No.

IN THE

Supreme Court of the United States

UGUR TATLICI,

Petitioner,

v.

MEHMET TATLICI,

Respondent.

On Petition for Writ of Certiorari
to the Fourth District Court of Appeal
of the State of Florida

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

This Petition presents the following issues:

I. WHETHER UGUR TATLICI RECEIVED ANY COMMUNICATION AS TO THIS LAWSUIT FROM THE CENTRAL AUTHORITY OF TÜRKIYE AS REQUIRED BY THE HAGUE CONVENTION ON SERVICE.

II. WHETHER AS A RESULT OF NOT RECEIVING ANY NOTIFICATION OF THE LAWSUIT UNDER THE HAGUE CONVENTION RENDERS THE FINAL JUDGMENT VOID

III. WHETHER EVEN ASSUMING, THAT UGUR TATLICI'S LOCATION WAS UNKNOWN, COUNSEL FOR THE PLAINTIFF, MEHMET TATLICI PERFORMED DUE DILIGENCE.

IV. WHETHER BROTHER 2'S DUE PROCESS WAS DENIED BY THE BROTHER 1'S FAILURE TO PROPERLY SERVE PROCESS PER THE HAGUE CONVENTION

CORPORATE DISCLOSURE STATEMENT

No party to this proceeding is a corporation having parent corporations or publicly held companies owning 10% or more of the corporation's stock.

RELATED CASES

There are related cases within the meaning of Rule 14.1(b)(iii):

1. Mehmet Tatlici and Craig T. Downs v. UGUR TATLICI, 50-2018-CA-002361-XXX-MB
2. UGUR TATLICI v. Mehmet Tatlici, 4D2023-0491 (Fla. 4th DCA 2024).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, UGUR TATLICI (hereinafter referred to as "Mr. Tatlici"), by and through undersigned counsel, respectfully petitions this Honorable Court for a Writ of Certiorari to review the State of Florida, County of Palm Beach, Fifteenth Judicial District Court's decision in this state.

OPINIONS BELOW

The State of Florida, County of Palm Beach, Fifteenth Judicial District Court's January 31, 2023 opinion which awarded $740,000,000 without due process from a foreign national who never knew to appear, where the Final Judgment was affirmed based on a the finding 1) that service in Turkey by U.S. mail of an untranslated Complaint on a Nonresident was completed by mailing the untranslated Complaint, and 2) that the Hague Convention did not apply to the a case where there was such substituted service, and 3) upholding the judgment of $740,000,000.00 against Mr. Tatlici, is reported and appears at Appendix A (App. 1a). The Fourth District Court of Appeal's decision in *Tatlici v. Tatlici,* 379 So. 3d (Fla. 4th DCA 2024), *per curiam* Order affirming the Trial Court's Decision and appears at Appendix C (App. 44a). The Fourth District Court of Appeal's Order denying Mr. Tatlici's Motion for a Written Opinion appears at Appendix E (App. 46a).

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Florida Statute § 48.161 states in full:

> Section 48.161 - Method of substituted service on nonresident **(1)** When authorized by law, substituted service of process on a nonresident individual or a corporation or other business entity incorporated or formed under the laws of any other state, territory, or commonwealth, or the laws of any foreign country, may be made by sending a copy of the process to the office of the Secretary of State by personal delivery; by registered mail; by certified mail, return receipt requested; by use of a commercial firm regularly engaged in the business of document or package delivery; or by electronic transmission. The service is sufficient service on a party that has appointed or is deemed to have appointed the Secretary of State as such party's agent for service of process. The Secretary of State shall keep a record of all process served on the Secretary of State showing the day and hour of service. **(2)** Notice of service and a copy of the process must be sent forthwith by the party effectuating

service or by such party's attorney by registered mail; by certified mail, return receipt requested; or by use of a commercial firm regularly engaged in the business of document or package delivery. In addition, if the parties have recently and regularly used e-mail or other electronic means to communicate between themselves, the notice of service and a copy of the process must be sent by such electronic means or, if the party is being served by substituted service, the notice of service and a copy of the process must be served at such party's last known physical address and, if applicable, last known electronic address. The party effectuating service shall file proof of service or return receipts showing delivery to the other party by mail or courier and by electronic means, if electronic means were used, unless the party is actively refusing or rejecting the delivery of the notice. An affidavit of compliance of the party effectuating service or such party's attorney must be filed within 40 days after the date of service on the Secretary of State or within such additional time as the court allows. The affidavit of compliance must set forth the facts that justify substituted service under this section and that show due diligence was exercised in attempting to locate and effectuate personal service on the party before using substituted service under this section. The party effectuating service does not need to allege in its original or amended

complaint the facts required to be set forth in the affidavit of compliance. **(3)** When an individual or a business entity conceals its whereabouts, the party seeking to effectuate service, after exercising due diligence to locate and effectuate personal service, may use substituted service pursuant to subsection (1) in connection with any action in which the court has jurisdiction over such individual or business entity. The party seeking to effectuate service must also comply with subsection (2); however, a return receipt or other proof showing acceptance of receipt of the notice of service and a copy of the process by the concealed party need not be filed. **(4)** The party effectuating service is considered to have used due diligence if that party: **(a)** Made diligent inquiry and exerted an honest and conscientious effort appropriate to the circumstances to acquire the information necessary to effectuate personal service; **(b)** In seeking to effectuate personal service, reasonably employed the knowledge at the party's command, including knowledge obtained pursuant to paragraph (a); and**(c)** Made an appropriate number of attempts to serve the party, taking into account the particular circumstances, during such times when and where such party is reasonably likely to be found, as determined through resources reasonably available to the party seeking to secure service of process. **(5)** If any individual on

whom service of process is authorized under subsection (1) dies, service may be made in the same manner on his or her administrator, executor, curator, or personal representative. **(6)** The Secretary of State may designate an individual in his or her office to accept service. **(7)** Service of process is effectuated under this section on the date the service is received by the Department of State. **(8)** The Department of State shall maintain a record of each process served pursuant to this section and record the time of and the action taken regarding the service. **(9)** This section does not apply to persons on whom service is authorized under s. 48.151.
Fla. Stat. § 48.161

Florida Statute § 48.181 (2018)

48.181 Service on nonresident engaging in business in state.—
(1) The acceptance by any person or persons, individually or associated together as a copartnership or any other form or type of association, who are residents of any other state or country, and all foreign corporations, and any person who is a resident of the state and who subsequently becomes a nonresident of the state or conceals his or her whereabouts, of the privilege extended by law to nonresidents and others to operate, conduct, engage in, or carry on a business or business venture in the state, or to have

an office or agency in the state, constitutes an appointment by the persons and foreign corporations of the Secretary of State of the state as their agent on whom all process in any action or proceeding against them, or any of them, arising out of any transaction or operation connected with or incidental to the business or business venture may be served. The acceptance of the privilege is signification of the agreement of the persons and foreign corporations that the process against them which is so served is of the same validity as if served personally on the persons or foreign corporations.

(2) If a foreign corporation has a resident agent or officer in the state, process shall be served on the resident agent or officer.

(3) Any person, firm, or corporation which sells, consigns, or leases by any means whatsoever tangible or intangible personal property, through brokers, jobbers, wholesalers, or distributors to any person, firm, or corporation in this state is conclusively presumed to be both engaged in substantial and not isolated activities within this state and operating, conducting, engaging in, or carrying on a business or business venture in this state.

Florida Statute § 48.197

(1) Service of process may be effectuated in a foreign country upon a party, other than a minor or an incompetent person, as provided in any of the following:

(a) By any internationally agreed-upon means of service reasonably calculated to give actual notice of the proceedings, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.
Fla. Stat. § 48.197

Hague Convention on Service – 14. Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters – Articles 1, 3, 5, 6, 10

Article 1

The present Convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad.

This Convention shall not apply where the address of the person to be served with the document is not known.

Article 3

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 legalization 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.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either –

a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph *(b)* of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with –

a) the freedom to send judicial documents, by postal channels, directly to persons abroad,

b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,

c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the

defendant has not appeared, judgment shall not be given until it is established that –

a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or

b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention,

and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled –

a) the document was transmitted by one of the methods provided for in this Convention,

b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,

c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

Fourteenth Amendment of the United States Constitution

AMENDMENT XIV

Section 1.
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

At the heart of the matter *sub judice* is Brother 1 embroiling Brother 2 in legal battles on numerous fronts and countries, due to the Brother 1's

displeasure as to his inheritance and the distribution of property and assets of his father's estate per the Last Will and Testament of the father, Mehmet Salih Tatlici (hereinafter referred to as "Father").

The Father passed away on February 22, 2009, in Istanbul, Turkey at the age of 77. The Father was one of Turkey's richest citizens and was survived by his wife, Nurten Tatlici, and his three adult sons and two grandchildren. The litigation arising from this death was instigated by Brother 1 the oldest son, MEHMET TATLICI, who began his campaign of harassment and non-stop legal battles against his half-brother, Brother 2, UGUR TATLICI, shortly after their Father's death in 2009.

MEHMET TATLICI filed a Petition for Administration as to his Father's Estate in Palm Beach County, Florida, Case Number 50 2009 CP 001185 XXXX SB ("Probate Case") and a Complaint in Palm Beach County Circuit Civil under the Uniform Fraudulent Transfer Act, case number 50 2009 CA 030873 XXX MB ("Fraudulent Transfer Case") against his step-mother Nurten Tatlici and his half-brother, Brother 2. The two matters were consolidated and then bifurcated.

MEHMET TATLICI filed his Initial Complaint in the matter *sub judice* on February 26, 2018, raising four Counts: Count I – Defamation Per Se; Count II – Defamation Per Quod; Count III – Defamation by Implication; Count IV – False Light; all of which are based upon alleged defamatory articles written about Brother 1 and allegedly "authored" by Brother 2. The Complaint was filed in Palm Beach County, Florida,

case number 50 2018 CA 002361 XXXX MB ("Defamation Case"). Despite Brother 1's contentions, the Initial Complaint was never personally served on Brother 2.

An abbreviated timeline of this matter is important:

1. February 26, 2018 - Initial Complaint was filed in Palm Beach County.

2. May 21, 2018 – Brother 1 filed a Motion for Extension of Time to Serve Brother 2.

3. May 23, 2018 – Brother 1 issued two summonses, one for Brother 2 at his property located in Antalya, Turkey, and one for Substituted Service pursuant to Fla. Stat. § 48.161 and § 48.181.

4. July 6, 2018 – The Court filed an Order directing service.

5. July 17, 2018 – Brother 1 filed his Affidavit of Substitute Service.

6. January 10, 2019 – Brother 1 filed an Amended Complaint adding a party Plaintiff and realleging the facts and counts of the Initial Complaint as to the original Plaintiff and the new party-Plaintiff.

7. February 20, 2019 – Brother 1 filed notice that the Secretary of State of Florida

received and accepted the Initial Complaint on behalf of the Brother 2.

8. February 20, 2019 – Brother 1 moved for Clerk's Default.

9. February 28, 2019 – the trial judge entered a Notice of Default Not Entered due to "No service as to amended complaint."

10. March 1, 2019 – Another Summons was issued by the Brother 1, this time only to the Secretary of State of Florida and pursuant to Fla. Stat. § 48.161 and § 48.181.

11. March 13, 2019 – The Court issued an Order setting Special Set Hearing. Notice of the hearing was supposedly sent to Brother 2 at a Florida address.

12. March 25, 2019 – Brother 1 filed an Affidavit that Service was Accepted by the Secretary of State of Florida as to the Amended Complaint.

13. April 22, 2019 – the Plaintiff again moved a for Clerk's Default.

14. April 25, 2019 – A Clerk's Default was entered.

15. April 25, 2019 – Brother 1 moved to set the matter of Damages for Jury Trial.

16. May 24, 2019 – the Court entered an Order setting the matter for Jury Trial on October 18, 2019. Notice of that Order was mailed to Brother 2 at Kadriye Mah. Uckum Tepesi, ad. No:1, Serik/Antalya, Turkey. No zip code was used.

17. August 2, 2019 – The Court received the mail containing the above Order and sent to the above address with a "return to sender – not deliverable as addressed" notation made by the US Postal Service.

18. October 1, 2019 – Brother 1 filed Pretrial Stipulations. Notice of filing was again sent to the same address above, again without a zip code.

19. December 19, 2019 – In the absence of Brother 2, a Jury Trial was held in Palm Beach County, Florida as to Damages.

20. December 19, 2019 – the Jury's Verdict was published awarding the Plaintiff damages in the amount of seven-hundred and forty million dollars ($740,000,000.00).

21. January 8, 2019 – A Final Judgment for $740,000,000 was entered and a copy was mailed to Brother 2.

22. March 16, 2020 – the envelope which contained the Final Judgment was returned again as undeliverable. This address also fails to contain the zip code.

23. October 15, 2020 – After he learned of the legal proceeding, Brother 2 filed a Notice of Appearance for the limited purpose of challenging personal jurisdiction Brother 2's counsel.

24. October 15, 2020 – the Brother 2 filed his Omnibus Motion to Vacate Default and Final Judgment; To Quash Service of Process and to Dismiss for Lack of Jurisdiction.

25. October 30, 2020 – Brother 2 filed his Request for Hearing on his Omnibus Motion.

26. April 27, 2021 – Brother 2 filed a Supplement to his Omnibus Motion.

27. November 11, 2022 – Brother 1 filed his Response in Opposition to Defendant's Omnibus Motion to Vacate.

28. December 1, 2022 – Brother 1's Omnibus Motion to Vacate was heard at hearing.

29. January 30, 2023 – The trial judge issued an Order denying Brother 2's Omnibus Motion to Vacate.

30. February 15, 2023 – Brother 2 filed his Motion for Rehearing.

31. February 23, 2023 – Brother 2 filed his

Notice of Appeal to the Florida Fourth District Court of Appeal.

32. February 1, 2024 – the Florida Fourth District Court of Appeal issues its Opinion Affirming *per curiam* the Trial Court's Order Denying Brother 2's Omnibus Motion.

