

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

CLERK'S OFFICE
FOREIGN MAILING INSTRUCTIONS



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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**INSTRUCTIONS FOR SERVICE OF PROCESS
ON A FOREIGN DEFENDANT**

The Clerk of Court's Office will accomplish service overseas of the summons and complaint, either directly or through the U.S. Department of State under the following statutes:

1. An **individual in a foreign state**, under Rule 4(f)(2)(C)(ii) of the Federal Rules of Civil Procedures (FRCP); or
2. A **foreign state or a political subdivision of a foreign state** under the Foreign Services Immunities Act, 28 U.S.C. §1608(a)(3); or
3. A **foreign state or a political subdivision of a foreign state through diplomatic channels** via the U.S. Department of State under the Foreign Services Immunities Act, 28 U.S.C. §1608(a)(4); or
4. An **agency or instrumentality of a foreign state**, under the Foreign Services Immunities Act, 28 U.S.C. §1608(b)(3)(B).

OTHER DOCUMENTS SERVED

- **Orders**
An order may be entered by the court at any time during a case. The judge may request that the order be served upon the defendant(s) and should state specifically which rule to follow. An order should be served following the same methods by FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3), 28 U.S.C. §1608(a)(4), or 28 U.S.C. §1608(b)(3)(B), depending on which rule the judge specifies.
- **Defaults**
A default may be entered by the court against a foreign defendant assuming the summons and complaint was returned unexecuted, AND the deadline for the answer has passed. A foreign state, political subdivision, or an agency or instrumentality of a foreign state has **60 days** to answer the complaint. An individual has **20 days** to answer the complaint. A default should be served according to rule judge specifies to follow: FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3), 28 U.S.C. §1608(b)(3)(B), or 28 U.S.C. §1608(a)(4).
- **Judgments/Default Judgments**
A default may be entered by the court against a foreign defendant. The judge may request that the order be served upon the defendant(s) and should state specifically which rule to follow. A judgment or default judgment should be served following using: FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3), 28 U.S.C. §1608(a)(4), or 28 U.S.C. §1608(b)(3)(B) depending on which rule the judge specifies.

METHODS OF SERVICE

The Clerk of Court strongly recommends the use of Federal Express (FedEx) or DHL Worldwide Express (DHL) rather than the United States Postal Service (USPS). The USPS requirements for such service are complicated and failing to comply to their standards, will result in the return of a package delaying its ultimate delivery. Using FedEx or DHL also avoids the necessity of providing the Clerk's Office with cash for postage.

Rules Set by the U.S. Postal Service

1. Do not use postage meter stamps.
2. Leave more than the exact amount for the postal fee.
3. Do not seal envelopes.
4. Make sure there is glue on the pink return receipt. (Postal Form 2865)
Mailing labels are not accepted on foreign mailing envelopes. **Addresses must be typed or handwritten on the envelope.**
5. The following envelopes are ineligible for Registered Mail:
 - a. Mail presented in a padded envelope; envelope or mailer manufactured of spun bonded.
 - b. olefin, such as Tyvek; plastic envelope or mailer; or envelope or mailer
 - c. made of glossy-coated paper.
6. Packages weighing more than four pounds must be split up according to post office regulations.

Please check with your local Post Office for the appropriate customs forms as well as updated forms.

Courier Service

Overnight mail (FedEx & DHL) is acceptable, as long as you are able to obtain a signed returned receipt. You may track the delivery of your package on the courier's website, and print the tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and cover letter to the Clerk of Court as your return of service. If you have any questions, or would like a copy of our INSTRUCTIONS FOR SERVICE OF PROCESS ON A FOREIGN DEFENDANT, please see the administrative assistant to the Clerk of Court, Room 120 or visit the Court's website at www.nysd.uscourts.gov.

Foreign Sovereign Immunities Act of 1976

The Foreign Service Immunities Act of 1976 (FSIA) limits the role of the Executive Branch in suits against foreign governments and governmental entities by precluding the Department of State from making decisions on state immunity. A party to a lawsuit, including a foreign state or its agency or instrumentality, is required to present defenses such as sovereign immunity directly to the court in which the case is pending.

FSIA (28 U.S.C. §1608(a)(1)-(4)) provides for service of process on foreign state defendants in a four-step, hierarchical manner: (Source: www.travel.state.gov)

1. Pursuant to a special agreement between the plaintiff and the foreign state.
2. As prescribed in an applicable international agreement.
3. Via mail from the Clerk of Court to the head of the foreign state's Ministry of Foreign Affairs (28 U.S.C. §1608(a)(3)).
4. Via the diplomatic channel 28 U.S.C. §1608 (a)(4)

SPECIAL NOTES:

Under 28 U.S.C. § 1608(c)(1) and (c)(2) – Date of Service:

1. In the case of service under 28 U.S.C. § 1608(a)(4), service is deemed to have been made as of the date of the transmittal indicated in the certified copy of the diplomatic note.
2. In any other case under 28 U.S.C. § 1608 service is deemed to have been made as of the date of receipt applicable to the method of service employed.

