

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 PLAYUP, INC.,)

4)
5 Plaintiff,)

6 vs.)

7 DR. LAILA MINTAS,)

8 Defendant.)

Case No.: 2:21-cv-02129-GMN-NJK

ORDER

9
10 Pending before the Court is the Emergency Motion for Substituted Service of Dr. Laila
11 Mintas, (ECF No. 15), filed by Plaintiff PlayUp, Inc. (“Plaintiff”). For the reasons set forth
12 below, Plaintiff’s Emergency Motion for Substituted Service is **GRANTED**.

13 **I. BACKGROUND**

14 This action arises from Defendant Laila Mintas’ (“Defendant’s”) purported use of
15 Plaintiff’s confidential information and alleged disparagement of PlayUp, Inc. in violation of
16 Defendant’s employment agreement with Plaintiff (the “Employment Agreement”). (*See*
17 *Compl.* ¶¶ 8–10, 14, ECF No. 1).¹

18 On December 3, 2021, this Court granted in part and denied in part Plaintiff’s Motion
19 for Temporary Restraining Order, (ECF No. 2). (*See Order*, ECF No. 11). This Court
20 specifically ordered Plaintiff to serve a copy of the Order on Defendant by December 6, 2021.
21 (*Id.* 14:11–12). On December 6, 2021, Plaintiff filed a Motion to Extend the Deadlines Issued
22 in the Court’s Order because it was unable to properly serve Defendant despite multiple
23 attempts to locate her. (*See Mot. Extend Time*, ECF No. 13). The Court granted Plaintiff’s

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¹ The parties are familiar with the facts, so the Court will not repeat them here except where necessary to resolve the Motion. (*See Order* granting in part and denying in part Pl.’s TRO, ECF No. 11).

1 Motion, extending the deadline for service to December 20, 2021. (*See* Order, ECF No. 14).
2 Plaintiff now files the instant Emergency Motion for Substituted Service, (ECF No. 15).
3 Specifically, Plaintiff requests the Court authorize it to serve this Court’s Order granting in part
4 and denying in part Plaintiff’s Temporary Restraining Order by: (1) mailing a copy of the Order
5 to 11 Mountain Cove Court, Henderson, NV 89052 (the “Property”); and (2) emailing a copy of
6 the Order to dr.laila@mintas.net and dr.mintas@gmail.com. (*See* Mot. Substituted Service 6:4–
7 6, ECF No. 15).

8 **II. LEGAL STANDARD**

9 Under Federal Rule of Civil Procedure 4(e), an individual may be served “following
10 state law for serving a summons in an action brought in courts of general jurisdiction in the
11 state where the district court is located or where service is made.” *See* Fed. R. Civ. Pro.
12 (“FRCP”) 4(e)(1). Like its federal counterpart, Nevada Rule of Civil Procedure 4.2 permits
13 service within the state by: (1) personally delivering a copy of the summons and complaint to
14 the individual; (2) “leaving a copy of the summons and complaint at the individual’s dwelling
15 or usual place of abode with a person of suitable age and discretion who currently resides
16 therein and is not an adverse party to the individual being served;” or (3) delivering a copy of
17 the summons and complaint to an authorized agent. *See* Nev. R. Civ. Pro. (“NRCP”) 4.2(a); *see*
18 *also* FRCP 4(e). Nevada also allows service outside the state and outside the United States. *See*
19 NRCP 4.3. If, however, the methods of service outlined in NRCP 4.2, 4.3, and 4.4(a) are
20 unavailable, “the court may, upon motion and without notice to the person being served, direct
21 that service be accomplished through any alternative service method.” *See* NRCP 4.4.(b)(1).

22 **III. DISCUSSION**

23 Plaintiff seeks a court order authorizing alternative service via email. (*See* Mot.
24 Substituted Service, ECF No. 15). Specifically, Plaintiff argues that its multiple, failed
25 attempts to locate and serve Defendant demonstrate that the normal methods of service are

1 ineffective and thus, necessitate alternative service to serve Defendant a copy of this Court's
2 Order granting in part and denying in part Plaintiff's Motion for Temporary Restraining Order.
3 (*See id.*).

