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5 Attorney for Plaintiff, Carol Sachs

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 7
 8 IN THE UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10
 11 CAROL P. SACHS,

NO. C-08-1840 EMC

12
 13 Plaintiff,

14 vs.

Declaration of Geoffrey Becker
 Regarding Service and Request
 To Continue Case Management
 Conference set for July 8, 2009

15 REPUBLIC OF AUSTRIA, OBB HOLDING
 16 GROUP, OBB PERSONENVERKEHR AG

ORDER

17 Defendants.

18
 19 I, Geoffrey Becker, declare:

20 a. That I am the attorney for the plaintiff, Carol P. Sachs;

21 b. The case management conference is scheduled for July 8, 2009 at 1:30

22 p.m. and the court has required the plaintiff to justify why the case management conference ought
 23 to be continued.

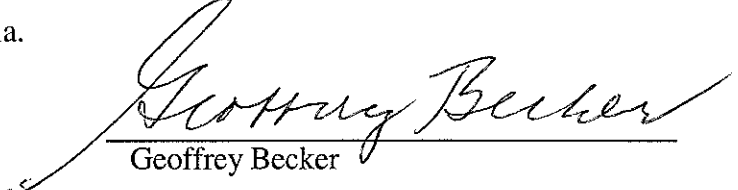
24 c. As set forth in the application for issuance of a letter rogatory, service of the
 25 summons and complaint is being accomplished through diplomatic channels via the United States
 26 Department of State. The Republic of Austria is not a signatory to the Hague Convention and the
 27 only method by which The Republic of Austria has authorized service of process is through the
 28 diplomatic channels established between itself and the United States Department of State.

1 d. Your declarant engaged the services of Alan H. Crowe & Associates, Inc. dba
2 Crowe Foreign Services, to assist the plaintiff in the required translation from English to German and
3 to assist in processing service through the Department of State. Your declarant has been informed
4 by Celeste Ingalls, Crowe Foreign Services, that she has not received any information from the
5 Department of State regarding this service. Ms. Ingalls submitted an affidavit in support of the
6 issuance of the letter rogatory. Accompanying this declaration is the affidavit of Celeste Ingalls
7 regarding the status of service.

8 e. The plaintiff is a resident of Berkeley, California and was a resident at the time
9 of her trip to Austria. Because of her injuries, bilateral amputation above the knees, she is not
10 capable of pursuing any litigation in Austria and such pursuit is not otherwise feasible.

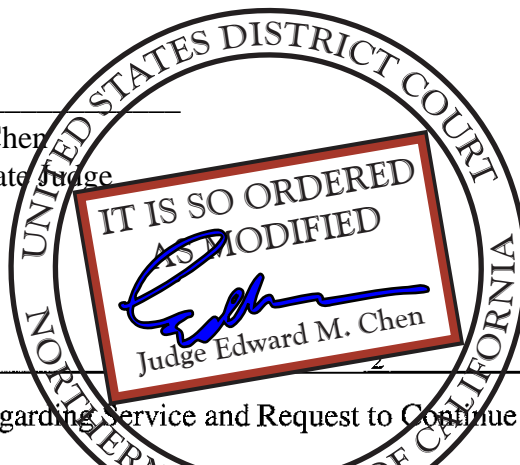
11 f. Your declarant respectfully requests that further case management conferences not
12 be scheduled until service has been completed. If the plaintiff receives notification of service other
13 than by way of a responsive pleading, your declarant will promptly notify the court so that a case
14 management conference can be scheduled.

15 I declare under penalty of perjury and under the laws of the United States of America
16 that the foregoing is a true and correct statement of the facts. This declaration is signed on this 1st
17 day of July, 2009 in Lafayette, California.

18 
19 _____
20 Geoffrey Becker

21
22 IT IS SO ORDERED that the case management conference is reset from 7/8/09 at 2:30 p.m.
23 to 10/14/09 at 2:30 p.m. A joint case management conference statement shall be filed
24 by 10/7/09.

25 _____
26 Edward M. Chen
27 U.S. Magistrate Judge



AFFIDAVIT OF CELESTE INGALLS

COURT: **UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CAPTION: **CAROL P. SACHS, Plaintiff
 v.
 REPUBLIC OF AUSTRIA, et al., Defendants**

CASE NO.: **C08-01840**

OREGON)
)
)
County of Multnomah)

I declare that I, Celeste Ingalls, am a citizen of Oregon, over the age of twenty-one, not a party nor an attorney for any party in this action, and state the following:

1. I am employed by Alan H. Crowe & Associates, Inc. dba Crowe Foreign Services, 1020 SW Taylor Street, Suite 240, Portland, Oregon, and I have specialized in the service of civil process in foreign countries for more than 13 years; and
2. Austria is not a signatory to any treaty, convention or multilateral agreement for the service of judicial documents; and
3. The Austrian Government has declared that service by formal letter rogatory request shall be the only method of service allowed by law and any other attempt at service shall be viewed as an affront to Austria's judicial sovereignty; and
4. The United States Department of State has been designated as the entity authorized to accept, and dispatch under diplomatic note, service of process under the provisions of a Letter Rogatory; and
5. The Ministry of Justice in Austria is the entity authorized to receive and effect the service of judicial documents, under cover of diplomatic note, in Austria in response to a letter rogatory; and
6. On June 24, 2008, I forwarded the Notice of Suit, with Attachment, Summons in a Civil Action, Letter Rogatory, Complaint for Personal Injuries, Notice of Case Assignment (Judge Edward M. Chen), Order Setting Initial Case Management Conference and ADR Deadlines, with requisite Austrian Court Certified German translations of all, through the appropriate diplomatic channels to be properly served in Austria upon **OBB Personenverkehr AG**; and

7. I have been in contact with William Fritzlen at the Department of State, Bureau of Consular Affairs. Mr. Fritzlen is in charge of all Foreign Sovereign Immunities Act protocol at the Department of State; and
8. On June 28, 2009, Mr. Fritzlen confirmed that the letter rogatory request had been received and forwarded in accordance with regulation and would research its current status and get back to me; and
9. As of today, July 1, 2009, there has been no information obtained about this service; and
10. There is no obligatory time frame for effecting service by letter rogatory request, which is done on the basis of comity between nations and the Vienna Convention on Consular Relations; and
11. For the past 13 years, my experience has been that service in Austria in response to a formal letter rogatory request takes approximately 6 months to complete, dependent upon the location where the service is to take place, but could take up to 10 months or more; and
12. The U.S. Department of State has indicated that in some instances, a letter rogatory served in accordance with the Foreign Sovereign Immunities Act can exceed standard time frames.

Celeste Ingalls

SUBSCRIBED AND SWORN to before me this 1st day of July, 2009.

Naoki Sakamoto
Notary Public for Oregon

