

JOHN GREGORY LAMBROS  
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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION

JOHN GREGORY LAMBROS;	*	
Plaintiff,	*	CIVIL ACTION NO. 2017-CA-929-B
vs.	*	Judge PAN
FEDERATIVE REPUBLIC OF BRAZIL;	*	DEMAND FOR TRIAL BY JURY, Super. Ct.
STATE OF RIO DE JANEIRO OF THE	*	Civ. Rule 38 and 39. (On all issues
FEDERATIVE REPUBLIC OF BRAZIL;	*	triable by jury.)
JOHN & JANE DOE'S;	*	COMPANION CASE NO's: See, Complaint,
Defendant's (Severally	*	Paragraph Two (2).
and Jointly Liable).	*	<u>AFFIDAVIT FORM</u>
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PLAINTIFF LAMBROS REQUESTS THE COURT TO "ORDER" THE OFFICERS OF THE COURT TO EFFECTUATE SERVICE OF PLAINTIFF'S COMPLAINT, MOTION FOR APPOINTMENT OF COUNSEL, SUMMONS, AND INITIAL SCHEDULING CONFERENCE ORDER TO ALL NAMED DEFENDANTS. PLAINTIFF LAMBROS IS PROCEEDING IN FORMA PAUPERIS AS OF FEBRUARY 10, 2017 "ORDER". See, Super. Ct. Civ. R. 54-II(i) - "SERVICE OF PROCESS AND WITNESS FEES."

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COMES NOW, Plaintiff JOHN GREGORY LAMBROS (Hereinafter "MOVANT"), Pro Se, and requests this Honorable Court to "ORDER" the officers of the court to effectuate service of Plaintiff's complaint, Motion for Appointment of Counsel, summons, and initial scheduling conference order to all named defendants. See, Super. Ct. Civ. R. 54-II(i) - "Service of Process and Witness Fees."

In support of this request, I state the following as true and correct pursuant to Title 28 U.S.C. §1746.

1. **FEBRUARY 1, 2017:** Movant remailed his complaint, Motion for Appointment of Counsel and Motion to Proceed in Forma Pauperis on February 1, 2017, via U.S. Registered Mail. The Clerk received Movant's mailing on February 9, 2017.
2. **FEBRUARY 10, 2017:** Judge Wertheim issued an "ORDER" granting Movant's Motion to Proceed in Forma Pauperis. Also an "INITIAL SCHEDULING CONFERENCE" was scheduled for May 26, 2017, with Judge Pan.
3. **FEBRUARY 23, 2017:** As of February 23, 2017, Movant HAS NOT received any "ORDER" and/or correspondence from this Court or the Clerk's office informing of the events listed within paragraph two (2) above. Prison staff assisted in researching "COURT CASES ONLINE" at [www.dccourts.gov](http://www.dccourts.gov) to assist Movant. Assistance by prison staff is rare when contacting the Courts and should never be assumed.
4. **FEBRUARY 22, 2017:** The Clerk's Office HAS NOT listed Movant Lambros' "MOTION FOR APPOINTMENT OF COUNSEL" within the DOCKET SHEET THAT APPEARS ONLINE. Movant requests this Court to request the Clerk to LIST SAME AS A PENDING MOTION TO BE RULED ON. Therefore, this Court HAS NOT appointed Movant an attorney to assist with the service of summons, complaint, Motion for Appointment of Counsel, and Initial Scheduling Conference "ORDER", **WITHIN THE TIME ALLOWED UNDER D.C. Super. Ct. R. 4(c) and (m)**.

**STATEMENT OF LAW:**

5. **SUPER. CT. CIV. R. 54-11(i) "SERVICE OF PROCESS AND WITNESS FEES":**  
"Where a request to proceed without prepayment of costs, fees, or security is GRANTED [February 10, 2017], the officers of the court will issue and serve all process and perform all duties in such case. Witnesses will be subpoenaed without prepayment of witness fees, and the same remedies will be available as are provided for by law in other cases." See, HERBIN vs. HOEFFEL, 727 A.2d 883 (D.C. 1999)(Court was obligated to effectuate service of process for an in forma pauperis party)

6. 28 U.S.C. §1608(a): Service of process on foreign state is governed by 28 U.S.C. §1608(a). Defendants in this action is a foreign state and/or political subdivisions:

- a. Federative Republic of Brazil;
- b. State of Rio de Janeiro of the Federative Republic of Brazil.

7. 28 U.S.C. §1608(a)(3): ".... SENDING A COPY OF THE SUMMONS AND COMPLAINT and notice of suit [], TOGETHER WITH A TRANSLATION OF EACH INTO THE OFFICIAL LANGUAGE OF THE FOREIGN STATE, .....". PORTUGUESE IS THE OFFICIAL LANGUAGE OF BRAZIL.

8. **LETTERS ROGATORY:** An internationally agreed means of serving **BRAZILIAN DEFENDANT IS BY "LETTERS ROGATORY"**, as provided by the Inter-American Convention on LETTERS ROGATORY, Jan. 30, 1975, S. Treaty Doc. No. 98-27 (1984), 1438 U.N.T.S. 287, to which both the United States and Brazil are signatories. See, DHL GLOBAL FORWARDING MGMT. LATIN AM. vs. PFIZER, INC., 2014 U.S. Dist. LEXIS 146592 (S.D.N.Y., 2014) (".... the **ONLY MODE OF SERVICE** in this case with respect to BRAZIL is to personally serve BRAZIL's FEDERAL CONSEL-GENERAL VIA LETTERS ROGATORY.").