4 Under NRCP 4.4, a party seeking an order for alternative service must: (1) demonstrate
5 "that the service methods provided in Rules 4.2, 4.3, and 4.4(a) are impracticable"; (2) provide
6 evidence that "due diligence was undertaken to locate and serve the defendant;" (3) provide
7 evidence of "the defendant's known, or last-known, contact information"; and (4) state why the
8 alternative form of service comports with due process. *See* NRCP 4.4(b)(2); *see also Eko*
9 *Brands, LLC v. Houseware Sols., LLC*, No. 2:20-cv-2076-RCJ-BNW, 2021 U.S. Dist. LEXIS
10 159616, at *4 (D. Nev. Aug. 20, 2021); *see also Huang v. Carney*, No. 2:19-cv-00845-GMN-
11 BNW, 2020 U.S. Dist. LEXIS 3980, at *7 (D. Nev. Jan. 8, 2020); *see also Gomez v. State*
12 *Dep't of Bus. & Indus. Rels.*, No. 2:21-cv-01184-GMN-VCF, 2021 U.S. Dist. LEXIS 201074,
13 at *2 (D. Nev. Oct. 19, 2021).

14 Here, the Court finds that Plaintiff has met the requirements for alternative service by
15 email. As to the first prong, Plaintiff demonstrates that it made a good-faith effort to locate and
16 serve Defendant under NRCP 4.2(a). Between December 2, 2021, and December 3, 2021,
17 Plaintiff attempted to serve Defendant by personal service at the Property. (*See* Aff. Shanna
18 Garcia, Ex. 1 to Mot. Substituted Service, ECF No. 15-1); (*see also* Aff. Tanner Trewet, Ex. 2
19 to Mot. Substituted Service, ECF No. 15-2). Once Plaintiff learned that Defendant no longer
20 resided at the Property, Plaintiff swiftly retained an investigator on December 4, 2021, to locate
21 Defendant's whereabouts. (*See* Report, Ex. 3 to Mot. Substituted Service, ECF No. 15-3).
22 Plaintiff also requested through multiple emails that Defendant send her current address and
23 location; however, Defendant did not respond to Plaintiff's emails. (*See* Email from Mintas, Ex.
24 4 to Mot. Substituted Service, ECF No. 15-4); (*see also* Emails between Amirbeaggi and
25 Mintas, Ex. 5 to Mot. Substituted Service, ECF No. 15-5); (*see also* Emails between Kerr and

1 Mintas, Ex. 7 to Mot. Substituted Service, ECF No. 15-7). Given that Plaintiff does not know
2 where Defendant currently resides and further, that there is no applicable statute prescribing a
3 specific method of service, the Court finds that Plaintiff has demonstrated that service pursuant
4 to NRCP 4.2, 4.3, and 4.4(a) is impracticable.

5 Plaintiff's attempts to locate and serve Defendant, as illustrated above, also show
6 Plaintiff's due diligence in attempting to effectuate service. Thus, the Court finds that Plaintiff
7 has also met the second prong under NRCP 4.4(b).

8 As to the third prong, Plaintiff provides two, seemingly active, email addresses to
9 contact Defendant: dr.laila@mintas.net and dr.mintas@gmail.com. (See Mot. Substituted
10 Service 6:4–7). Defendant, as recently as December 9, 2021, responded to emails at her email
11 address: dr.laila@mintas.net. (See Emails between Kerr and Mintas at 2). Furthermore,
12 Defendant confirmed in the Federal Court of Australia that dr.laila@mintas.net is her personal
13 address and further provided an additional email address at dr.mintas@gmail.com. (See Decl.
14 of Jennifer Hostetler (“Hostetler Decl.”) ¶ 15, Ex. 12 to Mot. Substituted Service, ECF No. 15-
15 12).² The Court accordingly finds that Plaintiff provides sufficient evidence, through a
16 declaration, of Defendant's known, or last known, contact information.

