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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  
 ORDER RESETTING CMC

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

Hearing Date: 2-10-10

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 February 10, 2010 at 1:30

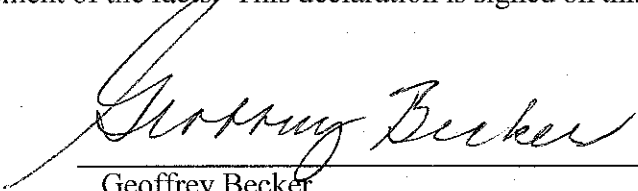
22 p.m.

23 c. Attached hereto are two letters from the Department of State explaining the delay  
 24 in delivering the letters rogatory to Austria and confirming that they were delivered to Austria on  
 25 December 22, 2009. Your declarant respectfully requests a continuance of the case management  
 26 conference to a date that is satisfactory to the court.

27 d. Although the letters rogatory have been delivered, until there is an acknowledge-  
 28

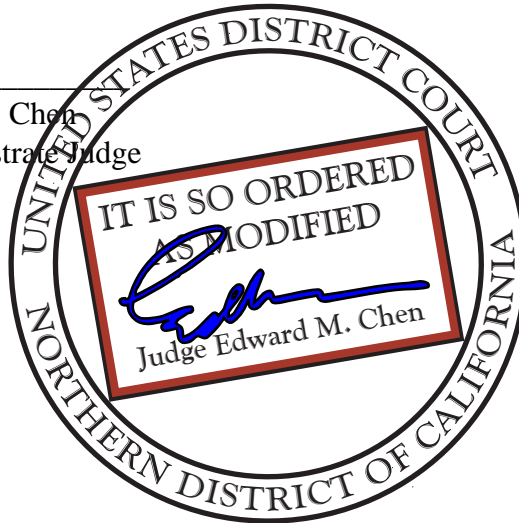
1 ment that service has been accepted, it is not complete. Your declarant anticipates that it will take at  
2 least three months for the completion of service so that it is not likely to be completed prior to  
3 March 22, 2010.

4 I declare under penalty of perjury and under the laws of the United States of America  
5 that the foregoing is a true and correct statement of the facts. This declaration is signed on this 12<sup>th</sup>  
6 day of January in Lafayette, California.

7   
8 \_\_\_\_\_  
9 Geoffrey Becker

10  
11 IT IS SO ORDERED that the case management conference is reset from 2/10/10 to  
12 4/28/10 at 1:30 p.m. A joint cmc statement shall be filed by 4/21/10. Plaintiff is  
13 ordered to serve a copy of this order upon defendants.

14  
15 \_\_\_\_\_  
16 Edward M. Chen  
17 U.S. Magistrate Judge





United States Department of State  
Washington, D.C. 20520

January 5, 2010

Richard W. Wieking  
Clerk of the Court  
United States District Court  
Northern District of California  
450 Golden Gate Ave.  
San Francisco, CA 94102

Re: Carol Sachs v. OBB PERSONENVERKEHR AG  
Case Number C08-01840 (EMC) (ADR)

Dear Mr. Wieking:

I am writing in response to a request to transmit letters rogatory via the diplomatic channel to the Republic of Austria pursuant to 28 U.S.C. 1608(b)(3)(A) in the lawsuit referenced above. The letters rogatory seek the assistance of the appropriate Austrian officials in effecting service of process upon defendant OBB PERSONENVERKEHR AG. The U.S. Embassy in Vienna transmitted the letters rogatory to the Austrian Ministry of Foreign Affairs under cover of diplomatic note No. 266 on December 22, 2009. A certified copy of that note is enclosed.

The Embassy will monitor the progress of the letters rogatory by making periodic inquiries with Austrian officials and we will transmit any response to the letters rogatory as soon as it is received. If you have any questions please do not hesitate to contact me at (202) 736-9115.

Sincerely,

A handwritten signature in black ink, appearing to read "William P. Fritzen", written over a horizontal line.

