs' motion should be denied.

Dated: February 20, 2024

Respectfully submitted,

Matthew B. Byrne  
Brooks McArthur  
Gravel & Shea PC  
76 St. Paul Street, 7th Floor  
Burlington, VT 05401  
mbyrne@gravelshea.com  
bmcArthur@gravelshea.com

-and-

/s/ Jeffrey Malsch

Christopher Renzulli (*pro hac vice*)

Jeffrey Malsch (*pro hac vice*)

**RENZULLI LAW FIRM, LLP**

One North Broadway, Suite 1005

White Plains, NY 10601

Telephone: (914) 285-0700

crenzulli@renzullilaw.com

jmalsch@renzullilaw.com

Attorneys for defendant Glock, Inc.

**CERTIFICATE OF SERVICE**

I, Jeffrey Malsch, hereby certify that this document was filed with the Clerk of the Court via CM/ECF. Those attorneys who are registered with the Court's electronic filing system may access this filing through the Court's CM/ECF system, and notice of this filing will be sent to these parties by operation of the Court's electronic filings system.

Dated: February 20, 2024

By: /s/ Jeffrey Malsch

Jeffrey Malsch

jmalsch@renzullilaw.com

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

GREGORY BUNCE, Individually and	)	
as Personal Representative of the Estate	)	
of Peter Bunce, and EVELYN BUNCE,	)	
	)	
Plaintiffs,	)	Case No. 2:23-cv-133-cr
	)	
v.	)	
	)	
GLOCK, INC., and GLOCK	)	
Ges.m.b.H.,	)	
	)	
Defendants.	)	
	)	

**DECLARATION OF CHRISTOPHER RENZULLI, ESQ.**

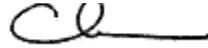
Christopher Renzulli deposes and says:

1. I am over the age of eighteen and am competent to make this Declaration.
2. I have personal knowledge of the facts set forth herein. I submit this Declaration in opposition to Plaintiffs’ Motion for Alternative Service.
3. I am a member of Renzulli Law Firm, LLP.
4. Renzulli Law Firm, LLP has been retained by Glock, Inc., a Georgia based corporation, to represent it in this litigation.
5. At no time has Glock Ges.m.b.H., an Austrian based business entity, authorized me or Renzulli Law Firm, LLP to accept service of process on its behalf in the captioned matter.
6. Renzulli Law Firm, LLP is not authorized by Glock Ges.m.b.H. to accept service of process on its behalf.

FURTHER DECLARANT SAYETH NAUGHT.

Pursuant to 28 U.S.C. § 1746(b), I declare under penalty of perjury that the foregoing is true and correct and if called as a witness I could and would so testify.

Executed on February 20, 2024

A handwritten signature in black ink, appearing to be 'CR' followed by a horizontal line.

---

Christopher Renzulli