Under 28 U.S.C. § 1608(e)- Default Judgment

No Judgment by default shall be entered by a court of the United States or of a State against foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the Court. A copy of any such default judgment shall be sent to a foreign state or political subdivision in the manner prescribed for service under 28 U.S.C. §1608.

Role of the United States Department of State

The United States Department of State, Overseas Citizens Services, Office of Policy Review & Interagency Liaison is responsible for service and implementing regulations under the FSIA via the diplomatic channel in accordance with 28 U.S.C. §1608(a)(4). (Source: www.travel.state.gov)

The defendant served by the United States Department of State **MUST BE** a FOREIGN STATE OR POLITICAL SUBDIVISION as defined by 1603 of FSIA, not an agency or instrumentality of a foreign state to be served under section 1608(b) of the Act. The United States Department of State **DOES NOT** serve **NATURAL PERSONS** under FSIA. (Source: www.travel.state.gov) The Act specifies that when service of process upon a foreign state cannot otherwise be effected

under FSIA, the Clerk of Court may dispatch a request to the Secretary of State, attn: Director of Special Consular Services, for service upon a foreign state defendant.¹

The Act allows for service under FSIA 1608(a) (4) only after 30 days have passed since service was attempted under section 1608 (a) (3) (by any form of mail requiring a signed receipt). The U.S. Postal service and private courier services can deliver documents to virtually any location. Plaintiffs should attempt service under FSIA 1608 (a) (3) unless a foreign state has specifically objected to service by mail.²

The U.S. Department of State does not normally serve on a foreign state any documents not specifically mentioned in the Act; however, it reserves executive authority to communicate with foreign governments. Note: a default judgment does **not** include a document(s) directing further hearings on a judgment.³

Please review the United States Department of State's "Checklist for Plaintiff's Service of Process Upon a Foreign State." (**Attachment A**). If you have any additional questions regarding 28 USC § 1608(4) mailings, please contact U.S. State Department's Office of Policy Review and Inter-Agency Liaison at ASKPRI@state.gov or (202) 736-9110.

¹ U.S. Department of State. "Checklist for Plaintiffs Service of Process upon A Foreign State" http://travel.state.gov/law/judicial/judicial_685.html# Accessed May 19, 2011.

² U.S. Department of State. "Checklist for Plaintiffs Service of Process upon A Foreign State" http://travel.state.gov/law/judicial/judicial_685.html# Accessed May 19, 2011.

³ U.S. Department of State. "Checklist for Plaintiffs Service of Process upon A Foreign State" http://travel.state.gov/law/judicial/judicial_685.html# Accessed May 19, 2011.

THE HAGUE CONVENTION

Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters

The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters applies in cases wherein the occasion is to transmit a judicial or extrajudicial document for service abroad.

Form (USM-94)

You may obtain a copy of the Request for Service Form from the U.S. Marshal's Service website: http://www.justice.gov/marshals/process/foreign_process.htm or you may use the interactive PDF fillable form provided by the Permanent Bureau of the Hague Conference on Private International Law. http://www.hcch.net/index_en.php?act=text.display&tid=47

Complete the Form

Private litigants wishing to serve a person in one of the Convention countries should complete copies in duplicate of the three forms prescribed by the Convention: The "Request", the "Certificate" and the "Summary." Once the form is completed, the litigants must transmit them, together with the documents to be served. (See FRCP Rule 4 under Notes and Annotations to the Convention).

For further assistance in completing form, please refer to the Bureau of Consular Affairs, U.S. Department of State, http://www.travel.state.gov/law/judicial/judicial_702.html or the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, <http://www.hcch.net/>

Federal Authority for Attorneys to Complete and Send Form

Attorneys representing the party seeking service should execute the portion of Form marked "Identity and Address of the Applicant" and the "Name and Address of the Requesting Authority" portion of the Summary of the Document to be Served, unless the foreign country does not consider private attorneys to be officers of the Court. (<http://www.travel.state.gov>)

If the Clerk of Court is directed by a court Order to effect service, the Form should reflect the law firm's information as the "Identity and Address of the Applicant" and the Clerk of Court under the "Name and Address of the Requesting Authority." The Clerk of Court will effect service under FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3); 28 U.S.C. §1608(a)(4) or 28 U.S.C. §1608(b)(3)(B), depending on which rule the judge specifies. Please refer to Sections II and III for service instructions.

NOTE: For countries that require the form to be executed by an officer of the court, the Clerk of Court may sign and stamp the "Request." Unless directed by a court Order, the forms will be returned to the requestor to effect service abroad. All forms (Request, Certificate & Summary, certified court Order, if applicable) must be brought to the Clerk of Court's Office, Room 120.