33. March 15, 2024 – the Florida Fourth District Court of Appeal issues its Mandate.

Brother 2 was at all material times and remains a nonresident of Florida or any other state or territory of the United States. He was and remains a resident of the Country of Türkiye. He is not domiciled or a resident of the State of Florida. He does not have an office, or a registered agent, nor does he operate a business or business venture in the State of Florida. Brother 2's permanent residence is in Antalya, Türkiye as disclosed in his Deposition, and as found in the MERSIS System which is the registry for all Turkish citizens. UGUR TATLICI owns property all over the world, and has businesses set up in Türkiye and the United Arab Emirates, as a result he is not always physically within his permanent residence. Türkiye defines permanent residence (settlement place) in similar ways that the State of Florida defines permanent residence.

The Turkish Civil Code defines Settlement Place and Change of Settlement Place in Articles 19 and 20 of their Civil Code.

V. Settlement Place
1. Definition
Article 19 -
Settlement place is the place where a person intends to live permanently.
A person may not have more than one settlement place at the same time.
This principle may not applicable for the commercial and industrial corporations.

2. Change of Settlement Place and Residence
Article 20 –
Change of Settlement Place may only be realized unless a new one is provided.
Where a person has an *unknown* settlement place or not yet provided a settlement place in Turkey even though he/she leaves the previous settlement place in abroad, then the current residence of that person is regarded as his/her settlement place. (emphasis added).

In *Baldwin v. Henriquez,* 279 So. 3d 328, 335 (Fla. 2d DCA 2019) citing to Florida Legislature's definition of "permanent residence" as:

> [T]hat place where a person has his or her true, fixed, and permanent home and principal establishment to which, *whenever absent,* he or she has the intention of returning. A person may have only one permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to

continue until the person shows that a change has occurred.

The Hague Convention does not operate as to where a person is physically located, but where the individual is permanently located. It is not the locus of the person but the locus of the residence which triggers application of the Hague Convention. Türkiye allows for service of an individual at his permanent residence through its Central Authority and by having an authorized individual sign for the official document from the Central Authority with the legal documents. Antalya, Türkiye, the Krystal Hotel is Brother 2's official and permanent address. It is his registered address with the government of Türkiye and is the place where he received and continues to receive all of his mail and correspondence. It is this address in Antalya, Türkiye where he has received other Summonses, and Complaints.

Due to his failure to properly serve Brother 2, in complete disregard of the Hague Convention, Brother 1 was able to obtain a Default against Brother 2 and then appear at a Jury Trial *in abstentia* and receive a Final Judgment in his favor in the amount of $740,000,000.

Brother 2 was never served the Original Complaint, nor the Amended Complaint. As a result, Brother 2 was never represented by counsel as to the underlying case until *after* the Final Judgment was entered in the matter. As soon as he learned of the proceeding which had occurred behind his back, Brother 2 moved quickly to vacate the judgment and quash service of process.

After a hearing on the issue, the Trial Court of Palm Beach County Florida entered an order denying Brother 2's Omnibus Motion. Brother 2 timely appealed to the Florida Fourth District Court of Appeal, which entered a *per curiam* order Affirming the Trial Court's Decision. After denying Brother 2's request for a written opinion, the Fourth District Court issued its Mandate.

When one of Florida's District Courts of Appeal issues a Mandate without having written a decision, the appellant has no further recourse as there is no right to appeal to the Florida Supreme Court.

This Petition for Writ of Certiorari follows.

REASONS FOR GRANTING THE PETITION

This Court's Rule 10, entitled "Considerations Governing Review on Certiorari." Says that certiorari will be granted "only for compelling reasons," *City & Cnty. Of San Francisco v. Sheehan*, 575 U.S. 600, 619 (2015), and sets forth situations that can weigh in favor of certiorari, although they are "neither controlling nor fully measuring the Court's discretion," `According to Rule 10, among the compelling reasons which tend to weigh in favor of certiorari include cases where "a state court. . . has decided an important federal question in a way that has not been, but should be, settled by this Court." *See* Rule 10(b) and (c).

The fundamentals of Due Process in American Juris Prudence hinge upon service of process.

Without service of process, personal or substituted, the American court system would fall into disarray with Defendants not being made aware of the lawsuits against them until after a judgment is entered and gamesmanship of a plaintiff's counsel, much like what occurred in this case, where by not abiding by the governing treaty, a plaintiff's counsel can make statements to the Court without the presence of the defendant and obtain a sizeable judgment.

The Parties at issue here are not unsophisticated individuals, who have never seen the inside of a courtroom. In fact, the present case is only one case in a long line of cases going back over 15 years. The difference in this case is that the plaintiff did not serve the Initial Complaint, or for that matter, the Amended Complaint, as required by Florida Law, U.S. Federal Law, and the Hague Convention.

As a result, Brother 1 obtained a judgment for almost three-quarters of a Billion Dollars against Brother 2, who never had an opportunity to defend against the case.

Brother 1 claims that he accomplished service of each, the initial Complaint and the Amended Complaint on Brother 2 by mailing a copy of the Complaint by registered mail to Brother 2's address in Antalya, Türkiye.

The only evidence presented to the Court were the returned envelopes which supposedly contained the Initial Complaint. The envelopes were not dispositive of service and required the Court to use its

imagination as to what occurred when the Certified Letter was sent to Antalya.

Brother 1 wove a story of receipt and rejection of the envelopes, claiming that Brother 2 rejected service or was concealing his whereabouts to duck from process of service. However, this was belied by the envelopes which were returned to the sender, with no indication that it was rejected.

Brother 1 created the presumption that the handwriting on the cover was from an employee of the hotel, however, that was never verified. There are numerous reasons there could be writing on a letter that was not properly addressed. There is no zip code listed for the Hotel's address. Türkiye uses zip codes, in the same way and same manner in which the United States uses zip codes, and failure to include a zip code may result in delay of delivery or the letter returned to the sender.

It did not necessarily follow that because the letter was returned to Brother 1, Brother 2 was concealing himself and his whereabouts. The affidavit which alleged Brother 2's intentional concealment from Brother 1 was based on the assumption that the returned letter proved that Brother 2 was concealing himself.[1]

The fact remains however, that UGUR TATLICI has not changed his permanent residence, nor his address. To this day it remains Antalya,

[1] Brother 2 was, in fact, hiding from his brother as he was receiving credible death threats from Brother 1, and Brother 2 was justifiably afraid for his life.

Türkiye. It is this address where UGUR TATLICI receives *all* his mail, including but not limited to where he has been personally served lawsuits in the past. At deposition he testified as to such, but that he only pays attention to "official mail." While it is true that UGUR TATLICI was not physically in Türkiye at the time of Service, he had a system set up with the Hotel (which he owns and where he lives when he is in Türkiye), whereby the Hotel would accept mail on his behalf and then forward it to him. The Hotel was instructed to keep and maintain mail that was from Türkiye and its official channels of service.

Fundamentally, the failure to provide due process is obvious, and the problem boils down to the state courts in Florida abandoning the requirement that the Hague Convention be adhered to by any party who brings suit against citizens of foreign countries who are part of the Hague Convention.

I. UGUR TATLICI never received any communication as to this lawsuit from the Central Authority of Türkiye.

UGUR TATLICI never received any communication from the Central Authority of Türkiye. Florida Statute § 48.197 entitled *Service in a Foreign Country* states:

> (1) Service of process may be effectuated in a foreign country upon a party, other than a minor or an incompetent person, as provided in any of the following:
> (a) By any internationally agreed-upon means of service reasonably calculated to

> give actual notice of the proceedings, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

Türkiye is a member of the Hague Convention. "Article 10(a) encompasses service by mail. . ." Article 10(a) simply provides that, as long as the receiving state does not object, the Convention, does not interfere with. . . the freedom to serve documents through postal channels." *Water Splash, Inc. v. Menon,* 581 U.S. 271, 284, 137 S. Ct. 1504 (2017). Compliance with the Hague Convention is mandatory to all cases which it applies. *J & H Int'l v. Karaca Zucciye Tic. San A.S.*, Civil Action No. 2:10-CV-03975 (SDW)(MCA), 2012 U.S. Dist. LEXIS 142914 (D.N.J. Oct. 3, 2012) citing to *Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 108 S. Ct. 2104 (1988). The District Court in New Jersey, while not controlling, in *J&H Int'l,* spelled out the role of personal service as to the Hague Convention and Türkiye. In *J&H,* the Plaintiff properly used the Turkish Central Authority to serve the Defendant Corporation. The Trial Court granted the defendant corporation's motion to dismiss for failure to comply with the mandatory Hague Convention, arguing that they did not properly serve the correct agent of the corporation. The court found that strict compliance with the Rules for Service and the Hague Convention trumped the concern as to whether or not the "right" agent of the corporation was served.

The Third District Court of Appeal for Florida in *Puigbo v. Medex Trading, LLC,* 209 So. 3d 598 (Fla.

3d DCA 2014) analyzed the interplay between the Hague Convention and Service of Process as it applies to Florida. Finding that the Appellant:

> [M]isapprehends the interplay between the relevant provisions of sections 48.193(3) and 48.194(1), and the Hague Service Convention, and discounts the effect of the Supremacy Clause contained in Article VI, Clause 3, of the United States Constitution." *Id. At 601.* The Court held that "when process is served and return of process is completed *by an official* of a country that is a signatory to the Hague Service Convention in accordance with Article 6 of the Convention... that service is sufficient, and any additional requirement which may be imposed by Florida law is pre-empted. . . Such preemption is contemplated by the relevant Florida statutes cited above, which expressly reference that the Hague Service Convention may be applicable for service of process on persons outside of the United States.

Türkiye has objected to Article 10 of the Hague Convention and does not allow for service of judicial documents by mail.

> The Hague Convention requires each [signatory] country to establish a central authority to receive requests for service of process. The central authority then serves the documents in accordance with the law

> of that country. The Convention also allows for service by alternate means, including personal service or service by mail [p]rovided the State of destination does not object. Turkey, however, objected to alternate forms of service when it became a signatory of the Convention. *Id. At* 17 – 18.

Thus, the only way to serve an individual in Türkiye is pursuant to Article 5 of the Hague Convention and use the Central Authority of the State. The Central Authority in Türkiye is the Directorate General for Foreign Relations and EU Affairs. Türkiye allows for a recipient to refuse service if the documents are not translated to Turkish. Service by registered mail is insufficient to serve an individual in Turkey.

II. Under the Hague Convention the Final Judgment is void

> Article 15 of the Hague Convention:
> Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of *service*, under the provisions of the present Convention, and the defendant *has not appeared*, judgment shall not be given until it is established that –
> (a) the document was served by a method prescribed by the internal law of the State addressed for service of documents in domestic actions upon persons who are within its territory, or

> (b) the document was actually delivered to the defendant or his residence by another method provided for by this Convention, and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Brother 1 only mailed the Initial Complaint by registered mail, using postal means, to serve process on Brother 2, thereby failing to comply with the Hague Convention, which was mandatory. Therefore, no service was effected upon Brother 2. He also sent the Amended Complaint in the same manner and to the same address, as well as sent it to Brother 2's Attorney, Stephen Goerke, who was not retained, nor was he authorized to accept service on behalf of Brother 2 as to the current matter.

The Initial Complaint, and the Amended Complaint were never served on Brother 2, and he never had a chance to defend himself against his brother's allegations of Defamation.[2]

Brother 1 filed an affidavit for substitute service stating that Brother 2 was concealing himself and rejecting service and that Brother 2 was not a resident of Türkiye at the time of Service. Each of these allegations are incorrect. Brother 2 has dual citizenship with Turkey and Malta, however, his permanent residence, and address disclosed to the world at large is in Antalya, Türkiye. At Deposition

[2] Türkiye allows for a recipient to reject service if the documents are not translated to Turkish. The Initial Complaint, and the Amended Complaint, were never translated to Turkish as required by Turkish Law and the Hague Convention.

he maintained that his permanent residence is Antalya, Türkiye. His staff at the hotel are responsible for immediately alerting him of any official communications from the Turkish Government, or Courts.

Had Brother 1 properly served the Initial Complaint through the Central Authority, Brother 2 would have received notice from his employees that he received Official Mail, and he would have been officially served notice of the complaint in the instant case.

Brother 2 was never on notice of possibly being haled into Court in Palm Beach Florida. His only connection to Florida is he once attended college in the State of Florida and his Father and Mother had property in the State of Florida.

Brother 1 relied on articles published to a web site, allegedly by Brother 2, but never established that they were "published" i.e. accessed in Florida by a Floridian, to create a cause of action for Defamation. However, as this case was not decided on the merits but on a Clerk's Default, it has never been determined as to whether or not UGUR TATLICI created the websites or wrote the articles that contain allegedly defamatory information.

III. Even assuming, that UGUR TATLICI TATLICI's location was unknown, due diligence was not performed by counsel for the Plaintiff, MEHMET TATLICI.

The Hague Convention provides for alternate

means of service, including by email. At all times during the service attempts, MEHMET TATLICI knew UGUR TATLICI TATLICI's email address, yet he failed to ask the Court for permission to serve the Defendant, UGUR TATLICI by email. He also failed to ask the court to be allowed to serve process by substituted process. Instead, he filed an affidavit and summons under substituted service and UGUR TATLICI never received notice of the lawsuit.

In *Drummond Co. v. Collingsworth*, No. 2:15-CV-506-RDP, 2016 U.S. Dist. LEXIS 192988 (N.D. Ala. Oct. 18, 2016), a Northern District of Alabama decision, the Court held that service by email is "reasonably calculated to apprise defendants of the pendency of this action and afford them an opportunity to appear and present their objections," where the "contact information for, and physical location of Defendants...is highly confidential for security reasons." *Id. at 6.* Brother 2's fear of his brother's death threats were the cause of Brother 2 not disclosing his physical location. However, this did not mean that there could not be conformity with the Hague Convention. If there would have been such conformity, Brother 2 would have been duly informed of the claims against him.

