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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

YOUNGEVITY INTERNATIONAL  
INC.,  
  
Plaintiff,  
  
v.  
  
INNOV8TIVE NUTRITION, INC., et al.,  
  
Defendants.

Case No.: 3:22-cv-00721-LL-AHG  
  
**ORDER GRANTING JOINT  
MOTION FOR LEAVE FOR  
PLAINTIFF TO SERVE  
NON-PARTY FIT BRANDS LLC  
THROUGH ALTERNATIVE  
SERVICE**  
  
[ECF No. 78]

Before the Court is the parties’ joint motion for leave for Plaintiff Youngevity International Inc. (“Plaintiff”) to serve Non-Party FIT Brands LLC (“Fit Brands”) with a revised subpoena through alternative service. ECF No. 78.

“Federal Rule of Civil Procedure 45(b)(1) provides that ‘[s]erving a subpoena requires delivering a copy to the named person[.]’ However, after attempts at personal

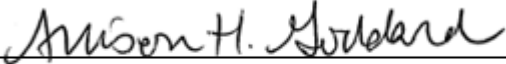
1 serve have been tried and failed, “[c]ourts are more inclined to grant [] alternative service’  
2 provided ‘the serving party has provided sufficient evidence of its earlier diligence in  
3 attempting to effectuate personal service.’” *Bhatia v. United States*, No. 2:19-cv-2313-  
4 DAD-DB, 2024 WL 967616, at \*1 (E.D. Cal. Mar. 6, 2024) (brackets in original) (quoting  
5 *Fujikura Ltd. v. Finisar Corp.*, No. 15-mc-80110-HRL-JSC, 2015 WL 5782351, at \*5  
6 (N.D. Cal. Oct. 5, 2015)). Courts are also more inclined to grant alternative service where  
7 the proposed method of alternative service “is reasonably calculated to provide timely, fair  
8 notice and an opportunity to object or file a motion to quash.” *In re Delta Air Lines, Inc.*,  
9 No. LA-CV20-00786-JAK-SKx, 2023 WL 9018986, at \*4 (C.D. Cal. Dec. 4, 2023)  
10 (quoting *Fujikura*, 2015 WL 5782351, at \*5).

11 Here, Plaintiff served Fit Brands with a document subpoena on December 11, 2024.  
12 ECF No. 78 at 2; ECF No. 78-1 at 6. On December 19, 2024, Fit Brands, through counsel,  
13 emailed its objections to the subpoena. ECF No. 78 at 2; ECF No. 78-1 at 11. “[I]n an  
14 attempt to obviate the need for court involvement,” Plaintiff revised its subpoena. ECF  
15 No. 78 at 2. Plaintiff represents to the Court that it has diligently attempted to serve its  
16 revised subpoena on Fit Brands through its registered agent and through its counsel. *Id.* For  
17 example, Plaintiff’s process server attempted to serve Fit Brands with the revised subpoena  
18 on December 27, December 28, and December 30, but was unable to do so; thus, Plaintiff  
19 now “believes that Fit Brands is now intentionally evading service.” *Id.* at 2–3; ECF No.  
20 78-1 at 20. Further, Fit Brands’ counsel “refus[ed] to accept service of the revised subpoena  
21 despite objecting to the subpoena on behalf of Fit Brands.” ECF No. 78 at 3; ECF  
22 No. 78-1 at 8 (“I am not authorized to accept service on behalf of FIT Brands, LLC of  
23 anything.”). As such, the parties jointly request that Plaintiff be permitted to serve the  
24 revised subpoena on Fit Brands’ counsel through the email address that counsel used to  
25 serve Fit Brands’ objections to Plaintiff’s original subpoena, and serve the revised  
26 subpoena on Fit Brands’ registered agent through certified mail. ECF No. 78 at 4. Plaintiff  
27 contends that its proposed methods of alternative service will provide Fit Brands with  
28 timely and fair notice and an opportunity to object and quash the subpoena. *Id.* at 3.

1           Upon due consideration, the Court finds good cause to **GRANT** the parties' joint  
2 motion. ECF No. 78. Plaintiff is granted leave to serve the revised subpoena on Fit Brands  
3 by emailing the revised subpoena to Fit Brands' attorney, Jeffrey S. Moeller  
4 (jmoeller@sseg-law.com), and by mailing the revised subpoena, through certified mail, to  
5 Fit Brands' registered agent, Richard V. Washburn, 440-44 Deer Island Dr., Aurora, OH  
6 44202.

7           **IT IS SO ORDERED.**

8 Dated: January 6, 2025

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11 Honorable Allison H. Goddard  
12 United States Magistrate Judge  
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