William P. Fritzen  
Attorney Adviser

Office of Policy Review and Inter-Agency Liaison

Enclosure as stated

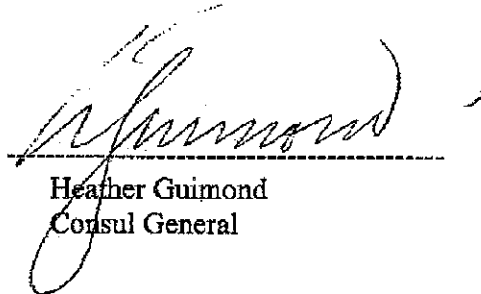


*Embassy of the United States of America*

UNITED STATES OF AMERICA )  
REPUBLIC OF AUSTRIA )  
CITY OF VIENNA )  
EMBASSY OF THE )  
UNITED STATES OF AMERICA )

ss:

I, Heather Guimond, Consul General, U.S Embassy Vienna certify that this is a tru copy of the U.S. Embassy's diplomatic note number 266 dated December 22, 2009, and delivered to the Ministry of Foreign Affairs of the Republic of Austria accompanied by letters rogatory requesting service of a summons, complaint on OBB Personenverkehr by the appropriate judicial authority of the Republic of Austria.



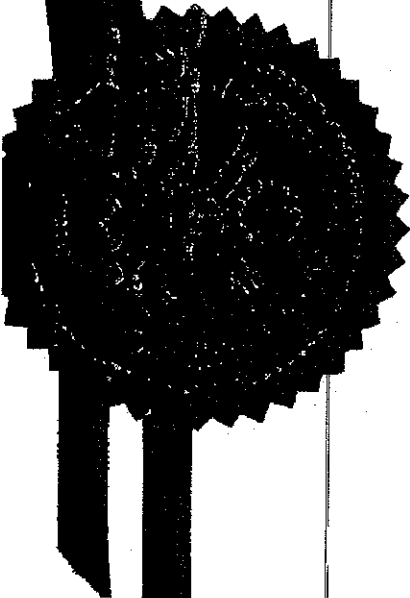
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Heather Guimond  
Consul General

December 23, 2009

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(Date)



No. 266

The Embassy of the United States of America requests the assistance of the Ministry of Foreign Affairs of the Republic of Austria in transmitting the enclosed request for international judicial assistance to the appropriate authority of the Republic of Austria.

The United States District Court for the Northern District of California has transmitted the annexed rogatory in the matter of Sachs versus Republic of Austria, et. al., case number C08-01840. The letters rogatory requests service of process upon OBB Personenverkehr pursuant to Title 28, United States Code, Section 1608(b)(3)(A).

The Embassy appreciates the Ministry's assistance in the interests of justice. The U.S. District Court for the Northern District of California has assured that it will provide similar assistance to the judicial authorities of the Republic of Austria. The Embassy would appreciate being kept advised of the progress of the letters rogatory, specifically, the date it is assigned to the appropriate judicial authority for service and the date service is made on the OBB Personenverkehr.

**DIPLOMATIC NOTE**

The Embassy of the United States of America avails itself of this opportunity to renew to the Federal Ministry of Foreign Affairs the assurance of its highest consideration.

The Embassy of the United States of America

Vienna, December 22, 2009





United States Department of State

Washington, D.C. 20520

December 11, 2009

Celeste Ingalls  
Crowe Foreign Services  
1020 SW Taylor St. Suite 240  
Portland, Oregon 97205

Re: Letters Rogatory - Austria

Dear Ms. Ingalls:

I am writing concerning your request for the transmission of letters rogatory pursuant to 28 U.S.C. 1608(b)(3)(B) in the lawsuit Carol P. Sachs v. Republic of Austria, et al, Case Number C08-01840, pending before the United States District Court for the Northern District of California. I regret to inform you that the service documents were lost in transit to the U.S. Embassy in Vienna. I am committed however to ensuring that your request is transmitted in the most expeditious manner possible.

This office maintained a set of the letters rogatory that I am resending to the U.S. Embassy in Vienna with instructions to deliver them upon receipt to the Austrian Ministry of Foreign Affairs under cover of a diplomatic note. I will ask the Embassy to make periodic status inquiries with Austrian authorities in order to monitor the progress of the request.

Again, I truly regret that your original request was lost. If you have any questions please do not hesitate to contact me at (202) 736-9115 or by email at [fritzlenwp@state.gov](mailto:fritzlenwp@state.gov).

Sincerely,

William P. Fritzlen  
Attorney-Adviser

Office of Policy Review and Inter-Agency Liaison