Brother 2 does not live in the State of Florida and does not have any businesses or business ventures in the State of Florida. The other two cases, the Fraudulent Transfer case and the Probate case were based around property that his father had purchased and put in his name and his mother's name, not from his actions or activities within the State of Florida. A letter sent by registered mail with

a certified return slip is not sufficient to place a nonresident on notice that he is being sued in the State of Florida.

IV. Brother 2's Due Process was denied by the Brother 1's failure to properly serve process per the Hague Convention

Failure to comply with the Hague Convention denies an individual his procedural due process. Brother 2 never had a chance to defend himself against his brother's lawsuit. By the time he learned of the lawsuit, he was facing a Final Judgment of $740,000,000.00. Brother 2 was not actively participating in any matter in Florida, including the Probate Case and Fraudulent Transfer Case, and he had no reason to believe that he would be subject to suit in the State of Florida.

In *Medex Trading, LLC,* 209 So. 3d 598, 601-602 (Fla. 3d DCA 2014) the Court held:

> In addition to complying with the Hague Service Convention, service of process also must satisfy constitutional due process. Constitutional notions of due process require that any means of service be reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.

There can be no doubt that Brother 2, UGUR TATLICI, had no opportunity to raise his objections

to the allegations raised in the Initial Complaint and the Amended Complaint, to deny the allegations of the Complaints or the Amended Complaint, and now suffers consequences due to the fact that he had no knowledge of the proceeding against him.

He never received service of process and thus lost his day in court and was deprived of his due process. At this point, this Court, and only this Court can correct a great injustice, but more importantly, it can assure that all state courts follow the requirements of the Hague Convention to assure that other innocent citizens of other countries have the protections intended for them.

CONCLUSION

For the foregoing reasons, Mr. UGUR TATLICI, respectfully requests that this Honorable Court grant this petition.

Respectfully submitted,

Peter Ticktin
Counsel of Record
Ryan Fojo
The Ticktin Law Group
270 SW Natura Ave.
Deerfield Beach, FL 33441
954-570-6757
Serv512@legalbrains.com

APPENDIX TABLE OF CONTENTS

APPENDIX A

M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT

This cause having been brought to the Court by appeal or by petition, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause as may be in accordance with the opinion of this Court, and with the rules of procedure and laws of the State of Florida.

WITNESS the the Honorable Mark W. Klingensmith, Chief Judge of the District Court of Appeal of the State of Florida, Fourth District, and seal of the said Court at West Palm Beach, Florida on this day.

DATE:	**March 15, 2024**
CASE NO.:	**4D2023-0491**
COUNTY OF ORIGIN:	**Palm Beach County**
T.C. CASE NO.:	**502018CA002361XXXXMB**
STYLE:	**UGUR TATLICI,**
	Appellant(s)
	v.
	MEHMET TATLICI,

Appellee(s).

/s/
LONN WEISSBLUM, Clerk [COURT SEAL]
Fourth District Court of Appeal
4D2023-0491 March 15, 2024

Served:

Forrest Gregory Barnhart
Andrew Scott Berman
Joshua Adam Bleil
Clerk - Palm Beach
Jeremy Friedman
Steven G Goerke
Paul Alexander Hankin
Kara Rockenbach Link
Lauri Waldman Ross
Daniel Marc Schwarz

KR

APPENDIX B

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT,

110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

February 28, 2024

UGUR TATLICI,
Appellant(s)

v.

MEHMET TATLICI,
Appellee(s).

CASE NO. - 4D2023-0491
L.T. No. - 502018CA002361XXXXMB

BY ORDER OF THE COURT:

ORDERED that Appellant's February 15, 2024 motion for written opinion is denied.

Served:
Forrest Gregory Barnhart
Andrew Scott Berman
Joshua Adam Bleil
Jeremy Friedman
Steven G Goerke

Paul Alexander Hankin
Kara Rockenbach Link
Lauri Waldman Ross
Daniel Marc Schwarz

KR

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.

/s/
LONN WEISSBLUM, Clerk [COURT SEAL]
Fourth District Court of Appeal
4D2023-0491 March 15, 2024

APPENDIX C

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT

UGUR TATLICI,
Appellant,

v.

MEHMET TATLICI,
Appellee.

No. 4D2023-0491

[February 1, 2024]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Scott R. Kerner, Judge; L.T. Case No. 502018CA002361XXXXMB.

Andrew S. Berman of Young, Berman, Karpf & Karpf, P.A., Miami, and Lauri Waldman Ross of Lauri Waldman Ross, P.A., Coral Gables, for appellant.

Kara Rockenbach Link and Daniel M. Schwarz of Link & Rockenbach, PA, West Palm Beach, and Jeremy D. Friedman of Downs Law Group, Coconut Grove, for appellee.

PER CURIAM.

Affirmed.

LEVINE, KUNTZ and ARTAU, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

FILED: PALM BEACH COUNTY, FL JOSEPH ABRUZZO, CLERK 02/01/2024 03:11:30 PM

APPENDIX D

IN THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION: "AN"
CASE NO.: 50-2018-CA-002361-XXXX-MB

MEHMET TATLICI,
Plaintiff/Petitioner

vs.

UGUR TATLICI,
Defendant/Respondent.

ORDER DENYING DEFENDANT'S MOTION FOR REHEARING

THIS CAUSE came before the Court for review on May 2, 2023. Based upon review of the Defendant's Motion For Rehearing, a complete review of the court file, and the Court being otherwise fully advised in the premise, it is

ORDERED AND ADJUDGED that the Defendant's Motion For Rehearing is respectfully DENIED.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida.

/s/

Scott Kerner Circuit Judge
Administrative Office of the Court

50-2018-CA-002361-XXXX-MB 05/02/2023
Scott Kerner
Circuit Judge

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APPENDIX E

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FOURTH DISTRICT,

110 SOUTH TAMARIND AVENUE,
WEST PALM BEACH, FL 33401

February 28, 2023

CASE NO.: 4D23-0491
L.T. No.: 502018CA002361XXXXMB

UGUR TATLICI	v.	MEHMET TATLICI
Appellant/Petitioner(s)		Appellee/Respondent(s)

BY ORDER OF THE COURT:

ORDERED sua sponte that the court determines that this appeal seeks review of an order entered on an authorized and timely motion for relief from judgment, which is reviewable by the method prescribed by Florida Rule of Appellate Procedure 9.130. Fla. R. App. P. 9.130(a)(5). Appellant shall serve an initial brief and an accompanying appendix within fifteen (15) days from the date of this order. See Fla. R. App. P. 9.130(e), 9.220. The clerk of the lower tribunal shall not transmit a record on appeal unless ordered by this court.

Served:

cc:
Forrest Gregory Barnhart
Kara Rockenbach Link
Clerk Palm Beach
Jeremy D. Friedman
Paul Alexander Hankin
Hon. Scott Ryan Kerner
Joshua Adam Bleil
Steven G. Goerke

ct

/s/ [COURT SEAL]
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal

APPENDIX F

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT, IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2018-CA-002361-XXXX-MB(AN)

MEHMET TATLICI,
Plaintiff,

v.

UGUR TATLICI,
Defendant.

ORDER DENYING DEFENDANT'S OMNIBUS MOTION TO VACATE DEFAULT AND FINAL JUDGMENT, TO QUASH SERVICE OF PROCESS, AND TO DISMISS FOR LACK OF JURISDICTION

THIS CAUSE came before the Court on December 1, 2022, on Defendant', UGUR TATLICI, Omnibus Motion to Vacate Default and Final Judgment, to Quash Service of Process, and to Dismiss for Lack of Jurisdiction (hereinafter the "Motion") entered in favor of Plaintiff, MEHMET TATLICI. This Court having reviewed Defendant's Motion, Plaintiff's response thereto, received and reviewed all evidence

admitted by the parties,[1] and having heard oral argument of counsel, hereby

ORDERS AND ADJUDGES as follows:

I. Introduction

Plaintiff, Mehmet Tatlici ("Plaintiff" or "Plaintiff Mehmet") sued his half-brother, Defendant, Ugur Tatlici ("Defendant" or "Defendant Ugur") on February 26, 2018. [Dkt. 2]. This case arises out of two other cases that were filed in Palm Beach County, Florida in 2009 and subsequently consolidated: (1) *Mehmet Tatlici v. Ugur Tatlici and Nurten Tatlici*, Case No. 2009-CA-030873 (the "Fraudulent Transfer Case"); and (2) *In re: Mehmet S. Tatlici*, Case No. 2009-CP-001185 (the "Probate Case") (collectively, the "Related Cases"). [Dkt. 61].[2] Defendant Ugur is a named party in both cases. Defendant Ugur was also appointed and currently serves as an Administrator Ad Litem in the Probate Case pending in Palm Beach

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[1] Plaintiff's evidence and exhibits existing up through the date of the underlying Final Judgment were admitted into evidence at the evidentiary hearing without objection. Defendant's relevance objection to the exhibits dated December 1, 2022 following the underlying Final Judgment was overruled.

[2] In this Court's December 29, 2020 Order, the Court found that this case arises from two other pending cases in Palm Beach County, Florida: (1) *Mehmet Tatlici v. Ugur Tatlici and Nurten Tatlici*, Case No. 2009-CA-030873; and (2) *In re: Mehmet S. Tatlici*, Case No. 2009-CP-001185. The Court further found that Defendant has admitted personal jurisdiction and has been defending since 2009. [Dkt. 61].

County, Florida. [Pl. Exhibit 2].

The Fraudulent Transfer Case was filed on September 11, 2009, and involves a transfer of assets into the state of Florida, which were utilized by the decedent, Mehmet Salih Tatlici (the "Decedent"), to purchase real property in Palm County, Florida in the name of his son, Ugur Tatlici, and his mother, Nurten Tatlici. Plaintiff, who is another son of Decedent, brought the action to recover the monies that were utilized to purchase these properties. An ancillary probate case was filed on March 12, 2009, and concerns alleged assets owned by Decedent in Palm Beach County, Florida at the time of his death. Both of these cases remain pending today.[3]

On February 26, 2018, Plaintiff Mehmet filed this defamation lawsuit against Defendant Ugur based on alleged false statements that Defendant made about Plaintiff concerning, in part, these two pending cases in Palm Beach County, Florida. Craig T. Downs, a Florida attorney, who is one of the attorneys representing Plaintiff in the Related Cases, was added as a named plaintiff ("Plaintiff Downs") to this case in the Amended Complaint on January 10, 2019. Plaintiff Downs alleged that Defendant published additional defamatory statements about him concerning his legal representation of Plaintiff Tatlici in the Related Cases. [Dkt. 11].

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[3] The parties have agreed that this Court may take judicial notice of the Palm Beach County, Florida case files of both Case No. 2009-CP-001185 and Case No. 2009-CA-030873; i.e., the Fraudulent Transfer Case and the Probate Case, respectively.

Plaintiffs ultimately obtained a Clerk's Default as to liability only against Defendant Ugur on April 25, 2019, for his failure to respond to the Amended Complaint. [Dkt. 24]. After conducting a jury trial *in abstentia* on December 19, 2019, Plaintiff Tatlici was awarded an amount of $740,000,000 in compensatory damages against Defendant. [Dkt. 39]. Plaintiff Downs entered a voluntary dismissal without prejudice at the trial of the case. A final judgment was then entered in favor of Plaintiff Tatlici on January 8, 2020, after the jury's verdict (the "Final Judgment") in the amount of $740,000,000, plus post judgment interest, at the legal statutory rate. [Dkt. 41].

A little over nine months later, on October 15, 2020, Defendant Ugur filed his Omnibus Motion to Vacate Default and Final Judgment, to Quash Service of Process, and to Dismiss for Lack of Jurisdiction. [Dkt. 48]. Defendant Ugur seeks to vacate this Court's Final Judgment entered pursuant to the jury verdict tried *in abstentia* and argues a failure to properly effectuate service of process, a lack of personal jurisdiction over him, and a lack of proper notice for the jury trial on damages. Subsequently, but prior to the entry of this Order, the parties thereafter engaged in jurisdictional discovery concerning issues of service of process, jurisdiction, and related hearings presided over by the Honorable Janis Brustares Keyser.

At the evidentiary hearing before this Court, the parties agreed that all evidence submitted in support of their respective positions would be limited to depositions and/or affidavits obtained during discovery and that no live testimony would be presented.

On December 1, 2022, this Court heard oral argument from the parties as to Defendant's Motion.[4] Upon consideration of this evidence and testimony, as well as the legal arguments made by competent counsel, and prevailing Florida law, this Court hereby makes the following Findings of Fact and Conclusions of Law:

II. Findings of Fact

Based on the evidence presented by the parties, and this Court's review of the record, the Court finds that in 2009, Plaintiff Tatlici filed two cases in Palm Beach County, Florida, involving Defendant: (1) *Mehmet Tatlici v. Ugur Tatlici and Nurten Tatlici*, Case No. 2009-CA-030873 (i.e., the Fraudulent Transfer Case); and (2) *In re: Mehmet S. Tatlici*, Case No. 2009-CP-001185 (i.e., the Probate Case). In the Related Cases, the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, exercised personal jurisdiction over Defendant. Additionally, Defendant Ugur was named administrator ad litem in the Probate Case pending in Palm Beach County, Florida. The Court finds, as its predecessor did, that this case arises out of these two Related Cases and the subject matter therein. [Dkt. 61, Pl. Exhibit 2].