Parties to the Hague Convention

As of February 1, 2011, there are 62 countries (Members & Non-Members) which are party to this Convention:

Albania, Antigua and Barbuda, Argentina, Australia , Bahamas, Barbados, Belarus, Belize, Belgium, Bosnia & Herzegovina, Botswana, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland FYR of Macedonia, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Luxembourg, Malawi, Mexico, Monaco, Netherlands, Norway, Pakistan, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sri Lanka, St. Vincent & The Grenadines, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States, Venezuela. (Source: <http://www.hcch.net>)

Foreign States Objecting to Service by Mail

If a foreign state (party to the Hague Convention) objects to service by mail, service under Section 1608(a)(3) SHOULD NOT BE ATTEMPTED. The plaintiff should proceed under Section 1608(a)(4), directing their cover letter to the Department of State (Office of Overseas Citizens Services), citing the foreign state's objection to service by mail. (Source: www.travel.state.gov)

As of February 11, 2011, the following countries have objected to service by mail via postal channels under the Hague Convention (Source: www.hcch.net)

- | | |
|---------------------------------|---------------------------|
| 1. Argentina | 15. Macedonia-Republic of |
| 2. Bulgaria | 16. Mexico |
| 3. China (People's Republic of) | 17. Monaco |
| 4. Croatia | 18. Norway |
| 5. Czech Republic | 19. Poland |
| 6. Egypt | 20. Russian Federation |
| 7. Germany | 21. San Marino |
| 8. Greece | 22. Serbia |
| 9. Hungary | 23. Slovakia |
| 10. India | 24. Sri Lanka |
| 11. Japan | 25. Switzerland |
| 12. Korea- Republic of | 26. Turkey |
| 13. Kuwait | 27. Ukraine |
| 14. Lithuania | 28. Venezuela |

For definitive up to date information about countries objecting to service by mail, Article 10 (a), see the Status Table of the Service Convention and review the reservations and declarations for each country. (<http://www.hcch.net>)

NOTE: If a foreign state which is a party to the Hague Service Convention formally objected to service by mail when it acceded to the Convention, service under Section 1608(a)(3) should not be attempted, and the plaintiff should proceed to service under Section 1608(a)(4), citing in the cover letter to the Department of State, Office of Overseas Citizens Services the foreign state's objection to service by mail as noted in its accession to the Hague Service Convention.

For updated information, please check the following internet links:

- U.S. Department of State's Judicial Assistance: Service of Process Abroad: http://travel.state.gov/law/judicial/judicial_702.html
- Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters: www.hcch.net

THE INTER-AMERICAN CONVENTION AND ADDITIONAL PROTOCOL: The United States also has a treaty relationship on service with ARGENTINA, BRAZIL, CHILE, COLOMBIA, ECUADOR, GUATEMALA, MEXICO, PANAMA, PARAGUAY, PERU, UNITED STATES, URUGUAY and VENEZUELA. Please see the Department of State's circular on the operations of this Convention at:

http://travel.state.gov/law/judicial/judicial_5219.html

**PROCEDURES FOR SERVICE PURSUANT TO
RULE 4 (f) (2) (C) (ii)**

To serve a defendant pursuant to Rule 4 (f) (2) (C) (ii) of the Federal Rules of Civil Procedure, the Clerk of Court requires you to furnish the following for each case:

- (1) **LETTER of REQUEST:** A letter, addressed to the Clerk of Court, Ruby J. Krajick, requesting the service of documents pursuant to Rule 4 (f) (2) (C) (ii) of the Federal Rules of Civil Procedure. Include in the letter the name(s) and address(es) of the party being served and itemize list of the documents being served.
- (2) **DOCUMENTS:** One (1) copy of the summons and one (1) copy of the complaint (as well as copies of any additional documents filed at the time the case was opened) for EACH defendant; one (1) duplicate copy of all the documents for the Court's file being served on each party.
- (3) Select a method of service for the documents and provide the following:

A. VIA U.S. POSTAL SERVICE

1. **ENVELOPE(S):** One envelope, sufficient to hold an entire set of papers, addressed to each party with the **law firm's return address**.
2. **RETURN RECEIPTS:**
 - a. A pink return receipt card (Postal Service Form #2865) made out to the party being served with the return address of the Clerk of Court. On the upper left hand corner of this card you must include both the case number and judge's initials. (**Attachment B**)
 - b. A white return receipt (Postal Service Form #3806) made out to the party being served with the return address of the law firm. (**Attachment B**)
3. **MONEY:** A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

B. SERVICE VIA FED-EX OR DHL

1. ENVELOPE(S): One envelope, per party being served, sufficient to hold an entire set of papers.
2. INTERNATIONAL AIR WAYBILL: Addressed to the party being served with the law firm's account number and return address. (**Attachment C**)
 - Note: CUBA: For special clearance and specific instructions regarding deliveries, please contact DHL directly at (800) 225-5345.
3. Use the appropriate shipping company's website to print a tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and a cover letter to the Clerk of Court as your return of service.

