

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 11-24327-CV-COOKE/TURNOFF

ROYAL CARIBBEAN CRUISES, LTD.,

Plaintiff,

v.

RICARDO ANDINO, as parent and natural  
guardian of CHRISTINA CLAUDIO,  
a minor,

Defendant/Counter-Claimant/  
Third-Party Plaintiff,

v.

PAUL DeLANGE,

Third-Party Defendant.

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**ORDER**

**THIS CAUSE** is before the Court upon Petitioner, Royal Caribbean Cruises, Ltd.'s ("RCCL") Motion to Quash Service of Process [DE29], Third-Party Defendant DeLange's Motion to Quash Service of Process<sup>1</sup> [DE49], and a prior Order of Referral entered by the Honorable Marcia G. Cooke. A hearing on these Motions [DE29, 49] took place before the undersigned on Monday, June 25, 2012. [DE50].

Upon review of the Motions, the court file, hearing argument from counsel, and being otherwise duly advised in the premises, the undersigned makes the following findings.

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<sup>1</sup>This Motion includes a request for dismissal on grounds of lack of personal jurisdiction. That portion of the Motion has not been referred to the undersigned, and remains pending before Judge Cooke.

Along with his Answer and Affirmative Defenses, Defendant/Claimant Ricardo Andino (“Defendant/Claimant”) served: (1) a Counterclaim against RCCL; and (2) a Third-Party Complaint against DeLange, alleging, *inter alia*, negligence and negligence *per se*. [DE15]. Defendant/Claimant attempted to serve DeLange by way of Florida’s Secretary of State pursuant to Fla. Stat. §48.181. The Secretary of State accepted substitute service on April 20, 2012. [DE43-3]. Instead of submitting the Complaint, Summons and Letter from the Secretary of State to DeLange himself (as the third- party defendant), Defendant/Claimant forwarded the documents directly to counsel for RCCL. [DE43-1]. RCCL seeks to quash the service as improper.

The record reveals that DeLange is employed by RCCL. According to RCCL, he resides in his native South Africa during at least one quarter of the year. [DE50]. During the rest of the year, he resides at either Coco Cay, a private island in the Bahamas owned by RCCL, or Labadee, an island resort/port located off the coast of Haiti. RCCL leases the Labadee property. Both locations serve the purpose of allowing RCCL’s passengers to use it as a beach for the day when its cruise ships dock nearby. [DE40]. Access to both CocoCay and Labadee appears to be limited to RCCL’s ships.

Neither location has overnight accommodations for cruise passengers. *Id.* However, a few of RCCL’s employees do reside there in order to provide services when the cruise ships drop anchor. It also appears that RCCL receives mail on behalf of such employees and forwards same to either island for delivery. [DE50].

Here, Defendant/Claimant attempted service as follows: (1) by registered/certified mail to Coco Cay c/o Royal Caribbean Cruises; and by (2) substitute service *via* the Florida Secretary of State. Defendant/Claimant urges that service should be deemed appropriate given the

circumstances surrounding DeLange's place of adobe. The undersigned agrees.

Rule 4 provides, in part, that an individual in a foreign country may be served by "any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt." Fed. R. Civ. P. 4( c)(2)(f)(ii); see also Balachader v. NCL, Ltd., Case No: 11-21064-cv-JLK. The spirit and purpose of the Rules are geared towards ensuring that service be reasonably calculated to provide notice and an opportunity to respond. In this court's view, that has already occurred.

It is worth noting that RCCL has entered into an indemnity agreement and/or joint defense agreement with DeLange. [DE50]. In fact, RCCL's counsel filed the previously noted Motion to Quash [DE49] on DeLange's behalf. As such, it cannot be said that certified mail service (previously served upon the Secretary of State) to RCCL's counsel violates DeLange's due process rights.

Consistent with the Court's instructions, as stated in open Court, it is hereby **ORDERED AND ADJUDGED** that RCCL's Motion to Quash Service of Process [DE29] is **DENIED**. It is **FURTHER ORDERED AND ADJUDGED** that DeLange's Motion to Quash Service of Process [DE49] is **DENIED** only as it relates to the service of the Summons and Complaint. De Lange's Motion to Dismiss for Lack of Personal Jurisdiction remains before Judge Cooke.

**DONE AND ORDERED** in Chambers at Miami, Florida on this <sup>29</sup> day of June 2012.



**WILLIAM C. TURNOFF**  
**UNITED STATES MAGISTRATE JUDGE**

cc: Hon. Marcia G. Cooke  
Counsel of Record