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[4] Prior to taking this matter under advisement, this Court received evidence and written testimony by the parties in support of their respective positions, requested proposed competing Orders and allowed the parties sufficient time for objections to be asserted over the proposed competing orders. (See DE 296 and 297)

The Related Cases involve Defendant's properties in Palm Beach County, Florida and further involve his business dealings in Palm Beach County, Florida. Specifically, these cases pertain to the Signature Building located at 3785 N. Federal Highway, Boca Raton, Florida where Defendant served as a commercial landlord for almost twenty (20) years. [Pl. Exhibit 46]. It further includes the Emerald Winds property in Boynton Beach, Florida where Defendant Ugur additionally served as a residential landlord. The real estate at issue was sold in 2015 and 2016. The sales proceeds from these properties remain at issue in the Related Cases. [Pl. Exhibit 46].[5]

Beginning in 2011, Defendant Ugur created websites described in the Amended Complaint, which he stated, through his Turkish counsel at the time, "provides answers to the unsubstantial statements regarding him and the works left by his late father Mehmet Salih Tatlici in the media. He explained and announced the facts."[6] Over the next several years, various articles were published by Defendant Ugur on the websites about Plaintiff, the Florida legal proceedings, the Florida attorneys, Florida judges, and the personal representative appointed by the Court in

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[5] Plaintiff's Exhibit 46 is the Affidavit of Jeremy D. Friedman, Esq., dated November 7, 2022.

[6] Plaintiff pointed to Turkish court documents during the evidentiary hearing supporting this fact. Defendant did not rebut this factual presentation, only to lodge a relevance objection to documents that post-dated the Final Judgment. The Court overruled the objection.

Palm Beach County, Florida, Josh Rosenberg, Esq. ("Mr. Rosenberg"). [Pl. Exhibits 40, 46].

The uncontested evidence presented by Plaintiff through a domain search further demonstrated that Defendant was the administrative contact and owner of the alleged defamatory websites in question. [Pl. Exhibit 6].[7] Plaintiff further introduced the sworn statement of Derya Tatlici who stated that she personally witnessed Defendant Ugur creating the websites in question. [Pl. Exhibit 42]. Defendant neither rebutted nor contested any of this evidence submitted by Plaintiff.

Shortly after filing the initial Complaint, counsel for the Plaintiff, Jeremy D. Friedman, Esq. ("Mr. Friedman"), contacted Defendant's attorney, Steven Goerke, Esq. ("Mr. Goerke"), in the Related Cases, placed Mr. Goerke and Defendant on notice of this case, and asked if Mr. Goerke would accept service of the Complaint in this action. [Pl. Exhibit 46]. Mr. Goerke did not agree to accept service at that time. [Pl. Exhibit 46]. Mr. Goerke further testified that upon learning of the lawsuit, he pulled a copy of the Complaint from the Court's docket. [Goerke Deposition Tr. at 80:7–83:15]. He further advised Defendant that the Complaint was filed against him. [Goerke Deposition Tr. at 86:14–87:3]. He additionally provided legal advice to Defendant related thereto. [Goerke

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[7] The WHOIS domain search is attached to Plaintiff's Amended Complaint and is further part of Plaintiff's Exhibit 6 that was entered into evidence at the December 1, 2022 Hearing.

Deposition Tr. at 86:14–87:3].[8] Despite this, neither Defendant nor Mr. Goerke, on his behalf, made an appearance in the case at that time.

Plaintiff presented testimony and evidence as to his counsel's efforts to locate Defendant Ugur in order to serve him personally with the Complaint. The uncontested evidence demonstrates that in 2018, Plaintiff:

(1) checked the ownership of other Florida properties to determine Defendant's location;

(2) sent a representative to Defendant's hotel in Antalya, Turkey to determine if he lived there, which he did not;

(3) called the hotel to find out if Defendant was living there;

(4) researched other known addresses in Turkey, such as at his Beykoz address;

(5) performed a search in Malta, a country that Defendant obtained citizenship in 2016;

(6) did a company search in Malta where Defendant was named as a director;

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[8] Mr. Goerke refused to testify at his deposition as to what he discussed with Defendant about the Complaint based upon the attorney-client privilege. To invoke the attorney-client privilege, an attorney must be providing legal advice to his client. *See* Fla. Stat. § 90.502(2).

(7) looked for Defendant in Greece based on where his relatives were and his mother is of Greek descent;

(8) investigated social media websites for clues as to his location;

(9) attempted to find Defendant's yacht through a GPS coordinate search based on information obtained through a family member; and

(10) investigated an address in Dubai where Defendant's attorneys stated he was permanently living.

Despite these exhaustive good faith efforts, Plaintiff could not physically locate Defendant. [Pl. Exhibit 46]. Defendant has not refuted this evidence by testimony or evidence.

Instead, the evidence further demonstrates that Defendant Ugur was actively concealing his whereabouts from Plaintiff Mehmet. [Ugur Tatlici Deposition Tr., Vol. I, at 48:16–20]. In admitting this fact, Defendant attempts to justify same by claiming that he believed Plaintiff was attempting to locate him to physically harm him.[9] Defendant testified that he was receiving death threats from Plaintiff and disclosing his location would put his life in danger. [Ugur Tatlici Deposition Tr., Vol. I, at 48:16–20].

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[9] Other than Defendant's claim, there is no evidence of physical threats or harm to Defendant Ugur by Plaintiff.

Defendant further testified that he believed Plaintiff was attempting to find out where he was physically located. [Ugur Tatlici Deposition Tr., Vol. I, at 75:14]. Mr. Goerke additionally testified that Defendant was afraid of his brother knowing where he was physically located. [Goerke Deposition Tr. at 120:6–19]. Consequently, the Plaintiff was never able to locate the Defendant for purposes of service of process.

There is no dispute that as of July 2018, Defendant had at least three physical addresses: (1) Kadriye Mah Uckum Tepesi, Cad Dis Kapi 12 in Serik/Antalya, Turkey where he received his mail; (2) an address at Victoria Centre, Unit 2, Valletta Road Mosta, MST 9012, Malta; (3) One Sheik Zayed Road, Trade Center 1, Suite 102 Dubai UAE. [Pl. Exhibit 46]. Defendant's counsel in Turkey asserted that as of 2016, Defendant was permanently residing in Dubai. [Pl. Exhibit 22]. Defendant's counsel in Turkey further represented to the Turkish court in 2017, 2021, and 2022 that Defendant was in Dubai. [Pl. Exhibits 27, 28, 29].

On July 23, 2018, Plaintiff served Defendant Ugur with the Complaint by serving the Florida Secretary of State, through substitute service, pursuant to Florida Statute sections 48.181 and 48.161. [Pl. Exhibit 11]. Plaintiff then complied with the statutes by filing an affidavit of mailing attesting that he had mailed a copy of the Complaint to Defendant upon serving Defendant. [Pl. Exhibit 14]. The uncontroverted evidence demonstrates that Plaintiff sent the Complaint to Defendant via registered mail return receipt with a registered mail

number of RE 316 625 395 US. [Pl. Exhibits 12, 13]. The envelope that Plaintiff sent to Defendant Ugur went to Defendant's last known mailing address at the **Crystal Tat Resort Hotel**, which said hotel is actually owned by Defendant Ugur; the hotel is located in Antalya, Turkey, located at Kadriye Mah. Uckum Tepesi, Cad No. 12 lc, Serike/Antalya, Turkey. [Pl. Exhibit 10, 13].[10] This Court's review of the envelope has the word "Kristal" written on it, a date of August 3, 2018, and signature on it. It additionally has a mail stamp on it that says "Antalya." The envelope with the Complaint and summons was rejected by Defendant Ugur and returned to Plaintiff. [Pl. Exhibit 13].

On October 4, 2018, after service of the Complaint had been completed, Plaintiff's counsel again contacted Mr. Goerke and asked if he would accept service of the Complaint on his client's behalf and further inquired as to whether Mr. Goerke would be representing him in the lawsuit.]Pl. Exhibit 17]. Mr. Goerke did not respond. [Pl. Exhibit 46].

On January 10, 2019, Plaintiffs filed the Amended Complaint. [Dkt. 11]. The Amended Complaint added Plaintiff Downs who made the same or similar claims of defamation per se and defamation per quod against Defendant. Plaintiffs then mailed a copy of the Amended Complaint to Defendant. [Pl.

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[10] Plaintiff's Exhibit 10 is the affidavit filed by Defendant in support of his Motion. Defendant set forth his address in Antalya, Turkey, which is the address of his hotel and the same address Plaintiff sent the Complaint and summons upon serving the Florida Secretary of State on July 23, 2018.

Exhibit 46]. Plaintiffs additionally mailed by regular mail a copy of the Amended Complaint to Defendant's attorney in Boca Raton, Florida; i.e., Mr. Goerke. [Pl. Exhibit 46]. However, Mr. Goerke testified in his deposition that upon receiving a copy of the Amended Complaint, he threw it in the garbage. [Goerke Deposition Tr. at 148:10–149:9].

Moreover, Plaintiff additionally served the Florida Secretary of State a second time with the Amended Complaint, pursuant to Florida Statute section 48.181 and mailed a copy of the Amended Complaint to Defendant. [Pl. Exhibit 46]. Plaintiff did not mail the Amended Complaint by registered mail. Defendant Ugur did not file a response to the Amended Complaint. As a result, on April 25, 2019, the Clerk of Court entered a default against Defendant Ugur in favor of Plaintiffs. [Dkt. 23].

On April 25, 2019, Plaintiff filed a Notice of Trial and mailed it to Defendant's last known address.[11] [Dkt. 24]. On May 24, 2019, the Court

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[11] Plaintiff used the word "AD" instead of "CAD" for the word street. However, Plaintiff presented unrebutted argument and evidence demonstrating that the use of "AD" instead of "CAD" was irrelevant as to whether Plaintiff's mailings reached Defendant's address. Plaintiff introduced into evidence additional mailings sent by registered mail unrebutted return receipt to Turkey using "AD" instead "CAD." These letters were delivered at their Turkish address using the word "AD" instead of "CAD." Plaintiff obtained a signature for each of these letters confirming delivery in Turkey using "AD" in the address. This included a letter sent to Defendant's mailing address itself, his hotel in Antalya, Turkey, using "AD" instead of "CAD," where the hotel signed for the letter

entered an Order setting the case for the trial period of October 28, 2019 through December 20, 2019. [Dkt. 25]. The court's Order further certified that it sent a copy of the Trial Order to Defendant's last known mailing address in Antalya, Turkey. [Dkt. 25].

On October 18, 2019, the Court held a calendar call to schedule the cases on the docket for trial. Defendant Ugur did not appear at the calendar call. [Dkt. 25]. On October 21, 2019, Plaintiff filed a Motion for a Special Set Trial date within the Court-ordered trial period. [Dkt. 31].[12] The Motion was set for hearing on November 6, 2019. [Dkt. 32]. Defendant was provided notice of both the Motion and hearing date. [Dkt. 32]. At the hearing, the court set the trial to take place on December 19, 2019. [Dkt. 33]. This date was within the original trial period set forth in the Court's original order setting trial entered on May 24, 2019. [Dkt. 25]. Defendant Ugur did not attend the hearing. On November 8, 2019, Plaintiff filed a Notice of Special Set jury trial setting on December 19, 2019. [Dkt. 33]. Plaintiff sent a copy of the notice to Defendant. [Dkt. 33].

On December 19, 2019, a jury trial in abstentia was conducted, where a verdict was entered in favor of Plaintiff Mehmet. [Dkt. 39]. A Final Judgment was

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and returned the card to Plaintiff. [Pl. Exhibits 18, 19, 20].

[12] Prior to this Motion, Plaintiff filed an exhibit list, witness list, and pretrial stipulation and mailed a copy of each one of these documents to Defendant's last known address at his hotel in Antalya, Turkey. [Dkt. 26, 27, 29].

entered in favor of Plaintiff Mehmet on January 8, 2020. [Dkt. 41]. A copy of the Final Judgment was mailed to Defendant's last known address at his hotel in Antalya, Turkey. On October 15, 2020, Defendant Ugur made an appearance in this case through counsel and filed the subject Motion.

III. Defendant was Properly Served with the Complaint by Substitute Service, Pursuant to Florida Statute Sections 48.181 and §48.161

A. Service of Amended Complaint was Proper.

Defendant first moves this Court to vacate the Final Judgment entered by the Court on January 8, 2020, arguing that Defendant Ugur was never served with the Amended Complaint. Defendant argues that service of the original Complaint was irrelevant because of the Amended Complaint that included Plaintiff, Craig Downs. Defendant contends that because the subsequently obtained default was entered based upon the Amended Complaint, Plaintiff was required to serve Defendant Ugur and this Court must only look to the Amended Complaint to determine if such service was proper. Plaintiff contends that once the original Complaint was served, he only had to send the Amended Complaint to Defendant by regular U.S. Mail as actual service of process was not required. Plaintiff further contends that because the amendment to the Complaint occurred prior to entry of default, and no new counts were added after default was entered, service of process of the Amended Complaint was not required.

The evidence demonstrates that Plaintiff filed his initial Complaint on February 26, 2018. [Dkt. 2]. Plaintiffs filed their Amended Complaint on January 10, 2019. [Dkt. 11]. They mailed a copy of the Amended Complaint to both Defendant Ugur and his Florida attorney, Mr. Goerke. The Clerk's Default was entered on April 25, 2019, months after it was filed and mailed to Defendant. [Dkt. 23]. There was no amendment to the Complaint after the Clerk of Court entered default.

The court is bound by controlling precedent, *Korman v. Stern*, 294 So. 3d 918, 920 (Fla. 4th DCA 2020) in which the Fourth District Court of Appeal determined "'summons or other process' shall be issued '[u]pon the *commencement* of the action.'" 294 So. 3d at 920 (quoting Fla. R. Civ. P. 1.070(a)). "[S]ervice of the *initial process and initial pleading* must be made within 120 days." *Korman*, 294 So. 3d at 920 (quoting Fla. R. Civ. P. 1.070(j)). "Nothing in these rules suggest that service of process is required for an amended pleading[; rather], amended pleadings require only service, not service of process. *Korman*, 294 So. 3d at 920 (citing *Nussbaum v. Cooke*, 709 So. 2d 621, 622 (Fla. 4th DCA 1998)). The appellate court thus found that it was only necessary to mail the Second Amended Complaint rather than personally serve it on the defendant. The court in *Korman* additionally distinguished the case of *Kitchens v. Nationstar*, 189 So. 3d. 355 (Fla. 4th DCA 2006) explaining that in *Kitchens*, as the Amended Complaint added new claims *after* the entry of default, service of process was required in relation to these new claims. However, because the amendment in *Korman*

occurred *before* the default, service by mail, rather than service of process of the Amended Complaint, was all that was required.