**PROCEDURES FOR SERVICE PURSUANT TO
28 U.S.C. § 1608(a)(3)
(Direct Mail)**

To serve an agency or instrumentality of a foreign state pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (3), the Clerk of Court requires you to furnish the following for each case:

- (1) **LETTER OF REQUEST:** A letter, addressed to the Clerk of Court, Ruby J. Krajick, requesting service of the documents pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (3). Include in the letter the name(s), title(s) and address(es) of the person(s) to be served, and specify the documents being served.
- (2) **DOCUMENTS:** One (1) copy of the summons, complaint, notice of suit (any additional documents filed at the time case was opened), and affidavit of translator along with translations of each document in the country's official language **for each party/defendant** to be served; and one (1) copy of each of these documents for the Court's file. The notice of suit must be prepared pursuant to 22 CFR §93.2. A copy of these documents must also be tendered to the Clerk's Office along with the other papers mentioned above.

NOTE: AFFIDAVIT OF TRANSLATOR: An affidavit from the translator stating his/her qualifications and that the translation is accurate [Rule 2101(b), Civil Practice Law and Rules of N.Y.] for each party being served and one (1) for the Court's file.

- (3) Select a method of service for the documents and provide the following:

A. VIA U.S. POSTAL SERVICE

1. **ENVELOPE(S):** One envelope, sufficient to hold an entire set of papers, addressed to each party being served with the **law firm's return address**.
2. **RETURN RECEIPTS:**
 - a. A pink return receipt card (Postal Service Form #2865) made out to the party being served with the return address of the Clerk of Court. On the upper left hand corner of this card you must include both the case number and judge's initials. (**Attachment B**)
 - b. A white return receipt (Postal Service Form #3806) made out to the party being served with the return address of the law firm. (**Attachment B**)
3. **MONEY:** A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

B. SERVICE VIA FED-EX OR DHL

1. ENVELOPE(S): One envelope, per defendant, sufficient to hold an entire set of papers.
2. INTERNATIONAL AIR WAYBILL: Addressed to the party being served, the **law firm's return address** and **law firm's account number**. (**Attachment C**)
 - Note: CUBA: For special clearance and specific instructions regarding deliveries, please contact DHL directly at (800) 225-5345.
3. Use the appropriate shipping company's website to print a tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and a cover letter to the Clerk as your Return of Service.

**PROCEDURES FOR SERVICE PURSUANT TO
28 U.S.C. § 1608(a)(4)
(DIPLOMATIC CHANNELS VIA STATE DEPARTMENT)**

To serve an agency or instrumentality of a foreign state pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (4), the Clerk of Court requires you to furnish the following for each case:

- (1) **LETTER OF REQUEST:** A letter, addressed to the Clerk of Court, Ruby J. Krajick, requesting service of the documents pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (4). You must indicate what measures have been employed to effect service under (a) (1)-(3), e.g., that (a) (3) was attempted by the Clerk's Office on a specified date which was more than 30 days prior to this request and the return receipt has not been received by the Clerk's Office. Include in your letter the name(s), title(s), address(es) of the person(s) to be served and specify the documents being served.
- (2) **DOCUMENTS:** For each party to be served, provide two (2) complete sets of the documents in English and the country's official language, and one (1) copy of each of these documents for the Court's file. You **MUST** also include (per party) two (2) copies Notice of Suit English and in the country's official language) plus one (1) copy for the Court's file.

Note: Notice of Suit must be prepared pursuant to 22 CFR §93.2.

- (3) **AFFIDAVIT:** An affidavit from the translator stating his/her qualifications and that the translation is accurate [Rule 2101(b), Civil Practice Law and Rules of N.Y.] for each party to be served and one for the Court's file.
- (4) **CHECK:** Cashier's check or money order for **\$2,275.00** made payable to U.S. Embassy or Consulate involved. For requests for service upon Iran and its political subdivisions the check or money order should be made out to "U.S. Embassy Bern."
- (5) Select a method of service for the documents and provide the following:

A. VIA U.S. POSTAL SERVICE

1. **ENVELOPE(S):** One envelope, sufficient to hold an entire set of papers, addressed to: Secretary of State, Attn: Director of Consular Services, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4th Floor, 2201 C Street NW, Washington, DC 20520; with the **Clerk of Court's return address.**
2. **RECEIPT CARDS:** Completed Certified Mail Receipt (PS Form 3800) and a completed Domestic Return Receipt Card (PS Form 3811). The forms are addressed to:

Secretary of State, Attn: Director of Consular Services, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4th Floor, 2201 C Street NW, Washington, DC 20520. The PS Form 3811 should have the **return address of the Clerk of the Court**. On the upper left-hand corner of this card include the case number and the judge's initials. **(Attachment D & E)**

