

'Landmark Decision:' Florida Court Eases Email Service Rules for Overseas Defendants

"There is no hierarchy of service," the Third District Court of Appeal ruled. "Service via email is one way among several in which a Florida plaintiff can serve an international defendant."

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Third District Court of Appeal in Miami, FL. Photo: Candace West

Florida's Third District Court of Appeal ruled this week that foreign defendants can be served via email without having to prove due diligence or meet Hague Convention requirements—a decision the plaintiff's attorney said would expedite litigation with international parties and defendant's counsel claimed created a "problematic" disadvantage for defendants living abroad.

The panel decision is the appellate court's interpretation of a 2024 Florida statute guiding email service in litigation. In the underlying case, plaintiff Diaz Reus & Targ alleged Wepard Corp. Ltd. LLC and Forsun Boats Ltd. failed to pay legal fees and breached a contract. The Malta-based defendants were all served via email, which they argued violated the Hague Convention on the Service Abroad of Judicial and Extrajudicial

Documents in Civil or Commercial Matters, and that the plaintiff had failed to meet due diligence typically required for electronic service.

But Third DCA's ruling found that Florida law requires due diligence only of domestic defendants, not of those living abroad.

"[T]he foreign service statute does not require a showing of due diligence prior to the granting of email service," the Wednesday opinion reads. "There is no hierarchy of service. Service via email is one way among several in which a Florida plaintiff can serve an international defendant."

Moving forward, plaintiffs will only have to seek leave of court, show service has been calculated to reasonably provide notice and prove that the means of service is not prohibited by an international agreement to serve defendants via email. Prince-Alex Iwu, senior counsel at Diaz Reus representing the firm, told the Daily Business Review that the "landmark decision" provides clarity and will cut time spent serving international parties, which can often span months or years.



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The problem with the process of service under the Hague Convention is that it was tedious. It usually took anywhere between six months and two years. Parties often found themselves stopped in the middle of service that was very inefficient," he said. "This decision clarifies that you can attempt service by email in the first instance in Florida without attempting service under the Hague Convention."

Carlos E. Alvarez, counsel at The Legal Team for the appellants, said his client had been hopeful that the court would set the same standard of diligence granted to domestic

defendants.

"We were hoping that the Third DCA would see, for foreigners, there would be some type of diligence required or some type of showing before you can just switch off to email service on top of an international treaty," Alvarez said in a phone interview. "There is a diligence requirement for residents, but for nonresidents, there isn't. I find that to be somewhat problematic."

Alvarez, whose client is considering an appeal, noted that he appreciated the detailed reasoning provided in the opinion, and added that he himself has struggled through the "very meticulous and, in sense, antiquated processes" to serve defendants overseas.

"In this new digital age, it helps, in some ways," he said.

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