Since the initial Complaint was served on Defendant Ugur and the Amended Complaint was filed before the entry of default, this Court finds that only mailing was required of the Amended Complaint rather than service of process. In addition, the Court finds that Plaintiffs did not add any new claims after default was entered. As a result, Defendant's request to vacate the totality of these proceedings based on this argument surrounding the alleged failure to properly serve the Amended Complaint is hereby respectfully **DENIED**.

B. Substitute Service of the Original Complaint was Authorized and Statutorily Compliant.

Defendant Ugur additionally challenges service of process of the original Complaint. Defendant Ugur argues that Plaintiff failed to properly allege the requirements as set forth in Florida Statute section 48.181 in order to utilize substitute service of process on the Florida Secretary of State.

Upon review of the record and consideration of the facts in evidence, this Court makes a finding of fact that Plaintiff was authorized to serve Defendant through substitute service with the initial Complaint, pursuant to Florida Statute section 48.181. According to Florida Statute section 48.181(1):

> The acceptance by any person or persons, individually or associated together as a copartnership [sic] or any other form or type of association, who are residents of any other state or country, and all foreign corporations, and any person who is a resident of the state and who subsequently becomes a nonresident of the state or conceals his or her whereabouts, of the privilege extended by law to nonresidents and others to operate, conduct, engage in, or carry on a business or business venture in the state, or to have an office or agency in the state, constitutes an appointment by the persons and foreign corporations of the Secretary of State of the state as their agent on whom all process in any action or proceeding against them, or any of them, arising out of any transaction or operation connected with or incidental to the business or business venture may be served . . . .

Fla. Stat. § 48.181(1). "Section 48.181 sets forth the jurisdictional requirements for substituted service of process." *Alvarado-Fernandez v. Mazoff*, 151 So. 3d 8, 16 (Fla. 4th DCA 2014). "These requirements are that 'the defendant conducts business in Florida and is either a (1) non-resident, (2) resident of Florida who subsequently became a non-resident, or (3) resident of Florida concealing his or her whereabouts.'" *Id.* (quoting *Pinero v. Yam Margate, L.L.C.*, 825 F. Supp. 2d 1264, 1265 (S.D. Fla. 2011)). "Rule 1.070(h), Florida

Rules of Civil Procedure (2003), states that '[w]hen service of process is to be made under statutes authorizing service on nonresidents of Florida, it is sufficient to plead the basis for service in the language of the statute without pleading the facts supporting service.'" *Labbee v. Harrington*, 913 So. 2d 679, 682 (Fla. 3d DCA 2005).

"To successfully employ Section 48.181, plaintiffs must show that defendants operated, conducted, engaged in, or carried on a business or business venture in this state." *A. B. L. Realty Corp. v. Cohl*, 384 So. 2d 1351, 1354 (Fla. 4th DCA 1980). "As will be seen, there is a significant difference between a 'business' and a 'business venture.'" *Id.* "The latter may be established by showing a lesser involvement than would be required to prove the former." *Id.*; *Lomas & Nettleton Fin. Corp. v. All Coverage Underwriters, Inc.*, 200 So. 2d 564 (Fla. 4th DCA 1967). The Fourth District Court of Appeal noted that the distinction was highlighted by the Florida Supreme Court, which stated:

> There is a vast difference between the words "a business" and the words "business venture" as used in Section 47.16, (the predecessor to Section 48.181), supra. One may engage in a "business venture" without operating, conducting, engaging in or carrying on a "business."
>
> In Weber, supra, the court found that out-of-state owners of a Florida citrus

> grove became subject to the jurisdiction of the Florida courts by virtue of the owners' purchase and subsequent listing of the property for sale. The court noted that, . . .
>
> the allegations of the complaint filed by Mr. Driver demonstrate clearly that the purchase of the property and the subsequent listing of the same for sale amounted to engaging in a "business venture" as contemplated by our statute.

Cohl, 384 So. 2d at 1354 (quoting *State ex rel. Weber v. Register*, 67 So.2d 619, 620 (Fla. 1953)). In *Labbee*, the plaintiff alleged that the defendant was a resident of Puerto Rico and that he owned the subject real property for twenty years and used it as a rental property until he sold it to Labbee. "Accepting these allegations as true, we find that both renting of the property and the sale of such an investment property sufficiently describes a business venture." *Labbee*, 913 So. 2d at 683. "The Florida Supreme Court has held that engaging in a single act for profit can amount to a business venture." *Id.*; *Wm. E. Strasser Constr. Corp. v. Linn*, 97 So. 2d. 458 (Fla. 1957).

This Court finds that Plaintiffs have made sufficient allegations in the Amended Complaint in order to serve Defendant Ugur pursuant to Florida Statute section 48.181. Initially, Plaintiffs alleged that Defendant was a citizen of the country of Turkey. [Dkt. 11, Am. Compl. ¶ 4]. Next, they alleged that Defendant was not a resident of the state of Florida. [Dkt. 11, Am.

Compl. at 63]. Finally, Plaintiffs alleged that Defendant had a physical address in Antalya, Turkey. [Am. Compl. at 3 n.2].

In determining sufficient allegations of jurisdiction, the court is to look at the Complaint, as well as any attachments to the Complaint. *See Arthur v. Arthur*, 543 So. 2d 349, 351 (Fla. 5th DCA 1989) (taking a complaint as a whole, which included attached property settlement agreement, the court concluded that sufficient jurisdictional facts were alleged); *Pluess-Staufer Indus., Inc. v. Rollason Eng'g & Mfg., Inc.*, 597 So. 2d 957, 958 (Fla. 5th DCA 1992) (explaining that a basis for jurisdiction is to be determined by looking at the allegations in the complaint and the attachments); Fla. R. Civ. P. 1.130(b). In looking at the Amended Complaint, including its attachments, Plaintiffs have sufficiently pled that Defendant was a citizen of the country of Turkey, a non-resident of Florida, and had an address in Turkey. Thus, the non-residency pleading requirement is satisfied.[13]

Additionally, this Court finds that Plaintiffs have properly pled that Defendant Ugur was doing business or in a business venture in Florida from which the cause of action of defamation "arises from, is connected to, or incidental to." *See* Fla. Stat. §

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[13] The court in *Labbee v. Harrington*, 913 So. 2d 679 (Fla. 3d DCA 2005) found that a pleading that alleges the address of a defendant outside of the state of Florida satisfies the pleading requirement to allege that a defendant is a non-resident.

48.181(1). Plaintiffs first allege the language of the statute that Defendant was doing business in the state of Florida and specifically in Palm Beach County, Florida. [Dkt. 11, Am. Compl. ¶ 4]. Plaintiffs also allege that Defendant created and translated into English a website called "Tatlici Truths" with known website address of Tatlicigercekleri.com, Salitatlicimirasi.com, and tatlicitruths.com. [Dkt. 11, Am. Compl. ¶ 11]. Plaintiffs argued—and there was no rebuttal—that these websites are news websites that include articles about both Plaintiffs, Defendant Ugur and the 15th Judicial Circuit. [Dkt. 11, Am. Compl.; Pl. Exhibit 40]. Plaintiffs further alleged, with no rebuttal, that this news website was broadcast to millions of people including those in the state of Florida. [Dkt. 11, Am. Comp. ¶ 36]. Plaintiffs also alleged that these defamatory statements were published in Palm Beach County, Florida. [Dkt. 11, Am. Compl. ¶ 8].

Plaintiffs alleged that the defamatory websites include false allegations about Plaintiffs including false allegations concerning the Florida litigation between the parties. For example, the allegations include "New Maneuvers of Mehmet Tatlici in Florida" concerning the Florida legal proceedings. [Dkt. 11, Am. Compl. ¶ 19].[14]

Plaintiffs further alleged that Defendant Ugur had his own "news teams" located in the cities of

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[14] The specifics of the articles and the Florida legal proceedings are set forth in paragraph 19 of the Amended Complaint.

Delray Beach, Fort Lauderdale, and West Palm Beach, Florida. [Dkt. 11, Am. Compl. at 63, 64, 66, 67, 71]. Plaintiffs alleges that these "news teams" were gathering information about Plaintiff, including his interactions at the Breakers Hotel with the personal representative Mr. Rosenberg, information about the Florida legal proceedings such as court rulings by Judge Burton, and petitions submitted by Plaintiff to recover costs in the Florida proceedings of $180,462.44. [Dkt. 11, Am. Compl. at 63, 67, 71].

This Court finds that the allegations in the Amended Complaint and incorporated attachments establish that Defendant was engaged in a "business venture" in Palm Beach County, Florida by having his own "news teams" congregate and gather information in Palm Beach County, Florida to extract information about the Florida legal proceedings and the Florida courts to put on Defendant's various websites (i.e. "the news"). The truth and veracity about what was said by Defendant Ugur as it relates to the 15th Judicial Circuit is secondary to the fact that Defendant utilizes the court, specifically the 15th Judicial Circuit, in weaving together a narrative and providing the information as the news. The incidents of defamation thereby "arise from, are connected to, or incidental to" Defendant's "business venture" in Palm Beach County, Florida. Fla. Stat. § 48.181(1). Defendant Ugur has not introduced any evidence to rebut these claims.

In addition, the Related Cases involve Defendant's purchase and sale of commercial real estate in Boca Raton, Florida, the Signature Building, the sales proceeds, and income from this business. [Pl.

Exhibit 46]. The Probate Case further involves rental income received by Defendant related to property he owned in Boynton Beach, Florida. [Pl. Exhibit 46]. The claims of defamation further relate to these businesses and business ventures of Defendant in Palm Beach County, Florida and the two Related Cases involving this Defendant in Palm Beach County, Florida. *Labbee*, 913 So. 2d at 682 (purchasing and using property as a rental property satisfied the business requirement for purposes of §48.181); *Weber*, 67 So. 2d at 620 (purchasing and selling a citrus grove constituted a "business venture" for purposes of substitute service).

Based upon the allegations in the Amended Complaint described herein, the court finds that Plaintiffs have properly pled a basis to serve Defendant, pursuant to Florida Statute section 48.181. As a result, Defendant's Motion seeking to vacate the final judgment is hereby respectfully **DENIED**.

Additionally, Defendant Ugur argues that Plaintiff was not authorized to resort to substitute service pursuant to Florida Statute section 48.181 as he failed to engage in an adequate investigation of where Defendant was located. Based on the uncontested evidence submitted by Plaintiff, the Court finds that Plaintiff engaged in sufficient efforts to physically locate Defendant Ugur prior to resorting to substitute service.

To avail itself of substitute service, "the plaintiff must demonstrate the exercise of due diligence in attempting to locate the defendant."

Alvarado-Fernandez, 151 So. 3d at 16; *Wiggam v. Bamford*, 562 So. 2d 389, 391 (Fla. 4th DCA 1990). In *Wiggam*, the court held that the test to determine if the plaintiff demonstrated due diligence "is not whether it was in fact possible to effect personal service in a given case, but whether the [plaintiff] reasonably employed knowledge at [her] command, made diligent inquiry, and exerted an honest and conscientious effort appropriate to the circumstances, to acquire the information necessary to enable [her] to effect personal service on the defendant." *Wiggam*, 562 So. 2d at 391. Here, the record evidence reflects that before filing the Complaint, Plaintiff exercised the proper due diligence in attempting to locate Defendant.

Plaintiff first gave notice of this lawsuit to Defendant Ugur through his counsel in the related cases pending in Palm Beach County, Florida and requested that Defendant's record counsel accept service of process on Defendant's behalf. Defendant was then advised by his counsel of this case and legal advice was provided by his counsel. However, Defendant's counsel did not agree to accept service of process on behalf of his client. The evidence demonstrates that Plaintiff thereafter engaged in extensive efforts to locate Defendant, but could not do so. [Pl. Exhibit 46]. In addition, Defendant Ugur admits that he was intentionally concealing his whereabouts from Plaintiff at the time of service in 2018. [Ugur Tatlici Deposition Tr., Vol. I, at 48:16–20].

Finally, during jurisdictional discovery of this case, the Defendant was ordered and continues to

refuse to produce his two passports, Turkish and Maltese passports, and would not produce his travel visas, despite being ordered by this Court to do so. This evidence appears probative as to determine where Defendant was residing in July 2018 at the time of service of process. Based on the evidence before the court, evidence that Defendant Ugur has failed to rebut, this Court finds that Plaintiff made sufficient efforts to locate Defendant prior to engaging in substitute service pursuant to Florida Statute section 48.181. As a result, Defendant's Motion seeking to vacate the final judgment for this reason, as well, is hereby respectfully **DENIED**.

Finally, Defendant challenges the manner in which Defendant Ugur was served arguing that Plaintiff did not comply with Florida Statute section 48.161. Upon review of the record and evidence submitted by the parties, the court finds that Plaintiff complied with all requirements to serve Defendant as set forth in Florida Statute section 48.161.

Plaintiff mailed a copy of the Complaint to the Florida Secretary of State. On July 23, 2018, the Florida Secretary of State confirmed receipt by mail and accepted service of the Complaint on Defendant's behalf as his statutory agent, pursuant to Florida Statute sections 48.181 and 48.161. [Pl. Exhibit 11]. The evidence further demonstrates that Plaintiff mailed a copy of the Complaint and summons to Defendant by registered mail return receipt to Defendant's mailing address, the **Crystal Tat Resort and Hotel**, owned by Defendant Ugur in Antalya, Turkey. [Pl. Exhibits 12, 13].

The front of the envelope presented by the Plaintiff shows that the green return receipt card was sent to the Defendant Ugur as part of the mailing by registered mail where the Plaintiff sought the Defendant's signature to confirm delivery. [Pl. Exhibit 13]. This card was never signed by the Defendant and returned to the Plaintiff.