3. **MONEY:** A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

B. VIA FED-EX OR DHL

1. **ENVELOPE(S):** One envelope, per defendant, sufficient to hold an entire set of papers.
2. **US AIRBILL:** Addressed to: Secretary of State, Attn: Director of Consular Services, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4th Floor, 2201 C Street NW, Washington, DC 20520. **Return address of the Clerk's Office with the law firm's account number.**

Please review the State Department's "Checklist for Plaintiff's Service of Process Upon a Foreign State." (**Attachment A**). If you have any additional questions regarding 28 USC §1608(4) mailings, please contact the U.S. State Department's Office of Policy Review and Inter-Agency Liaison at ASKPRI@state.gov or (202) 736-9110.

**PROCEDURES FOR SERVICE PURSUANT
28 U.S.C. § 1608(b)(3)(B)**

To serve an agency or instrumentality of a foreign state pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (b) (3) (B), the Clerk of Court requires you to furnish the following for each case:

- (1) LETTER OF REQUEST: A letter, addressed to the Clerk of Court, Ruby J. Krajick, requesting service of the documents pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (b) (3) (B). Include in this letter the name(s), title(s), and address(es) of the person(s) to be served, and specify the documents being served.
- (2) One complete set of documents in English, one complete set of documents in the country's official language for each defendant to be served, and one copy of each of these documents for the court's file.
- (3) An affidavit from the translator stating his/her qualifications and that the translation is accurate [Rule 2101(b), Civil Practice Law and Rule of N.Y.] for each defendant to be served and one for the court's file.
- (4) Select a method of service for the documents and provide the following:

A. VIA U.S. POSTAL SERVICE

1. ENVELOPE(S): One envelope, sufficient to hold an entire set of papers, addressed to each party being served with the **law firm's return address**.
2. RETURN RECEIPTS:
 - a. A pink return receipt card (Postal Service Form #2865) made out to the party being served with the return address of the Clerk of Court. On the upper left hand corner of this card you must include both the case number and judge's initials. (**Attachment B**)
 - b. A white return receipt (Postal Service Form #3806) made out to the party being served with the return address of the law firm. (**Attachment B**)
3. MONEY: A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See

page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

B. SERVICE VIA FED-EX OR DHL

1. ENVELOPE(S): One envelope, per party being served, sufficient to hold an entire set of papers.
2. INTERNATIONAL AIR WAYBILL: Addressed to the party being served, the **law firm's return address** and **law firm's account number**. (**Attachment C**)

Note: CUBA: For special clearance and specific instructions regarding deliveries, please contact DHL directly at (800) 225-5345.

3. Use the appropriate shipping company's website to print a tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and a cover letter to the Clerk as your Return of Service.

List of Attachments

- A. Checklist for Plaintiff's Service of Process Upon a Foreign State
- B. U.S. Postal Service Form 3806 and Form 2865 Samples (Registered Mail)
- C. FedEx International Air WayBill Sample/ DHL Express Worldwide Sample
- D. U.S. Postal Service Form 3800 Sample (Certified Mail)
- E. U.S. Postal Services Form 3811 Sample(Domestic Return Receipt Card)

ATTACHMENT A

Checklist for Plaintiffs Service of Process upon a Foreign State

05/04/2011

The U.S. Department of State is charged, under the Foreign Sovereign Immunities Act (FSIA), with handling service of process upon a foreign state or political subdivision through diplomatic channels. The Act specifies that when service of process upon a foreign state cannot otherwise be effected under FSIA, the clerk of court may dispatch a request to the **Secretary of State, attn: Director of Special Consular Services**, for service upon a foreign state defendant. The Department of State's service functions under the FSIA are currently administered by the **Office of Policy Review and Inter-Agency Liaison, CA/OCS/PRI**.

To avoid confusion and common mistakes, please take note of the following items before submitting a request for service under FSIA 1608(a)(4).

1. The defendant must be a foreign state or political subdivision, as defined in section 1603 of the Act, not an agency or instrumentality of a foreign state (to be served under section 1608(b) of the Act). The U.S. Department of State does not serve **natural persons** under the FSIA.
2. The Act allows for service under FSIA 1608(a)(4) only after **30 days have passed** since service was attempted under section 1608(a)(3) (by any form of mail requiring a signed receipt). The U.S. Postal service and private courier services can deliver documents to virtually any location. Plaintiffs should attempt service under FSIA 1608(a)(3) unless a foreign state has specifically objected to service by mail. To determine whether a particular country objects to service by mail, please see our country-specific judicial assistance information pages at http://travel.state.gov/law/info/judicial/judicial_2510.html.
3. The documents must be **translated** into the official language of the foreign state to be served.
4. The summons sheet and the notice of suit should state a **60 day** (not 20 day) response time for the defendant.
5. The notice of suit (or default) should conform to the requirements of **22 CFR 93.2** (the statute specifically refers to notice of suit "in a form prescribed by the Secretary of State by regulation"). The notice of suit must contain a copy of the FSIA.
6. The Act requires plaintiff to have first attempted service under sections FSIA 1608(a)(1), (2) and (3) before proceeding to section 1608(a)(4). Thus, the U.S. Department of State requires a **statement in writing** from the plaintiff or the clerk certifying that these attempts were made or were otherwise not applicable.

