

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

GREGORY BUNCE, Individually and )  
as Personal Representative of )  
the Estate of Peter Bunce, and )  
) )  
EVELYN BUNCE, Individually, )  
) )  
Plaintiffs, )  
) )  
v. )  
) )  
GLOCK, INC., a Georgia corporation, )  
and )  
) )  
GLOCK Ges.m.b.H., an Austrian )  
corporation conducting business in the )  
United States, )  
) )  
Defendants )

Case No. 2:23-cv-133-cr

**PLAINTIFFS’ REPLY MEMORANDUM IN SUPPORT OF  
MOTION FOR ALTERNATE SERVICE**

Plaintiffs Gregory and Evelyn Bunce, by and through undersigned counsel, hereby submit the following Reply Memorandum in support of their Motion for Alternate Service in the above-captioned case.

The only Defendant that filed an objection to Plaintiffs’ Motion for Alternate Service was Glock, Inc. See ECF No. 27. On February 6, 2024, the Court noted in a Text Order that Defendant Glock Ges.m.b.H. could file an objection to the Motion by February 20, 2024, without being “deemed to have submitted to the court’s personal jurisdiction by doing so.” ECF No. 26. Glock Ges.m.b.H. declined to file an objection,

preferring instead to have Glock, Inc. file a response. This procedural reality further solidifies the fact that Glock, Inc. is the integrated and functionally indistinguishable U.S. entity represented by the exact same counsel *in this action* as Glock Ges.m.b.H.

The Objection filed by Glock, Inc. repeatedly contends that Plaintiffs “made no efforts to properly serve the Austrian entity Glock Ges.m.b.H.” ECF No. 27 at p. 1; 2. *See also* p. 2 (citing “Plaintiffs’ refusal to even attempt proper service”); p. 3 (“Instead of making any attempt to properly serve Glock Ges.m.b.H.”); p. 4 (claiming that “Plaintiffs admit that they have not made attempts to properly serve Glock Ges.m.b.H.”); p.5 (arguing that “Plaintiffs are asking this Court for a pass on their obligations” to complete service); p. 9 (“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 . . . .”) (“Plaintiffs have not attempted service outside ‘any judicial district of the United States”).

The foregoing mantra (advanced by Glock, Inc., not Glock Ges.m.b.H.) misses the point that Plaintiffs *did attempt* to serve Glock Ges.m.b.H., not once but twice. Defendant recites these attempts at service in its Objection at p. 2-3. The crux of the dispute, therefore, has nothing to do with timing or how many months have passed. Instead, the dispute is about whether service under the Hague Convention is necessary under the facts of this case. Plaintiffs’ position has always been that service may be implied in fact when perfected on counsel for both Defendants *in this litigation*, within the United States, as discussed in the Supreme Court cases cited by Plaintiffs.

More importantly, the fact that Glock, Inc. is the only party to have filed an Objection to Plaintiffs' Motion for Alternative Service raises questions of whether that entity even has standing to object to the Motion. If these two entities are truly distinct, then one Defendant suffers no injury in fact in having the Motion granted as to the other. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559-60 (1992) (“The ‘irreducible constitutional minimum’ of standing contains three elements: (1) injury in fact; (2) causation; and (3) redressability.”).

Analogously in the context of serving subpoenas, the Second Circuit has held that, in the “absence of a claim of privilege a party usually does not have standing to object to a subpoena directed to a non-party witness.” *State Farm Mut. Auto. Ins. Co. v. Khait*, 2023 U.S. Dist. LEXIS 171968, \*5-6 (E.D.N.Y. Sept. 26, 2023) (quoting *Langford v. Chrysler Motors Corp.*, 513, F.2d 1121, 1126 (2d Cir. 1975)). *See also O'Brien v. Barrows*, 2010 U.S. Dist. LEXIS 112870, at \*3 (D. Vt. Oct. 20, 2010) (citing a District of D.C. case that found “defendants had no standing to challenge” a third-party subpoena).