Defendant Ugur confirmed in his affidavit and deposition that this was his mailing address and he receives his mail at this location. [Pl. Exhibit 10; Ugur Tatlici Deposition Tr., Vol. III, at 405:14–406:23]. Plaintiff thereafter timely filed an affidavit of mailing of the documents with the Court. [Pl. Exhibit 14]. He additionally attached to the affidavit a photo of the envelope that he was using to send the documents to Defendant. [Pl. Exhibit 14]. The court finds that Plaintiff's affidavit complied with all statutory requirements. *Fischer v. Bartberger*, 330 So. 2d 507 (Fla. 4th DCA 1976) (holding that no specific language is required in the affidavit of mailing other than showing compliance).

Defendant Ugur contends that Plaintiff failed to file the signature card signed by Defendant demonstrating receipt of the Complaint as required by Florida Statute section 48.161. However, the evidence demonstrates that while Defendant received his mail at the address that Plaintiff used, he was not physically present at the location. [Pl. Exhibits 22, 23, 24, 25, 28]. The evidence further demonstrates that Defendant Ugur admittedly concealed his whereabouts, and thus, Plaintiff could not obtain the signature on the return receipt card to file with the

court. (Ugur Tatlici Deposition Tr., Vol. I, at 48:16–20]. The evidence additionally demonstrates that Defendant intentionally had his hotel staff reject mail from Plaintiff and this Court because it constituted "regular mail." Defendant testified that he would only accept official mail from the Turkish government. [Ugur Tatlici Deposition Tr., Vol. I, at 48:16–20; Vol. III, at 407:6–408:19].

The evidence further shows that the envelope that included the Complaint actually reached Defendant's **Crystal Tat Hotel** and Resort in Antalya, Turkey, was signed for at the hotel, but was then rejected and returned to Plaintiff. [Pl. Exhibit 12]. Plaintiff presented at the evidentiary hearing both a photo and the original envelope itself. [Pl. Exhibit 12]. This evidence showed stamps clearly demonstrating receipt of the mailing in Antalya, Turkey, a signature next to a designation of the "Krystal" Hotel, and a pink slip from the Turkish postal system proving that the envelope was returned to Plaintiff with a note of "unknown." [Pl. Exhibit 12].

Under Florida law, the requirement of filing a signed certified return receipt card by Defendant is unnecessary when Defendant engages in an action to reject receipt of the mailing of the Complaint to his address, such as evading service. In *Alvarado-Fernandez*, the defendant contended that the plaintiff failed to file the postal receipt with the court thereby negating substitute service. 151 So. 3d at 17. The plaintiff in that case admitted that the defendant never received the process mailed to her which deprived the plaintiff of the ability to file a return

receipt. *Id.* The court reviewed the record in its entirety and determined that "there [were] sufficient facts that appear from a consideration of the entire record to justify the applicability of sections 48.161." *Id.* The court found that the "Plaintiff made conscientious efforts appropriate under the circumstances to obtain service on a defendant who could be deemed to actively avoiding personal service." *Id.* at 18. Finally, the court held that the requirement that the plaintiff file a return is "excusable." *Id.* Thus, the Fourth District Court of Appeal agreed that the filing of the return receipt signed by a defendant was unnecessary. Similarly, this Court finds a failure to file same in the case sub judice to be excusable in the same context as the court did in *Alvarado-Fernandez* case.

Similarly, the court in *Robb v. Picarelli*, 319 So. 2d 645, 647 (Fla. 3d DCA 1975) found that the need to even send notice by registered mail was negated based on the plaintiff's efforts to locate the defendant who was concealing his whereabouts. In *Robb*, the court found that service was proper even without mailing the complaint to the defendant. *Id.*; *see also MLB S. Beach Rental Portfolio Manager, LLC v. Epicouture, Inc.*, No. 17-20036, 2017 WL 11220682, at *4 (S.D. Fla. June 23, 2017) ("it was not necessary for the Plaintiff to file a return receipt as the Plaintiff alleged that it attempted to send a letter to the Defendant, and it was returned"); *Oteman v. Napoles*, 757 So. 2d 1261, 1261 (Fla. 3d DCA 2000) (excusing compliance with filing a signed signature card because the enveloped was returned and marked unclaimed); *Fernandez v. Chamberlain*, 201 So. 2d 781, 786 (Fla. 2d DCA 1967)

("When a resident conceals his whereabouts, obviously it is impossible to serve him by mail or otherwise. When a defendant makes it impossible for the plaintiff to serve him by mail or otherwise, the failure to file defendant's return receipt does not prevent the Court from acquiring jurisdiction.").

Therefore, this Court finds that Plaintiff mailed the Complaint and summons to Defendant at his mailing address and the mailing was rejected based on Defendant's own testimony that he rejects "regular mail" that is not from the Turkish government. Plaintiff has introduced additional evidence showing that other letters sent by Plaintiff to the exact address in Defendant's affidavit were rejected by Defendant and returned to Plaintiff. The notations given by Turkish postal system were either "unclaimed" or "moved." [Pl Exhibits 15, 16].[15] Yet, Defendant Ugur

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[15] Plaintiff's evidence included a fact information sheet that was mailed to Defendant in November 2020, shortly after Defendant filed his Motion and affidavit setting forth his mailing address. The fact information sheet was sent to the exact same address as the one set forth in Defendant's affidavit filed with the court one month prior. The evidence demonstrates that the fact information sheet was rejected and returned to Plaintiff as "unclaimed" by Defendant. [Pl. Exhibit 15]. Similarly, Plaintiff sent a Notice of Taking deposition to Defendant in May 2021, to the same address that Defendant maintains his is current mailing address. This Notice was returned to Plaintiff by the Turkish postal system stating that Defendant had "moved" notwithstanding that Defendant maintains this as his current mailing address. [Pl. Exhibit 16]. Finally, Plaintiff submitted a current Mernis address listing for Defendant, a document created by the Turkish Government setting forth current addresses in Turkey. According to this document, Defendant's current mailing address is

maintains that this address is his current proper mailing address. Defendant Ugur did not contest any of the evidence submitted by Plaintiff.

Finally, Defendant Ugur admits that he was concealing his whereabouts from Plaintiff, and thus, there was no way for Plaintiff to have ever obtained a signature by Defendant on a return receipt card. As a result, the Court finds that Plaintiff's failure to file a signed card by Defendant confirming receipt of the registered mail was not necessary under the facts of this case, but even if so Plaintiff was excused from doing so and the failure did not negate the validity of the substitute service on Defendant. Based upon all of the above stated reasons, Defendant's Motion seeking to vacate the final judgment is hereby respectfully **DENIED**.

IV. Service of Defendant through the Hague Convention in Turkey was Not Required

Although referenced in the written submissions to the court, Defendant did not raise the argument that Plaintiff was required to serve Defendant through the Hague Convention in Turkey at the evidentiary hearing. For reasons stated below, this Court finds, as a matter of law, that the Hague Convention does not apply to this case because the Defendant did not reside in Turkey. The substantial competent evidence reflects Defendant Ugur resides in Dubai at all material times

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Defendant's hotel in Antalya, Turkey where Plaintiff sent the fact information sheet and Notice of Taking Deposition, both of which were rejected by Defendant. [Pl. Exhibit 21].

during service of process.

The Hague Convention became effective in the United States on February 10, 1969. *Alvarado-Fernandez*, 151 So. 3d at 13. The Hague Convention states that it "**shall** apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad." *Id.* (quoting Hague Convention, art. 1). "Therefore, the United States Supreme Court has held the Hague Convention is a self-executing treaty, and thus preempts inconsistent methods of service prescribed by state law in all cases to which it applies; namely, all civil or commercial matters 'where there is occasion to transmit a judicial or extrajudicial document for service abroad.'" *Alvarado-Fernandez*, 151 So. 3d at 13 (quoting *Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 698–99 (1988)).

In addition, the Hague Convention applies solely to signatory nations. *Dist. Title v. Warren*, No. 14-1808, 2016 WL 10749155, at *4 (D.D.C. Dec. 23, 2016) (showing that New Zealand was a non-signatory nation, and thus, the procedures requesting judicial assistance pursuant to the Hague Convention are inapplicable); *Mezo v. Elmergawi*, 855 F.Supp. 59, 62 (E.D. NY 1994) ("the provisions of the Hague Convention, which in this court's view is an admirable demonstration of constructive international policy legislation, are only applicable to those countries who signed the Convention and thereby agreed to abide by its terms").

Service pursuant to the Hague Convention is inapplicable, however, if the Defendant is concealing his whereabouts. The Fourth District Court of Appeal in *Alvarado-Fernandez* stated the following:

> To help simplify the process, the Hague Convention provides several methods to accomplish service, and the principal method for service under the Hague Convention is through the designated Central Authority. Hague Convention arts. 2-6, 8-11, 19. However, the Hague Convention is expressly inapplicable in cases where the location of the person to be served is unknown.

Alvarado-Fernandez, 151 So. 3d at 13. Finally, Defendant must physically reside in a signatory country for the Hague Convention service requirements to apply. *Id.* In *Celgene Corp. v. Blanche, LTD.*, No. 16-501, 2017 WL 1282200, at *1 (D.N.J. Mar. 9, 2017), the plaintiff was attempting to serve the defendant in the country of Dubai. The court first found that Dubai (UAE) "is ***not a signatory*** of the Hague Convention." *Id.* at *2 (emphasis added). The court further found that the defendant had an address in Dubai but maintained "***no actual presence*** at that address." *Id.* at *3 (emphasis added). "Accordingly, Blanche's address may be considered unknown for the purpose of the Hague Convention." *Id.*; *see also Noco Co., Inc. v. Zhejiang Quingyou Elec. Commerce Co., Ltd.*, 338 F.R.D. 100, 105–06 (N.D. Ohio 2021).

The Court in *Winston v. Walsh,* No.

5:19-cv-00070-TES, 2020 WL 1493659, at *4 (M.D. Georgia Mar. 27, 2020) discussed the issue of the need for a physical presence in a Hague signatory country for the Hague to apply. In *Winston*, the defendant argued that the plaintiffs had yet to properly serve him. *Id.* The plaintiffs chose to attempt to serve him through the Hague Convention in the United Kingdom, a signatory country. *Id.* at *5. The Court found that due to a lack of actual presence at the address, service could not be effectuated on the defendant in the United Kingdom. *Id.* at *6.

The Fourth District Court of Appeal in *Societe Hellin, S.A. v. Valley Commercial Capital, LLC*, 254 So. 3d 1018 (Fla. 4th DCA 2018) also considered the issue of service of process on a defendant and his place of residence. The court found that the plaintiff's efforts to serve the defendant at his condo in Brickell were improper because while the defendant had this address, he only sometimes stayed and did not reside there. *Id.* at 1019. The court held that the plaintiff should have served the defendant in the foreign country, Venezuela and/or Panama, where he was in fact living. *Id.* at 1021–22.

The evidence presented to this Court demonstrates that Defendant was not actually living in the country of the Hague signatory country of Turkey on July 23, 2018, the date of service. Indeed, Defendant admitted in his deposition that he was not residing in the country of Turkey on this date. [Ugur Tatlici Deposition Tr., Vol. III, 391:14–17]. Although additional evidence is unnecessary, Defendant had not been to the country of Turkey since at least 2015, over

three (3) years prior to the date of service. Defendant left the country of Turkey on September 12, 2015, and never returned. [Pl. Exhibit 23].

The evidence also demonstrates that Defendant was living in Dubai at the time of service. Defendant's attorneys represented to the Turkish court on October 13, 2016, the following:

> Ugur Tatlici permanently lives in Dubai, he has a company, his is dealing with international trading, he rarely visits Turkey.

[Pl. Exhibit 22]. Defendant's counsel additionally stated on October 31, 2019, December 21, 2021, and August 24, 2022, that Defendant was not living in the country of Turkey, but was instead in Dubai. [Pl. Exhibits 27, 28, 29]. A police report in the country of Turkey also demonstrates that on October 19, 2019, the police came to the Crystal Tat Beach Hotel, Defendant's last known address in Turkey, to determine if Defendant resided at the hotel. After speaking with the hotel officers, they stated that Defendant has not visited or stayed at the hotel for the past three (3) to four (4) years. [Pl. Exhibit 25]. Defendant's Turkish attorney, Fatih Bilgutay, further confirmed that Defendant had been abroad for a long time for business and it was unknown when he would return. [Pl. Exhibit 25].

Plaintiff additionally admitted into evidence the affidavit of Ayhan Duran ("Mr. Duran"), a Turkish attorney and member of the Istanbul, Turkey Bar

Association. Mr. Duran set forth in his affidavit that Article 19 of the Turkish Civil Code defines a person's residence as "the place where a person resides with the intention of staying permanently." [Pl. Exhibit 45]. He further stated that the

> concept of residence mentioned in the article of the law is accepted as the center of a person's life and the place where he/she is physically located, and carries out his/her vital activities. It includes the elements of residence as actually living there, place of residence, and intention to stay permanently.

[Pl. Exhibit 45]. Defendant neither contested the affidavit of Mr. Duran nor presented any evidence in opposition to Plaintiff's evidence that Defendant was not residing in the country of Dubai, but was, in fact, residing in Turkey at the time of service.

Plaintiff further contends that if Defendant was not residing in Dubai, a non-signatory country, then, at a minimum, he was concealing his whereabouts for purposes of the Hague Convention. Plaintiff argues that if a party is concealing his or her whereabouts, then service under the Hague Convention is likewise inapplicable. Finally, Plaintiff contends that if service is inapplicable through the Hague Convention, Plaintiff may serve Defendant, pursuant to Florida Statute section 48.161.