7. There should be two copies of either (a) the summons, complaint and notice of suit or (b) a default judgment and notice of default (depending on the request).
8. In cases involving allegations of terrorism, plaintiffs should refer to section 1605(a)(7)(B) regarding arbitration requirements (however, we defer to the court as to the adequacy of any action taken by the plaintiffs in fulfillment of this requirement).
9. The Act requires the clerk of court dispatch the documents; however, a plaintiff may **provide written confirmation** that the court allowed plaintiff to act for the Clerk (after docketing).
10. All requests for FSIA 1608(a)(4) service of process should be addressed to: Director, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4th Floor, 2201 C Street NW, Washington, DC 20520.
11. As of March July 3, 2010, the U.S. Department of State charges, in accordance with 22 CFR 22.1, a **\$2,275 fee** (cashiers check/ money order should be made out to the U.S. Embassy or Consulate involved. For requests for service upon Iran and its political subdivisions the check or money order should be made out to "U.S. Embassy Bern).
12. Clerks who may have further questions regarding these issues may wish to refer to memos from the Administrative Office of U.S. Courts, dated, Nov. 7, 2000, May 20, 1982 and Nov. 6, 1980.

ATTACHMENT B

Registered No.

Date Stamp

To Be Completed
By Post Office

Reg. Fee

Handling
Charge

Postage

Received by

Return
ReceiptRestricted
DeliveryCustomer Must Declare
Full Value \$Domestic Insurance up to \$25,000 is included
based upon the declared value. International
Indemnity is limited. (See Reverse).

OFFICIAL USE

To Be Completed By Customer
(Please Print)
All Entries Must Be in Ballpoint or Typed

FROM

LAW FIRM'S ADDRESS

TO

DEFENDANT'S NAME & ADDRESS

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
May 2007 (7530-02-000-9051) (See Information on Reverse)
For domestic delivery information, visit our website at www.usps.com *Return Receipt for International Mail
(Registered™, Insured and Express Mail®)

CASE#:

JUDGES INITIALS

des Postes des
Etats-Unis
d'Amérique

Par Avion

Postmark of
the office
returning the
receipt
Timbre du
bureau
renvoyant
l'avisReturn by the
quickest route
(air or surface
mail), a découvert
and postage free.The sender completes and indicates the address for the return of this receipt.
(A remplir par l'expéditeur, qui indiquera son adresse pour le renvoi du présent avis.)

Name or Firm (Nom ou raison sociale)

RUBY J. KRAJICK

A renvoyer par
la voie la plus
rapide (aérienne
ou de surface),
à découvert et
en franchise de
port.

UNITED STATES DISTRICT COURT, SDNY

Street and Number (Rue et no.)

500 PEARL STREET

City, State, and ZIP + 4® (Localité et code postal)

NEW YORK, NY 10007

UNITED STATES OF AMERICA

Etats-Unis d'Amérique

PS Form 2865, March 2007

Avis de réception

CN07 (Old C5)

Completed by the office of origin. (A remplir par le bureau d'origine.)	Item Description (Nature de l'envoi)	<input type="checkbox"/> Registered Article (Envoi recommandé)	<input type="checkbox"/> Letter (Lettre)	<input type="checkbox"/> Printed Matter (Imprimé)	<input type="checkbox"/> Other (Autre)	<input type="checkbox"/> Express Mail Inter- national
	<input type="checkbox"/> Insured Parcel (Colis avec valeur déclarée)	Insured Value (Valeur déclarée)		Article Number		
	Office of Mailing (Bureau de dépôt)					Date of Posting (Date de dépôt)
	CHINA TOWN STATION Addressee Name or Firm (Nom ou raison sociale du destinataire)					
Completed at destination. (A compléter à destination.)	DEFENDANT'S NAME & ADDRESS Street and No. (Rue et No.)					
	Place and Country (Localité et pays)					
	This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination; or, (3) if those regulations so provide, by the employee of the office of destination. This signed form will be returned to the sender by the first mail. (Cet avis doit être signé par le destinataire ou par une personne autorisée en vertu des règlements du pays de destination, ou, si ces règlements le comportent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement à l'expéditeur.)					Postmark of the office of destination (Timbre du bureau de destination)
	<input type="checkbox"/> The article mentioned above was duly delivered. (L'envoi mentionné ci-dessus a été dûment livré.)					Date
	Signature of Addressee (Signature du destinataire)			Office of Destination Employee Signature (Signature de l'agent du bureau de destination)		

PS Form 2865, March 2007 (Reverse) PSN 7530-02-000-9775

Attachment B



LC557990898US

LC557990898US

**United States Postal Service
Customs Declaration****CN 22**

May be opened officially.

