

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 19-21551-CIV-ALTONAGA/Goodman

In re:

**FARM-RAISED SALMON
AND SALMON PRODUCTS
ANTITRUST LITIGATION**

ORDER

THIS CAUSE came before the Court on Plaintiff, Euclid Fish Company’s Motion for Approval of Plan for Alternative Service of Process on Norwegian Defendants [ECF No. 18] (“Motion”), and Plaintiff, Schneider’s Fish and Seafood Corp.’s Supplemental Memorandum in Support of Euclid Fish Company’s Motion [ECF No. 28] (“Pl.’s Supp.”).

In its Motion, Euclid Fish Company requests the Court authorize alternative service of process on six Norwegian Defendants¹ involved in this suit (“Norwegian Defendants”). (*See* Mot. 1). Plaintiffs propose serving these Defendants by email, as well as by digital publication on a specially created website. (*See id.*; *see also* Pl.’s Supp. 1).

The Norwegian Defendants are all residents of Norway. Each of the Defendants “is a major international business that conducts substantial business by email and maintains well-kept webpages in the English language.” (Mot. 8). These Defendants operate numerous websites that are accessible to current and prospective buyers of farm-raised Atlantic Salmon and use electronic means as a reliable form of communication. (*See* Tropin Decl. [ECF 18-1] ¶¶ 3–16; Schwartzbaum Decl. [ECF 28-1] ¶¶ 8, 10). The Norwegian Defendants’ e-mail addresses are operational and a

¹ The Norwegian Defendants include Mowi ASA (“Mowi”), Grieg Seafood ASA (“Grieg”), Bremnes Seashore AS (“Bremnes”), Ocean Quality AS (“OQ”), SalMar ASA (“SalMar”), and Leroy Seafood Group ASA (“Leroy”). (*See* Mot. 1).

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reliable means of communicating with them. (*See* Schwartzbaum Decl. ¶¶ 8, 10; Tropin Decl. ¶¶ 4, 11, 13–15). Additionally, Plaintiffs have created a publication website located at <https://moskowitz-law.com/schneider-fish>, where copies of the Complaint and all other documents on file in this action will be displayed. (*See* Schwartzbaum Decl. ¶ 7).

Federal Rule of Civil Procedure 4(f)(3) authorizes a district court to order an alternate method for service to be effected upon foreign defendants provided it is not prohibited by international agreement and is reasonably calculated to give notice to the defendants. *See* Fed. R. Civ. P. 4(f)(3); *see also Karsten Mfg. Corp. v. Store*, No. 18-CIV-61624, 2018 WL 8060707, at *1 (S.D. Fla. July 26, 2018) (authorizing alternative service of process via e-mail and digital publication); *Brookshire Bros., Ltd. v. Chiquita Brands Int’l, Inc.*, No. 05-CIV-21962, 2007 WL 1577771, at *2 (S.D. Fla. May 31, 2007) (“[D]istrict courts have broad discretion under Rule 4(f)(3) to authorize other methods of service that are consistent with due process and are not prohibited by international agreements.”) (alteration added) (citing *Prewitt Enters., Inc. v. Org. of Petroleum Exporting Countries*, 353 F.3d 916, 921, 927 (11th Cir. 2003))).

Service by e-mail or publication is not prohibited under international agreement in this case. (*See* Mot. 5). Both the United States and Norway are signatories to The Hague Convention on the Service Abroad of Extra-Judicial Documents in Civil and Commercial Matters, Nov. 15, 1965, 20 U.S.T. 361 (the “Hague Convention”), which does not specifically preclude service by e-mail or publication. *See Karsten*, 2018 WL 8060707, at *1. Where a signatory nation has objected to the alternative means of service provided by Section 10 of The Hague Convention, that objection is expressly limited to those means listed in the objection and does not represent a blanket objection to other forms of service, such as e-mail or publication. *See id.* at *2 (authorizing service by e-mail and publication) (citing *Stat Med. Devices, Inc. v. HTL-Strefa, Inc.*, Case No. 15-cv-

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20590, 2015 WL 5320947, at *3 (S.D. Fla. Sept. 14, 2015) (authorizing service by e-mail)). A court acting under Rule 4(f)(3) therefore remains free to order alternative means of service where a signatory nation has not expressly objected to those means. *See Karsten*, 2018 WL 8060707, at *2 (citing *Gurung v. Malhotra*, 279 F.R.D. 215, 219 (S.D.N.Y. 2011)). Accordingly, service by e-mail, publication, or through a subsidiary does not violate an international agreement.

Service through a subsidiary is also sufficient to satisfy Rule 4(f)(3) because it does not violate The Hague Convention. *See In re Cathode Ray Tube Antitrust Litig.*, No. 07-5944, 2008 WL 4104341 (N.D. Cal. Sept. 3, 2008) (authorizing service of foreign defendant through domestic subsidiary and counsel); *In re LDK Solar Sec. Litig.*, No. C 07-05182, 2008 WL 2415186 (N.D. Cal. June 12, 2008) (authorizing service on local subsidiary). Here, all the subsidiary Defendants are wholly owned by one or more of the foreign Defendants. (*See* Schwartzbaum Decl. at ¶ 9 (citing Exhibit A [ECF No. 28-1])).

Plaintiffs' service plan is reasonably calculated to give notice to the foreign Defendants. Plaintiffs cite numerous cases where courts have authorized plaintiffs to serve foreign defendants through e-mail, publication, and a subsidiary. (*See* Pl.'s Supp. at 2–5; *see* Mot. 7–10) (listing cases authorizing service via e-mail and then listing cases authorizing service on a subsidiary). Similarly, here (1) Defendants conduct a majority of their business over the Internet; (2) Defendants routinely use e-mail to conduct their business; (3) Defendants have subsidiaries in the United States that have a sufficiently close relationship to the Defendant parent companies; and (4) Plaintiffs show that email is likely to reach Defendants. *See Karsten*, 2018 WL 8060707, at *2 (citing *Rio Props. Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1017–18 (9th Cir. 2002)).

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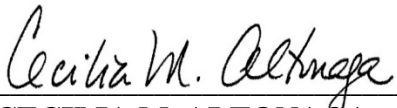
Thus, Plaintiffs have shown good cause why leave should be granted to allow service of summonses, the Complaint, and all subsequent filings in this matter upon the six Norwegian Defendants via e-mail or digital publication.

For the foregoing reasons, it is

ORDERED AND ADJUDGED that Plaintiff, Euclid Fish Company's Motion for Approval of Plan for Alternative Service of Process on Norwegian Defendants [ECF No. 18], as supplemented by Plaintiff, Schneider's Fish and Seafood Corp.'s Supplemental Memorandum [ECF No. 28], is **GRANTED** as follows:

1. Plaintiffs may serve summons, a copy of the Complaint, and all other future filings in this matter upon each Norwegian Defendant via the e-mail addresses provided by that Defendant (i) as part of the data related to its online marketing, advertising, sales and website, including customer service e-mail address and onsite contact form; or (ii) via its sales agents in the United States listed on the website for each domain name; and
2. Plaintiffs may serve summons, a copy of Schneider's Fish and Seafood Corp.'s Complaint, and all other future filings in this matter upon the Norwegian Defendants via publication by posting a copy of the same on the website available at <https://moskowitz-law.com/schneider-fish>.

DONE AND ORDERED in Miami, Florida, this 14th day of May, 2019.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record