The Court finds that based on the uncontested evidence submitted by Plaintiff, that Defendant was

not residing in Turkey at the time of service, but was living in the country of Dubai, a non-signatory member of the Hague Convention. *Celgene Corp.*, 2017 WL 1282200, at *2. At a minimum, Defendant Ugur was concealing his whereabouts whereby service through the Hague Convention would equally be inapplicable. *Alvarado-Fernandez*, 151 So. 3d at 15. Finally, as set forth in *Alvarado-Fernandez*, "in those cases where no binding international treaty governs service of process, a party must look instead to Florida's service of process rules." *Id.* Plaintiff was, thus, permitted to serve Defendant, pursuant to Florida Statute sections 48.181 and 48.161.

For all of these reasons, Defendant's Motion to Vacate the Final Judgment based on the failure of Plaintiff to serve Defendant through the Hague Convention is hereby respectfully **DENIED**.

V. The Court Declines to Vacate the Final Judgment based upon Technical Deficiencies in Substitute Service

Defendant Ugur additionally argues that this Court should vacate the Final Judgment based upon technical deficiencies with substitute service of process. Defendant cites technical deficiencies in the affidavit of mailing filed by Plaintiff, noncompliance with Florida Statute section 48.161, and a lack of pleading a basis for substitute service in the Complaint and/or Amended Complaint. The court rejects Defendant's arguments based on the case of *Ranger Construction Industries, Inc. v. Huff*, 499 So. 2d 2, 2 (Fla. 4th DCA 1986).

"Where notice is adequate, defects in process or service of process are waived if not timely raised." *Kathleen G. Kozinski v. Phillips*, 126 So. 3d 1264, 1268 (Fla. 4th DCA 2013). The Fourth District Court of Appeal in *Ranger* considered the circumstance where a defendant had actual notice of the case, but failed to timely challenge technical deficiencies with the service process. *Ranger*, 499 So. 2d at 2. The *Ranger* court stated the following:

> The trial court found that the claims/litigation file maintained by Ranger in the ordinary course of business contained the summons and complaint that was served upon Defendant on October 30, 1984, yet Ranger failed to move to set aside the final judgment and quash service of process until October 18, 1985, almost a year later. We previously have indicated that we cannot countenance a challenge to service of process where the record reflects that the defendant **had notice of a proceeding against him, but that he saw fit to 'simply ignore the process, sit idly by, letting default be entered against it, a jury trial initiated, and final judgment entered**.

Id. (emphasis added). The court in *Ranger* denied the defendant's motion to vacate the final judgment for these reasons. *Id.*

The uncontroverted record evidence reflects that

Defendant Ugur was notified of this case by, his counsel, Mr. Goerke, shortly after it was filed. Mr. Goerke testified that he pulled a copy of the Complaint from the docket after being notified of the case by Plaintiff shortly after it was filed. He discussed the case with Defendant at that time and gave him legal advice. [Goerke Deposition Tr. at 80:17–83:15; 102:4–9]. This testimony directly contradicts Defendant's own deposition testimony whereby Defendant stated that he had no knowledge of this case until well after the Final Judgment was entered. [Ugur Tatlici Deposition Tr., Vol. III, at 355:14–25].

Mr. Goerke, as Defendant's attorney, monitored the case by reviewing the docket in 2018 and further reviewed the docket at least twice in 2019. [Goerke Deposition Tr. at 186:2; 187:19]. After Plaintiff served the Florida Secretary of State on July 23, 2018, Plaintiff contacted Mr. Goerke, again, requested that he accept service of process, and inquired as to whether he would be representing Defendant in this case. Mr. Goerke did not respond to this correspondence. [Pl. Exhibit 17].

In early 2019, Mr. Goerke, as the attorney for Defendant, received a copy of the Amended Complaint in the mail from Plaintiff. Rather than pursue potential defenses to service of process at that time, such as the technical deficiencies raised now, Defendant's counsel instead threw the Amended Complaint in the garbage. [Goerke Deposition Tr. at 148:10–149:9].

In March 2019, Plaintiffs, while not required to

do so, served Defendant a second time by serving Florida's Secretary of State, pursuant to Florida Statute section 48.161 as an agent on Defendant's behalf. In addition, Plaintiffs also mailed a copy of the Amended Complaint to Defendant and then filed an affidavit of compliance thereafter. Defendant Ugur does not contest any of the above facts.

Based on the above, the record evidence demonstrates that Defendant had actual notice of this case shortly after the Complaint was filed. He and/or his counsel further had a copy of the original complaint in their files shortly after the case was filed. Defendant discussed the case with his counsel at that time and received legal advice related thereto. Defendant and his counsel then monitored the case through a review of the docket throughout 2018 and 2019. During this time, Defendant was served with the Complaint by substitute service on July 23, 2018. Defendant allowed the case to proceed through trial and final judgment without challenging service of process. In total, he waited over two (2) years and six (6) months after first learning of the case to challenge service of process and move to vacate the final judgment upon this basis on October 15, 2020.

Defendant has not disputed any of these facts. Rather, Defendant attempts to distinguish *Ranger* based on the fact that Defendant in that case was actually served with the Complaint. However, as stated above, Plaintiff served Defendant through substitute service on July 23, 2018. Defendant continued to monitor the docket thereafter throughout 2018 and 2019 and failed to take any action to quash

service of process. Upon review of the docket, Defendant would have seen confirmation from the Florida Secretary of State that Defendant was served through substitute service. He would have additionally seen Plaintiff's affidavit of mailing of the Complaint. He additionally received a copy of the Amended Complaint thereafter, but took no "legal" action.

Based upon the above, and in accordance with *Ranger*, even if technical deficiencies existed, same were waived by Defendant's unreasonable delay in contesting service of process. 499 So. 2d at 2. Defendant waited an additional ten (10) months after judgment to first challenge service of process. Accordingly, Defendant's Motion to Vacate the Final Judgment by quashing service of process is **DENIED**.

V. This Court has Personal Jurisdiction over Defendant

Defendant has additionally has moved to dismiss Plaintiff's Amended Complaint for a lack of personal jurisdiction with prejudice. Upon review of the allegations in the Amended Complaint, the affidavits presented by the parties, and the evidence presented at trial, the Court finds that it has properly exercised personal jurisdiction over Defendant. As a result, Defendant's Motion to Dismiss for Lack of Personal Jurisdiction is hereby **DENIED**.

"It is well-established that two inquiries must be made in determining whether a court may exercise personal jurisdiction over a defendant under Florida's long-arm statute." *Estes v. Rodin*, 259 So. 3d 183, 190

(Fla. 3d DCA 2018). "First, it must be determined that the complaint alleges sufficient jurisdictional facts to bring the action within the ambit of the statute; and if it does, the next inquiry is whether sufficient 'minimum contacts' are demonstrated to satisfy due process requirements.'" *Id.* (quoting *Venetian Salami Co. v. Parthenais*, 554 So.2d 499, 502 (Fla. 1989)). *Baronowsky v. Maiorano*, 326 So. 3d 85, 87 (Fla. 4th DCA 2021). For the second inquiry, to satisfy due process, Defendant must have "certain minimum contacts with [the forum state] such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" *Baronowsky*, 326 So. 3d at 88 (quoting *Int'l Shoe Co. v. Wash.*, 326 U.S. 310, 316 (1945)). Put differently, Defendant's conduct and connection with the forum state must be such that "he should reasonably anticipate being haled into court there." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472–73 (1985).

"The first prong of the analysis involves an examination of the four corners of the complaint to determine if the pleadings sufficiently allege a basis for jurisdiction. Supporting facts need not be pled." *Buckingham, Doolittle & Burroughs, LLP v. Kar Kare Auto. Grp., Inc.*, 987 So. 2d 818, 821 (Fla. 4th DCA 2008). The long-arm statute, Florida Statute section 48.193(1), "bestows broad jurisdiction on Florida courts." *Internet Solutions Corp. v. Marshall,* 39 So. 3d 1201, 1207 (Fla. 2010) (citations omitted). "Long–arm jurisdiction under section 48.193 may be established in one of two ways: "general" jurisdiction or "specific"

jurisdiction." *Banco de los Trabajadores v. Cortez Moreno*, 237 So. 3d 1127, 1132–33 (Fla. 3d DCA 2018); *Rautenberg v. Falz*, 193 So.3d 924, 928 (Fla. 2d DCA 2016).

A Florida court may exercise "specific" jurisdiction over a nonresident defendant in those cases in which it is alleged that the nonresident defendant commits any of the specific acts enumerated in the statute in Florida, so long as the cause of action arises from that enumerated act committed in Florida. *Banco de los Trabajadores*, 237 So. 3d at 1133 (citing Fla. Stat. § 48.193(1)(a)(1)–(1)(a)(9).[16] According to Florida Statute section 48.193(a), the following one or more of the following acts subject Defendant to jurisdiction in Florida:

> 1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
>
> 2. Committing a tortious act within this state.

Fla. Stat. § 48.193(a). In determining sufficient allegations of jurisdiction, the Court is to look at the Complaint, as well as any attachments to the

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[16] A Florida court has "general" jurisdiction over a nonresident defendant when the defendant has "engaged in substantial and not isolated activity within this state." *Banco de los Trabajadores*, 237 So. 3d at 1133 (citing Fla. Stat. § 48.193(2).

Complaint. *See Arthur*, 543 So. 2d at 351 (taking the complaint as a whole, which included the attached property settlement agreement, the court concluded that sufficient jurisdictional facts were alleged); *Pluess-Staufer Indus.*, 597 So. 2d at 958 (a basis for jurisdiction is to be determined by looking at the allegations in the complaint and the attachments).

Thus, the Court must look at both the allegations in Plaintiffs' Amended Complaint, as well as the articles themselves, which Plaintiffs attached thereto. In addition, specific jurisdiction is determined as of the time that the tort was committed. *Caiazzo v. Am. Royal Arts Corp.*, 73 So. 3d 245, 251 (Fla. 4th DCA 2011). Finally, the Court may look to the allegations in the Amended Complaint to determine whether jurisdiction has been properly pled. *Flores v. Riscomp Indust.*, 35 So. 3d 146, 147–48 (Fla. 3d DCA 2010) (showing that an amended complaint relates back to the original complaint when the general fact situation is not altered).

Upon examination of the Amended Complaint, Plaintiffs have properly pled a basis for this Court to exercise personal jurisdiction over Defendant, pursuant to Fla. Stat. section 48.193(a)(1) and 48.193(a)(2). First, Plaintiffs alleged that Defendant was doing business in the state of Florida. [Dkt. 11, Am. Compl. ¶ 4]. Plaintiffs additionally alleged facts describing the business activities engaged in by Defendant from which the defamation claims arose. Plaintiffs alleged that Defendant created news articles about the Florida legal proceedings, posted them on the internet, and directed them to Palm Beach County,

Florida. [Dkt. 11, Am. Compl. ¶¶ 9–10]. Plaintiffs described the names of each article in the Amended Complaint. Plaintiffs further alleged through the attached news articles that Defendant had "news teams" in various cities in Florida gathering and disseminating information about the Florida legal proceedings for purposes of publications these articles, information that was allegedly false and defamatory. [Dkt. 11, Am. Compl. at 63, 64, 66, 67, 71]. These supporting facts and description of Defendant's business activities from which the claims arise from sufficiently satisfy Florida Statute section 48.198(a)(1); i.e., engaging in business in the state of Florida.

In addition, Plaintiffs alternatively satisfied the jurisdictional pleading requirement by alleging Defendant's agency in the state of Florida from which Plaintiffs' claims arise. A party may allege a defendant's agency in the state of Florida as a separate an independent basis to satisfy the jurisdictional pleading requirement. Fla. Stat. § 48.193(a)(1); *Dev. Corp. of Palm Beach v. WBC Const. LLC*, 925 So. 2d 1156, 1161 (Fla. 4th DCA 2006). Plaintiffs alleged that Defendant had "news teams" in Delray Beach, Florida, West Palm Beach, Florida, and Fort Lauderdale, Florida. Plaintiffs further alleged that these agents of Defendant allegedly obtained false information about two Florida legal proceedings between the parties, false information about the parties themselves, and further false information about the Florida judges handling the cases. These news teams additionally obtained false information about the interactions between Plaintiff Downs, Plaintiff Tatlici, and the personal representative of the estate, Mr. Rosenberg.

For example, Plaintiffs alleged that Defendant's "news teams" in Florida obtained false information about Plaintiff Downs engaging in efforts to improperly influence the personal representative in the Florida Probate Case by taking him to dinner at the Breakers in Palm Beach County, Florida. [Dkt. 11, Am. Compl. ¶ 36]. As Plaintiffs alleged Defendant's agency in the state of Florida, these allegations independently satisfy the jurisdictional pleading requirement set forth in Florida Statute section 48.193(a)(1). Said another way, the act of reporting, or allegedly reporting the news pertaining to the 15th Judicial Circuit as was done in this case is congruent with a "business venture" contemplated by the statute.

Additionally, Plaintiffs sufficiently alleged the commission of a tort in the state of Florida to satisfy the jurisdictional requirements pursuant to Florida Statute section 48.193(a)(2). The Florida Supreme Court in *Internet Solutions* stated the following:

> allegedly defamatory material about a Florida resident placed on the Web and accessible in Florida constitutes an "electronic communication into Florida" when the material **is accessed (or "published")** in Florida." "In the context of the World Wide Web, given its pervasiveness, an alleged tortfeasor who posts allegedly defamatory material on a website has intentionally made the material almost instantly available everywhere the material is accessible. By posting allegedly defamatory material on

> the Web about a Florida resident, the poster has directed the communication about a Florida resident to readers worldwide, including potential readers within Florida. **When the posting is then accessed by a third party in Florida, the material has been "published" in Florida and the poster has communicated the material "into" Florida, thereby committing the tortious act of defamation within Florida.** This interpretation is consistent with the approach taken regarding other forms of communication.