17 Lastly, Plaintiff satisfies the due process requirement under NRCP 4.4(b)(2)(B). An
18 alternative method of service comports with due process so long as it is “reasonably calculated,
19 under all the circumstances, to apprise interested parties of the pendency of the action and
20 afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank &*
21 *Trust Co.*, 339 U.S. 306, 314, 94 L. Ed. 865, 70 S. Ct. 652 (1950). In *Huang v. Carney*, the
22 Court determined that the plaintiff failed to adequately explain why his proposed method of
23 service via email comports with due process. *Huang v. Carney*, No. 2:19-cv-00845-GMN-

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25 ² Plaintiff provided a declaration by its counsel, Jennifer Hostetler, to show that Defendant has two potential email addresses.

1 BNW, 2020 U.S. Dist. LEXIS 3980, at *9 (D. Nev. Jan. 8, 2020). The plaintiff in *Huang*
2 provided two email addresses. *Id.* The Court, however, found that the plaintiff neither
3 established that the defendant used the email addresses nor tested that the email addresses were
4 valid “by, for example, sending ‘test emails that have not bounced back or returned as
5 undeliverable.’” *Id.*

6 In this case, the Court is satisfied that Defendant’s email address at dr.laila@mintas.net
7 is a sufficient service method. Plaintiff has established that Defendant used her email address,
8 dr.laila@mintas.net, as recently as December 9, 2021. (*See* Emails between Kerr and Mintas at
9 2). Furthermore, Plaintiff sent a copy of its Motion for TRO to Defendant at
10 dr.laila@mintas.net, and the email did not return as undeliverable. (*See* Emails from Behanu,
11 Ex. 6 to Mot. Substituted Service, ECF No. 15-6); (Hostetler Decl. ¶ 10). Plaintiff sufficiently
12 demonstrates that serving Defendant via the email address, dr.laila@mintas.net, is “reasonably
13 calculated to provide [her] notice and an opportunity to respond.” *Rio Props.*, 284 F.3d at 1017
14 (citing *Mullane*, 339 U.S. at 314)).

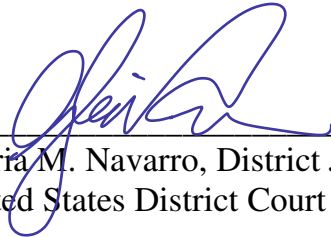
15 The Court, however, is more concerned with Defendant’s other email address,
16 dr.mintas@gmail.com. Plaintiff relies on a declaration by Jennifer Hostetler, its counsel, to
17 show that Defendant also uses another email to receive service. (*See generally* Hostetler Decl.).
18 Jennifer Hostetler claims that Defendant indicated, in the Federal Court of Australia, that she
19 has another email address, dr.mintas@gmail.com, and requested the Australian court
20 documents be sent to that address. (*Id.* ¶ 15). Plaintiff, however, has not sufficiently shown that
21 the alternative email address, dr.mintas@gmail.com, is valid. Other than this declaration,
22 Plaintiff has not established that Defendant uses that email address to send or receive
23 communications. Additionally, Plaintiff has not proven that the email address is valid by
24 testing the address, like it did with Defendant’s email address at dr.laila@mintas.net. Like the
25 plaintiff in *Huang*, Plaintiff has not demonstrated that Defendant receives emails at this other

1 address. Accordingly, the Court grants alternative service by email to only Defendant's address
2 at dr.laila@mintas.net.

3 **IV. CONCLUSION**

4 **IT IS HEREBY ORDERED** that Plaintiff's Emergency Motion for Substituted Service
5 of Dr. Laila Mintas, (ECF No. 15), is **GRANTED**. Plaintiff shall serve Defendant Laila Mintas
6 by email addressed to dr.laila@mintas.net and by mail to 11 Mountain Cove Court, Henderson,
7 NV 89052.³ Plaintiff shall serve a copy of the summons, Complaint, the Court's Order
8 granting in part and denying in part Plaintiff's Motion for TRO, and this Order granting
9 Plaintiff's Emergency Motion for Substituted Service. Plaintiff shall file proof of service with
10 the Court within seven (7) days after service is effectuated.

11 **DATED** this 16 day of December, 2021.

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16 Gloria M. Navarro, District Judge
17 United States District Court
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³ The Court additionally orders that Plaintiff mail a copy of "the summons and complaint, as well as any order of the court authorizing the alternative service method, to" the Property, pursuant to NRCP 4.4(b)(3)(B).