

FILED

MAY 28 2010



Carol E. Higbee, P.J.C.

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OPINIONS**

**SUPERIOR COURT OF NEW JERSEY
COUNTIES OF
ATLANTIC AND CAPE MAY**

CAROL E. HIGBEE, P.J.Cv.

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MEMORANDUM OF DECISION ON MOTION
Pursuant to Rule 1:6-2(f)

CASE: **Collins v. Merck, et al.**

DOCKET #: **ATL-L-1909-10**

DATE: **May 28, 2009**

MOTION: **Plaintiff's Motion for Substituted Service / Appoint an International
Process Server**

ATTORNEYS: **Michael Johnson, Esq. for Plaintiff Nancy Collins**

1) SUMMARY

The complaint in this case was filed on April 30, 2010; however, plaintiff has yet to serve defendant Teva Pharmaceutical Industries, Ltd. (Teva) because it is an Israeli corporation. Therefore, Plaintiff Nancy Collins (Plaintiff) brings this motion pursuant to R. 4:4-4(b)(1)(B) to allow service to be perfected through an international process server. Having carefully considered the brief, for the reasons stated herein, plaintiff's motion is GRANTED.

2) DISCUSSION

R. 4:4-4(b)(1)(B), in the pertinent part, provides:

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in personam jurisdiction may be obtained over any defendant as follows ... (B) personal service outside the territorial jurisdiction of the United States, in accordance with any governing international treaty or convention to the extent required thereby, and if none, in the same manner as if service were made within the United States, except that service shall be made by a person specially appointed by the court for that purpose

Charter 1, Article 3 of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters developed at the Tenth Session of the Hague Conference on Private International Law on November 15, 1965, adopted by both the United States and Israel, provides:

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Plaintiff requests that APS International, Ltd., 7800 Glenroy Rd., Minneapolis, MN 55439 be appointed as competent judicial officers for the purposes of service upon Teva. This Court finds no reason why APS International, Ltd. is not competent to serve this role. Further, Teva is an Israeli corporation and Israel has adopted the Haugue convention that allows for such service. Because R. 4:4-4(b)(1)(B) allows for service pursuant to international treaty, such as the Hague Convention, Plaintiff's motion is granted.

3) CONCLUSION

There being no opposition to this motion and for good cause shown, plaintiff's motion to permit substituted service and appointment of an international process server is GRANTED. An appropriate order has been entered. Conformed copies will accompany this Memorandum of Decision.


HON. CAROL E. HIGBEE, P.J.Cv.