Internet Solutions, 39 So. 3d at 1215 (emphasis added); *see also Strober v. Harris*, 332 So. 3d 1079, 1084 (Fla. 2d DCA 2022); *Sifonte v. Fonseca*, No. 1:21-CV-20543, 2022 WL 4110705, at *8 (S.D. Fla. Aug. 12, 2022) ("the tort of defamation "is committed in the place where the defamatory material is published."). The court in *Internet Solutions* uses the words "accessed" and "published" interchangeably. The Court further stated that if a posting is accessed by a third party in Florida, it is published in Florida as it was communicated into Florida. This act of publishing in Florida would thus satisfy the jurisdictional requirements. However, unlike Internet Solutions case, the alleged defamation utilizes the 15th Judicial Circuit as the stage or platform for the feuding brothers.

Plaintiff alleged the following in paragraph 9 of the Amended Complaint:

> However, while the Plaintiff has been properly pursuing his claims through the use of the legal system, the Defendant has taken it upon himself **to publish** on the internet a significant amount of defamatory statements concerning both the Plaintiff Tatlici and Plaintiff **in Palm Beach County, Florida**.

[Dkt. 11, Am. Compl. ¶ 9] (emphasis added). Plaintiff further alleged in paragraph 10, the following:

> These false statements have been **directed at Palm Beach County, Florida** in an effort to defame the Plaintiff Tatlici and Plaintiff Downs and injure their business practices.

[Dkt. 11, Am. Compl. ¶ 10] (emphasis added). Plaintiffs further alleged that these statements were translated into English [Dkt. 11, Am. Compl. ¶ 11] and that these were statements made by Defendant on websites owned and operated by Defendant [Dkt. 11, Am. Compl. ¶ 13]. They further alleged that a domain search was conducted and showed that the administrative contact for these websites was Defendant and that Defendant was the individual making the false and defamatory statements. [Dkt. 11, Am. Compl. ¶ 18]. Finally, Plaintiffs alleged that these statements, images, and articles involving the 15th Judicial Circuit were put on a public website and broadcast to millions of people including those in the state of Florida. [Dkt. 11, Am. Compl. ¶ 36].

The Court finds that because Plaintiffs have alleged that Defendant Ugur "published" these statements about a Florida resident, Plaintiff Downs, and they were specifically "published" into Palm Beach County, Florida, directed at Palm Beach County, Florida, and further broadcast to the state of Florida, the pleading requirement under Florida Statute section 48.193(a)(2) for the commission of a tort in Florida is satisfied.[17] *Internet Solutions*, 39 So. 3d at 1216.

The court in *Estes v. Rodin*, 259 So. 3d 183 (Fla. 3d DCA 2018) explained the following:

> However, to the extent that Appellants alleged in their Second Amended Complaint that the allegedly defamatory posts were accessed by third parties in Florida, we cannot conclude at this stage that they fail to meet the requirement of the long-arm statute. Although these allegations are conclusory, we must take them as true, as the Appellees' affidavits filed below did not challenge that jurisdictional allegation.

Estes, 259 So. 3d at192. Defendant did not file any affidavit or submit any evidence contesting Plaintiffs' allegations that these statements were published and

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[17] The Amended Complaint further sets forth that the Defendant published defamatory material about additional Florida residents, i.e. Jeremy Friedman and Josh Rosenberg.

thus accessed in Palm Beach County, Florida or contesting that they were broadcast to individuals in the state of Florida. As a result, this Court will accept these allegations as true for purposes of Defendant's Motion. For this additional reason, this Court finds that Plaintiffs has sufficiently alleged facts to support personal jurisdiction under Florida Statute section 48.193(a)(2). For all of the reasons stated above, the first prong of the analysis has been satisfied, pursuant to both Florida Statute sections 48.193(a)(1) and 48.193(a)(2).

Turning to the second prong of the inquiry, the Court finds that minimum contacts was satisfied. "The second *Venetian Salami* question is whether the defendants had sufficient minimum contacts with Florida so that the maintenance of a suit here does not offend "traditional notions of fair play and substantial justice." *Renaissance Health Pub., LLC v. Resveratrol Partners, LLC*, 982 So. 2d 739, 742 (Fla. 4th DCA. 2008) (quoting *Execu–Tech Bus. Sys., Inc. v. New Oji Paper Co.*, 752 So.2d 582, 584 (Fla.2000)). "The requirement is satisfied if the defendant purposefully directs activities at Florida and litigation arises out of those activities, or the defendant purposefully avails himself of the privilege of conducting activities within the forum state." *Renaissance Health*, 982 So. 2d at 742 (quoting *Achievers Unlimited, Inc. v. Nutri Herb, Inc.*, 710 So. 2d 716, 719 (Fla. 4th DCA 1998)); *Silver v. Levinson*, 648 So. 2d 240, 243–44 (Fla. 4th DCA 1994). "In *Godfrey v. Neumann*, 373 So.2d 920, 922 (Fla. 1979), the Florida Supreme Court held that 'by committing a tort in Florida a nonresident establishes sufficient "minimum contacts" with Florida to justify

the acquisition of in personam jurisdiction over him.'" *Emerson v. Cole*, 847 So. 2d 606, 608 (Fla. 2d DCA 2003). In *Emerson* the defendant directed his defamatory publications on multiple occasions to the state of Florida. *Emerson*, 847 So. 2d at 608. The court in *Emerson* found that this constituted sufficient minimum contacts to satisfy due process. *Id.* at 608.

"In intentional tort cases, minimum contacts can be established based on a single tortious act, regardless of whether the defendant has any other contacts with the forum state, if the tortious act was aimed at the forum state and caused harm that the defendant should have anticipated would be suffered there." *Baronowsky*, 326 So. 3d at 89; *see Calder v. Jones*, 465 U.S. 783, 789–90 (1984); *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F. 3d 1339, 1356 (11th Cir. 2013); *see also Walden v. Fiore*, 571 U.S. 277, 286–88 (2014) (explaining that a state can exercise jurisdiction over a nonresident intentional tortfeasor if his conduct connects him not only to the plaintiff but to the forum state).

The court in *Gerber Trade Finance, Inc. v. Bayou Dock Seafood Co.*, 917 So. 2d 964 (Fla. 3d DCA 2005) found the following:

> Additionally, we find that Gerber's Complaint established that Bayou made sufficient minimum contacts within the State of Florida to justify hauling it into the State to defend itself in a Florida court. In *Illeyac Ship. Ltd. v. Riera-Gomez*, 899 So. 2d. 1230 (Fla. 3d

> DCA 2005) this Court held that 'by committing a tort in Florida a nonresident defendant establishes 'minimum contacts" with Florida to justify the acquisition of in personam jurisdiction over him.

Id. at 967.

As Plaintiffs have demonstrated Defendant's commission of a tortious act in Florida involving the 15th Judicial Circuit through the posting of alleged defamatory articles about Plaintiff and that these website articles relate to and/or involve the Florida Related Cases, this Court finds that Defendant has purposefully availed himself of the privilege of conducting activities within Florida and he should reasonably anticipate being haled into court here. *Renaissance Health*, 982 So. 2d at 742.[18] As a result, the second prong of the analysis, minimum contacts, has been established.

Moreover, Plaintiffs further submitted evidence to show Defendant's additional contacts in Palm Beach County, Florida. This evidence included the ownership of commercial real estate in Florida since at least 1997, receiving income in the state of Florida generated by this real estate, the ownership of

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[18] Plaintiff is not required to plead minimum contacts. Rather, he may present evidence to this Court by affidavit or otherwise demonstrating that this requirement has been satisfied, which Plaintiff did and was uncontested by Defendant.

residential real estate in Boynton Beach, Florida, and receiving rental income related thereto. [Pl. Exhibits 30, 36, 37, 38, 39, 46]. The sales proceeds of this real estate and the rental income itself was pending in Palm Beach County during the time in which the alleged defamatory statements were made and Plaintiffs' Complaint was filed. [Pl. Exhibits 41, 46]. Thus, in addition to the tortious action committed by Defendant in the state of Florida, Defendant had additional contacts at the time of the filing of the Complaint to satisfy due process.

Finally, Defendant is a party in the two Related Cases that remain pending in Palm Beach County, Florida. These cases involving his assets and business activities in Florida since 1997 and continuing through the today where the sales proceeds of Florida real estate and Defendant's rental income remain at issue before the Court today. [Pl. Exhibit 46]. Defendant conceded that personal jurisdiction was proper over him for both of these cases. He was also appointed, at his request, the administrator ad litem for the Florida Probate Case.

The alleged defamation includes statements related to the Florida litigation proceedings, the parties to the Florida litigation, the Florida personal representative, Mr. Rosenberg, and Florida judges presiding over the Related Cases. Defendant certainly could have, or should have anticipated that he would be haled into a Florida court based on defamatory statements about the Florida proceedings that he was litigating for almost ten (10) years. The Defendant's use of the 15th Judicial Circuit as the platform of the

alleged tort is a significant reason why the Court finds that minimum contacts have been established for purposes of personal jurisdiction over Defendant.

In sum, Plaintiff has satisfied both inquiries concerning personal jurisdiction over Defendant. This court finds that Defendant is subject to this Court's personal jurisdiction, pursuant to Florida Long-Arm Statute—Florida Statute sections 48.193(a)(1) and 48.193(a)(2)—and that Defendant has minimum contacts to satisfy Due Process requirements. As a result, Defendant's Motion to Dismiss for Lack of Personal Jurisdiction is hereby **DENIED**.

VI. Defendant Received Adequate Notice of the Jury Trial on Damages

Finally, Defendant seeks vacatur of the Final Judgment arguing a lack of notice relating to the jury damages trial. Upon review of the record and receipt of evidence submitted by Plaintiff, the Court finds that Defendant was given proper and adequate notice of the jury trial, and thus, the Motion to Vacate the Final Judgment for this reason is **DENIED**.

The docket in this case shows that Plaintiffs filed a Notice of Trial and served it on Defendant on April 25, 2019. [Dkt. 24]. On May 24, 2019, the court entered an order setting jury trial for the trial period of October 28, 2019 through December 20, 2019. The court certified in the trial order that it mailed the trial

order to Defendant. [Dkt. 25].[19] The Court in *Scott v. Johnson*, 386 So. 2d 67 (Fla. 3d DCA 1980) held that this certification is "prima facie proof that the notice of trial was mailed." *Scott*, 386 So. 2d at 69. In addition, the court stated that this "presumption is not overcome by a denial, even though sworn, that the order was not received." *Id.*

On October 18, 2019, as set forth in the trial order, the Court held a calendar call, which required the attendance of all parties, including Defendant. Defendant did not attend the calendar call. On October 21, 2019, Plaintiffs filed a Motion for Special Set trial date within the Court's trial period set forth in its May 24, 2019 Order. [Dkt. 31]. Plaintiffs further set the motion for hearing and gave notice to Defendant. [Dkt. 32]. At the hearing, which Defendant additionally did not attend, the court scheduled the trial for a one day trial to take place on December 19, 2019. Plaintiffs thereafter filed a Notice of Special Set Jury Trial Setting and mailed it to Defendant. [Dkt. 33].

Based on the above, Defendant had over seven (7) months' notice of the trial period beginning with

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[19] The court's order went to the Defendant's address in Turkey and was then returned, similar to other letters sent by both the Plaintiff and this Court. The Defendant has testified that he rejected mail, including mail from the Plaintiff and this Court, unless it was from the Turkish government. There is thus no issue that the Court failed to include the proper postage on the mailings to the Defendant as the letter and envelopes demonstrate that they reached the Defendant's address in Antalya, Turkey but were rejected.

the Court's order setting the trial on May 24, 2019. The trial was subsequently scheduled during the trial period set forth in the Court's original order. Defendant failed to attend the Calendar Call or the Motion Specially Setting the trial date despite having notice for each of these hearings.

Finally, Plaintiffs submitted evidence to the Court, which was not disputed by Defendant, that Defendant's attorney, Mr. Goerke, was monitoring the case through his review of the docket in 2018 and at least twice in 2019. [Goerke Deposition Tr. at 186:2; 187:19]. A review of the docket would have demonstrated the trial period, the calendar call, and the special set trial date. Thus, Defendant further had notice through his attorney, Mr. Goerke, that the trial was going forward on December 19, 2019.

Based on the above, this Court finds that Defendant had sufficient notice of the trial on damages, but chose not to participate. As a result, his Motion to Vacate the Final Judgment for this reason is hereby respectfully **DENIED**

VII. The Court Awards Sanctions as to Plaintiff's Second Motion for Contempt

Finally, Plaintiff previously filed a Second Motion to hold Defendant in Contempt for his failure to comply with court orders regarding the production of his passport and travel visas. These documents would have provided information as to Defendant's location at the time of service for purposes of determining the application of the service

requirements under the Hague Convention. The Second Motion was heard by the Court on May 10, 2021. The Court reserved ruling pending Defendant's deposition and whether he would disclose therein the contents of his passports and travel visas.

Defendant refused to testify as to these issues despite being ordered to do so. Defendant has additionally continued to refuse to produce his passports and travel visas.

Defendant was initially sanctioned by this Court in the amount of $10,000 in attorney's fees for his failure to comply with these Court orders. Notwithstanding these sanctions, Defendant has continued to refuse to comply.

When a defendant fails to comply with a court order, Rule1.380(b)(2) of the Florida Rules of Civil Procedure provides a court with the additional remedies as follows:

> (A) An order that the matters regarding which the questions were asked or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.
>
> (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence.

The Court finds that these additional sanctions against Defendant as to Plaintiff's Second Motion for Contempt are now warranted based upon Defendant's refusal to produce his passports and travel visas as ordered by the Court. The Court, thus, making the following findings of fact in accordance with the sanctions against Defendant:

> That at or near the time of service of process in either 2018 or 2019, Plaintiff has established as a fact that Defendant's residence, permanent or otherwise, was not in the country of Turkey. Rather, Defendant was living in the country of Dubai and/or was living in another country and concealing his whereabouts in July and August 2018.

VIII. Conclusion

Based upon the above, Defendant's Omnibus Motion to Vacate Default and Final Judgment, to Quash Service of Process, and to Dismiss for Lack of Jurisdiction is hereby respectfully **DENIED**.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida.

/s/
502018CA002361XXXXMB 01/31/2023
Scott Kerner
Circuit Judge

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