UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

MARLENE CUETO IGLESIAS, an individual Plaintiff, vs. PERNOD RICARD, Public Société Anonyme Defendant.	Case No: 1:20-cv-20157-KMW

AMENDED[1] PLAINTIFF'S MOTION TO DEEM DEFENDANT SERVED

COMES NOW, MARLENE CUETO IGLESIAS (hereinafter, "Plaintiff" or "Marlene"), by and through her undersigned counsel, and pursuant to Rule 4 of the Federal Rules of Civil Procedure, as well as this Court's inherent authority, hereby requests that this Court deem Defendant served. Plaintiff states the following in support:

1. On or about January 16, 2020, Plaintiff was issued a Summons to Pernod Ricard. As Pernod Ricard is a foreign business located in France, Plaintiff had to serve it through means that were allowed by both the law in the United States and France.

[1] Plaintiff's Motion to Deem Defendant Served is amended ONLY as it pertains to the spelling of Plaintiff's name. Undersigned counsel mistakenly spelled "Cueto" as "Cuerto."

2. On or about February 6, 2020, the Complaint and Summons (hereinafter, "Service Documents") were certified translated. **See Exhibit A – Certified Translation of Complaint and Summons.**

3. This was sent to a registered Huissier de Justice (hereinafter referred to as, "Process Server" for convenience), a French equivalent to a process server. On February 19, 2020, two-hundred euros was sent as payment for formal service of process. **See Exhibit B – Receipt of Payment.**

4. On February 25, 2020, the Process Server issued a Return of Service – Served. **See Exhibit C – Return of Service (French).**

5. This Return of Service was Certified Translated. **See Exhibit D - Page One and Page Two – Translation of Return of Service.**

6. The Process Server went to the address, confirmed that the address was correct for Defendant, but the individual who was there refused to accept Service of Process. In accordance with French law, since the address was correct but the individual at that address refused to accept service of process, a copy of the Service Documents was left in a sealed enveloped by the Process Server, and the Process Server's seal was placed at the outside of the envelope.

7. Plaintiff endeavored to find out whether, under French law, this would be acceptable as service of process. In that stead, Plaintiff communication with the Process Server bye-mail, who indicated that according to French Law, this form of service of process was allowed. This is indicated on the actual Return of Service in Exhibit C. **See Also Exhibit E – Communication with Process Server.**

8. Finally, Plaintiff verified the Process Server's communication and declaration by looking up the French Code of Civil Procedure, specifically Article 655 and 656, which can be found on https://www.legifrance.gouv.fr/Traductions/en-English/Legifrance-translations. https://www.legifrance.gouv.fr is the website run the French government responsible for publishing legal texts. **See Exhibit F – English Version of Article 655 and 656 as taken from the above-mentioned website.**

MEMORANDUM OF LAW

Fed. R. Civ. P. 4(h)(2) articulates that if a Plaintiff wishes to serve a Corporation, Partnership, or an Association, and that Corporation, Partnership, or Association is not within any judicial district in the United States, services may be completed under Fed. R. Civ. P. 4(f). Under Fed. R. Civ. P. 4(f)(2)(A), Plaintiff can serve the foreign entity by a method that is reasonably calculated to give notices prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction.

Article 10(c) of the Hague Convention provides that service shall be "through the judicial officers, officials or other competent persons of the State or destination." Hague Convention art. 10(c). This means that French law requires that service be made by the applicable central authority designated by the French government, or, alternatively, by an authorized bailiff or huissier. See *Perfumer's Workshop, Ltd. v. Roure Bertrand du Pont, Inc.*, 737 F. Supp. 785, 789 (S.D.N.Y. 1990)(holding that Article 10(c) has been interpreted to mean that service must be made through an authorized French bailiff or huissier de justice).

As indicated by the Return of Service, Article 655 and Article 656 of the French Code of Civil Procedure acknowledges that the way that the Service Documents were served complies with French law.

Ultimately, based on the Return of Service provided by the Process Server, and French law, Plaintiff believes that the Defendant, Pernod Ricard, should be deemed served as of February 25, 2020. Defendant should be given 21 days as indicated in Fed. R. Civ. P. 12(a)(1)(A)(i) to enter an appearance in this Court and defendant itself, or face the possibility of a default judgment.

Date: March 3, 2020

Respectfully submitted,

By:

Law Offices of Andre G. Raikhelson.
301 Yamato Road, Suite 1240
Boca Raton, FL 33431
Telephone: (954) 895-5566
Primary Email: arlaw@raikhelsonlaw.com

/s/ Andre G. Raikhelson
Andre G. Raikhelson, Esq.
Bar Number: 123657

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on March 03, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the Service List with the Court in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Dated: March 03, 2020

By: /s/ Andre G. Raikhelson