See instructions on Reverse

Do not duplicate without USPS approval.

Do not duplicate without USPS approval.

Do not duplicate without USPS approval.

Do not duplicate without USPS approval.

Quantity and detailed description of contents (1)

Weight (2) (lb. / oz.)

Value (3) (US\$)

For commercial items only. If known, HS tariff number (4) and country of origin of goods (5)

Total Weight (6)

Total Value (7) (US\$)

I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations.

Date and sender's signature (8)

PS Form 2976, January 2004

Customs Declaration CN 22 — Sender's Declaration

I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations. This copy will be retained at the post office for 30 days.

Sender's Name & Address

Law Firm's Name & Address

Addressee's Name & Address

Defendant's name & Address

Date and sender's signature

Detached from PS Form 2976, January 2004

Post Office Copy

Attachment B

As per the postal rules, a customs form (postal form 2976) must be included when using a letter sized envelope or if the documents to be served are between one and four pounds.

ATTACHMENT C

1 From Please print and press hard.

Date MM/DD/YY Sender's FedEx Account Number **LAW FIRM'S ACCOUNT # 1508 3152 40**

Sender's Name **LAW FIRM'S RETURN ADDRESS** Phone _____

Company _____

Address **ATTORNEY'S**

Address _____

City _____ State _____ Province _____

Country _____ ZIP Postal Code _____

2 To

Recipient's Name _____ Phone _____

Company **DEFENDANT'S ADDRESS**

Address _____ Dept./Floor _____

Address _____

City _____ State _____ Province _____

Country _____ ZIP Postal Code _____

Recipient's Tax ID Number for Customs Purposes
e.g., GST/REG/VAT/NEIN/ABN, or as locally required.

3 Shipment Information ☐ For EU Only: Tick here if goods are not in free circulation and provide C.I.

Total Packages Shipper's Load and Count/SLAC _____ Total Weight _____ lbs. kg _____ DIM L / W / H in. cm _____

Commodity Description DETAIL REQUIRED	Harmonized Code	Country of Manufacture	Value for Customs REQUIRED
Example: 3-men's knitted sweater, 100 percent cotton.			
LEGAL DOCUMENTS			
COMPLETE IN ENGLISH.			

Has EE/SED been filed in AES? ☐ No EE/SED required, value \$2,500 or less per Sch. B Number, no license required (NLR), not subject to ITR. ☐ Yes - Enter AES proof of filing citation: _____

Total Declared Value for Carriage _____ Total Value for Customs (Specify Currency) _____

4 Express Package Service

☐ FedEx Intl. Priority ☐ FedEx Intl. First Available to select locations. Higher rates apply.

☐ _____ ☐ FedEx Intl. Economy FedEx Envelope and FedEx Pak rate not available.

Packages up to 150 lbs. / 68 kg
For packages over 150 lbs. (68 kg), use the FedEx Expanded Service Intl. Air Waybill.

Not all services and options are available to all destinations. Dangerous goods cannot be shipped using this Air Waybill.

5 Packaging *These unique brown boxes with special pricing are provided by FedEx for FedEx Intl. Priority only.

☒ FedEx Envelope ☐ FedEx Pak ☐ FedEx Box ☐ FedEx Tube

☐ Other _____ ☐ FedEx 10kg Box* ☐ FedEx 25kg Box*

6 Special Handling

☐ HOLD at FedEx Location ☐ SATURDAY Delivery Available to select locations for FedEx Intl. Priority only.

7a Payment Bill transportation charges to:

☒ Sender Acct. No. in Section 1 will be billed. ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash Check/ Cheque FedEx Use Only

Enter FedEx Acct. No. or Credit Card No. below.

Credit Card No. _____

Credit Card Exp. Date _____

7b Payment Bill duties and taxes to: ALL shipments may be subject to Customs charges, which FedEx does not estimate prior to clearance.

☒ Sender Acct. No. in Section 1 will be billed. ☐ Recipient ☐ Third Party

Enter FedEx Acct. No. below.

FedEx Acct. No. _____

8 Your Internal Billing Reference First 24 characters will appear on invoice.

OPTIONAL

9 Required Signature

Use of this Air Waybill constitutes your agreement to the Conditions of Contract on the back of this Air Waybill, and you represent that this shipment does not require a U.S. State Department License or contain dangerous goods. Certain international treaties, including the Warsaw Convention, may apply to this shipment and limit our liability for damage, loss, or delay, as described in the Conditions of Contract. **WARNING:** These commodities, technology, or software were exported from the United States in accordance with Export Administration Regulations. Diversion contrary to U.S. law prohibited.