The United States Supreme Court “has not looked favorably upon third-party standing.” *McGRX, Inc. v. Vermont*, 2011 U.S. Dist. LEXIS 924, \*1 (D. Vt. Jan. 5, 2011). Whether third-party standing is allowed in certain circumstances depends on a two-prong test: “First, the Court has asked whether the party asserting the right has a close relationship with the person who possesses the right. Second, the Court has considered whether there is a hinderance to the possessor’s ability to protect his own interests. The ‘close relationship’ requirement asks whether the third party can

reasonably be expected properly to frame the issues and present them with the necessary adversarial zeal.” *Id.*

In the instant case, the “close relationship” between Glock, Inc. and Glock Ges.m.b.H. may militate in favor of allowing Glock, Inc. to object on the Austrian entity’s behalf, but this fact only bolsters Plaintiffs’ principal argument. More importantly, there is no question that Glock Ges.m.b.H., through counsel that has already appeared in this action (the Renzulli Law Firm), could “reasonably be expected properly to frame the issues and present them with the necessary adversarial zeal” objecting to sufficiency of service. *Id.* Glock Ges.m.b.H.’s failure to file an Objection to Plaintiffs’ Motion for Alternate Service is fatal to the arguments advanced by Glock, Inc. because either: (1) these entities are distinct, and one does not have standing to object on behalf of the other; or (2) these entities are functionally (de facto) the same for purposes of this litigation.

Glock Ges.m.b.H.’s failure to oppose Plaintiffs’ Motion does not only call into question Glock, Inc.’s standing to oppose a pleading on behalf of a different Defendant. Glock, Inc. has already filed an answer in this case and failed to assert the Fed. R. Civ. P. 12(b)(5) defense of insufficient service of process. Under Rule 12(b)(5), a motion asserting insufficient service of process “must be made before pleading if a responsive pleading is allowed.” *Harmony Holdings, LLC v. Van Eck*, 2019 U.S. Dist. LEXIS72292, \*9-10 (D. Vt. Apr. 30, 2019). Glock, Inc. has simply waived any ability to claim insufficient service of process under Rule 12, because once

Glock, Inc. “filed the answer—i.e., a responsive pleading—the right to raise a 12(b)(5) motion” was lost. *Id.*

Even if the foregoing arguments were not enough for this Court to reject Glock, Inc.’s Objection to the Motion for Alternate Service, the case law will suffice. Glock, Inc.’s Objection gets at the heart of the issue on page 5-6, where Defendant concedes that “an agent’s authority to accept service may be implied in fact.” ECF No. 27 at p. 6 (quoting *United States v. Ziegler Bolt & Parts Co.*, 111 F.3d 878, 880 (Fed. Cir. 1997)). In fact, *Ziegler Bolt & Parts Co.* stands for the proposition that: “A defendant may waive [affirmative defenses like insufficient service of process] by actively litigating the suit.” *Id.* at 882. That is exactly what Glock Ges.m.b.H. has done here, by and through the attorney that will represent the foreign entity in this action.

Defendant’s Objection discusses multiple cases where courts have held that service of process is not proper when directed at counsel that formerly represented an entity in unrelated litigation. *See* ECF No. 27 at p. 5-6. Plaintiffs wholeheartedly agree with this precedent, but each case is distinguishable because the Renzulli Law Firm will represent Glock Ges.m.b.H. ***in this action***, not a former action. Otherwise, the Court would have been provided with an affidavit to the contrary. By filing an Objection on behalf of Glock, Inc. instead of Glock Ges.m.b.H., the foreign entity has essentially confirmed that service may be implied in fact.

Attorney Christopher Renzulli submitted an affidavit attesting that he has not been ***authorized*** to accept service on behalf of Glock Ges.m.b.H. (ECF No. 27-1).

However, this is an entirely different question from whether the Renzulli Law Firm has been *retained* to represent the foreign entity in this case; clearly, it has.

For all of the foregoing reasons, service of process as to Glock Ges.m.b.H. may be implied from the unique circumstances of this case, and the Court should grant Plaintiffs' Motion for Alternate Service, allowing Plaintiffs to serve the Renzulli Law Firm with process regarding Glock Ges.m.b.H.

Respectfully submitted,

Dated: March 5, 2024

*/s/ Laura H. White*

---

Laura H. White, Esq. (Bar No. 4025)  
*Attorney for Plaintiffs*  
WHITE & QUINLAN, LLC  
62 Portland Road, Suite 21  
Kennebunk, Maine 04043  
(207) 502-7484  
*lwhite@whiteandquinlan.com*

**CERTIFICATE OF SERVICE**

I, Laura H. White, hereby certify that on this 5<sup>th</sup> day of March, 2024, I filed the foregoing Plaintiffs' Motion for Alternate Service with the Court's CM/ECF system, which automatically sends notification to all counsel of record. I have also emailed a copy of this Motion to counsel for Defendants, Christopher Renzulli, at [crenzulli@renzullilaw.com](mailto:crenzulli@renzullilaw.com).

Dated: March 5, 2024

*/s/ Laura H. White*

---

Laura H. White  
*Attorney for Plaintiffs*  
WHITE & QUINLAN, LLC  
62 Portland Road, Suite 21  
Kennebunk, ME 04043  
Phone: (207) 502-7484  
*lwhite@whiteandquinlan.com*