Sender's Signature: _____

This is not authorization to deliver this shipment without a recipient signature.

For Completion Instructions, see back of fifth page.

FedEx Tracking Number

8636 2926 5050

Form ID No.

521

PART 158409-Rev. Date 4/06
©1994-2006 FedEx
PRINTED IN U.S.A.

0402



The terms and conditions of service may vary from country to country. Consult our local office for specific information. Non-Negotiable International Air Waybill • ©1994-2006 FedEx

Questions? Go to our Web site at fedex.com.

Or in the U.S., call 1.800.247.4747. Outside the U.S., call your local FedEx office.

RETAIN THIS COPY FOR YOUR RECORDS.

Attachment C

SRE

PACKAGE LABEL

COMMERCIAL INVOICE LABEL


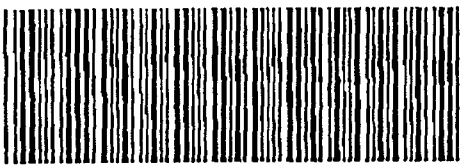
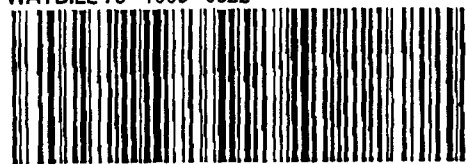
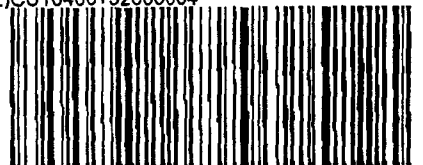
DELIVERY RECORD LABEL

DELIVERY REATTEMPT LABEL

863629265050

863629265050

863629265050

EXPRESS WORLDWIDE DHL Online		XPD	
From: LAW FIRM'S RETURN ADDRESS		Origin: ZYP	
To: DEFENDANT'S ADDRESS		Contact:	
CU-HAV-HAB			
SX		Day	Time:
Ref-Code: 1131658-0049	Date: 2011-05-04	Shpt Weight: 0.5 lb	Place: 1/1
These commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.			
 WAYBILL 75 1005 0822  (2L)CU10400+32000064  (J)JD01 3036 3784 7000 9302		Content: documents	

Please fold or cut in half

DO NOT PHOTOCOPY

Using a photocopy could delay the delivery of your package and will result in additional shipping charge
Printed waybills will be invoiced unless the shipment is voided.

SENDER'S RECEIPT

WAYBILL #: 75 1005 0822

To: DEFENDANT'S ADDRESS

Attention To:
Phone:

Sent By:

Phone:

Rate Estimate: \$113.03
Protection: Asset Protection US 0.00
Description: documents
Customs Value: 0.00 USD
Weight (lbs.): 0.5 lb
Dimensions: 0 x 0 x 0
Ship Ref: 1131658-0049
Special Svc: Duties and Taxes Unpaid

Bill Shipment To: SENDER
Bill to Acct: 763724894

DHL Signature (optional) _____ Route _____ Date _____ Time _____
For Tracking, please go to www.dhl-usa.com or call 1-800-225-5345
Thank you for shipping with DHL.

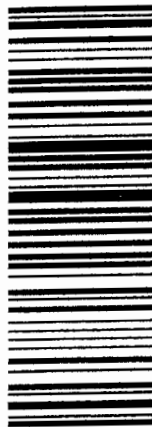
Attachment C

ATTACHMENT D

7011 0470 0001 8689 0532

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL™



7011 0470 0001 8689 0532

7011 0470 0001 8689 0532

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To **SECRETARY OF STATE**
ATTN: DIRECTOR OF CONSULAR SERVICES
Street, Apt. No.; **OFFICE OF POLICY REVIEW &**
or PO Box No. **INTER AGENCY LIAISON (CA/OCS/P**
City, State, ZIP+4 **U.S. DEPARTMENT OF STATE, 2201 C ST. N**
PS Form 3800, August 2006 See Reverse for Instructions

WASHINGTON D.C. 20520

ATTACHMENT E

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SECRETARY OF STATE
ATTN: DIRECTOR OF CONSULAR SERVICES
OFFICE OF POLICY REVIEW &
INTER AGENCY LIASION (CA/OC
U.S. DEPT. OF STATE, SA-29
2201 C STREET NW, 4th Fl
WASHINGTON DC, 20520

2. Article Number

(Transfer from service label)

TRACKING # 1

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from Item 1? ☐ YesIf YES, enter delivery address below: ☐ No

SERVICES

CS/PRI)

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

RUBY J. KRAJICK, CLERK OF COURT
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET, RM. 120
NEW YORK, NY 10007

BACK

CASE NUMBER AND JUDGE'S INITIALS

Attachment E