#### DISCUSSION:

9. As stated above, this Court received Movant's December 23, 2016, "MOTION REQUESTING TO PROCEED WITHOUT PREPAYMENT OF COSTS, FEES, OR SECURITY - IN FORMA PAUPERIS - BY AN INCARCERATED PERSON." This motion was eleven (11) pages long with an additional ten (10) pages consisting of this Court FORM 106A, "APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COSTS, FEES, OR SECURITY (In Forma Pauperis)."

10. Movant's ten (10) "FORMA PAUPERIS" motion, as stated in paragraph nine (9) offered an excellent overview of **DEFENDANTS BEING FOREIGN STATE'S AND/OR POLITICAL SUBDIVISIONS OF THE FOREIGN STATE - WITHIN THE MEANING OF THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976 ("FSIA")**. Movant also attempted to research the best ways for this Court to serve process on the Defendant's in this action

by offering the following two (2) cases that offered an excellent overview of the correct procedure in serving BRAZILIAN DEFENDANTS AFTER "DISCUSSIONS WITH THE BRAZILIAN GOVERNMENT":

- a. HALE vs. EVIDENCIA DISPLAY, 2015 U.S. Dist. LEXIS 101297 (C.D. Calif., 2015);
- b. DHL GLOBAL FORWARDING MGMT. LATIN AM. vs. PFIZER, INC., 2014 U.S. Dist. LEXIS 146592 (S.D.N.Y., 2014).

11. Movant Lambros also REQUESTED THIS COURT TO "HELP WITH SENDING COPY OF SUMMONS, COMPLAINT AND NOTICE OF SUIT - WITH TRANSLATION INTO PORTUGUESE - TO THE DEFENDANTS IN THIS ACTION." See, Paragraph 11, page 4.

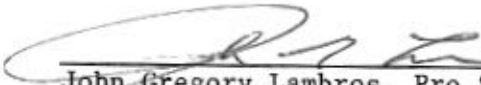
12. EXHIBIT A: Pages one (1) thru four (4) of Movant's "MOTION REQUESTING TO PROCEED WITHOUT PREPAYMENT OF COSTS, FEES, OR SECURITY - IN FORMA PAUPERIS - BY AN INCARCERATED PERSON."

CONCLUSION:

13. Movant requests this Honorable Court to "ORDER" the officers of the Court to effectuate service of Plaintiff's complaint, Motion for Appointment of Counsel, Summons, and initial scheduling conference "ORDER" to all named Defendant's in the proper form within the meaning of the Foreign Sovereign Immunities Act of 1976 ("FSIA"), as the Defendant's are a foreign state [Brazil] and/or political subdivision of the foreign state. See, Super. Ct. Civ. R. 54-11(i). HERBIN vs. HOEFFEL, 727 A.2d 883 (D.C. App. 1999).

14. I JOHN GREGORY LAMBROS states the above information is true and correct under the penalty of perjury, as per Title 28 U.S.C. §1746.

DATED: March 1, 2017

  
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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION

JOHN GREGORY LAMBROS,

Plaintiff,

vs.

FEDERATIVE REPUBLIC OF BRAZIL;

STATE OF RIO DE JANEIRO OF THE  
FEDERATIVE REPUBLIC OF BRAZIL;

JOHN & JANE DOE'S:

Defendant's (Severally  
and Jointly liable)

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CIVIL ACTION NO. 2017-CA-929-B

DEMAND FOR TRIAL BY JURY, Super. Ct.  
Civ. Rule 38 and 39. (On all issues  
triable by jury.)

COMPANION CASE No's: See Complaint,  
Paragraph Two (2).

AFFIDAVIT FORM

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MOTION REQUESTING TO PROCEED WITHOUT PREPAYMENT OF COSTS, FEES,  
OR SECURITY - IN FORMA PAUPERIS - BY AN INCARCERATED PERSON.

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COMES NOW, Plaintiff - Petitioner - Movant JOHN GREGORY LAMBROS (Herein-  
after "MOVANT"), Pro Se, and requests this Honorable Court to file this civil  
action without pre-payment of costs or fees and without giving security for them  
because I am not able to do so without substantial hardship to myself or to my  
family. In support of this request, I state the following as true and correct pur-  
suant to Title 28 U.S.C. §1746:

1. Defendant are Foreign State's and/or a Political Subdivision  
of the Foreign State - within the meaning of the Foreign Sovereign Immunities Act  
of 1976 (FSIA).
2. FSIA establishes the framework for who can sue and be sued  
under the Statute, as well as for the statute's territorial scope.
3. FSIA establishes foreign sovereign immunity and the exceptions  
thereto that allow for U.S. subject matter jurisdiction.
4. FSIA establishes the laws that must be followed for service

EXHIBIT A.

1.

of process and the establishment of personal jurisdiction. FSIA is the exclusive method for effecting service of process on the defendants. See, YOUSUF vs. SAMANTAR, 552 F.3d 371, 380 (4th Cir. 2009).

5. Movant believes the pertinent statutory text to comply with FSIA service of process requirement will not allow Movant to proceed in this action due to costs. See, 28 U.S.C. §1608(a), as it governs service of process on foreign states and their political subdivisions. Specific elements within the statute that Movant may not have funds to cover are:

- a. §1608(a)(1), "special arrangement for service ....";
- b. §1608(a)(2), "... in accordance with an applicable international convention on service ...";
- c. §1608(a)(3), "... sending a copy of the summons and complaint and a notice of suit [], **TOGETHER WITH A TRANSLATION OF EACH INTO THE OFFICIAL LANGUAGE OF THE FOREIGN STATE, ...**"

6. Movant does not have direct access to the internet and imposes on friends to assist when time avails to secure information in proceeding in this action. It is Movant's understanding that the U.S. Department of State offers details with respect to service on foreign defendants and facilitating service. The U.S. Penitentiary Leavenworth staff will not assist in this matter, as it is too involved and time consuming.

7. Movant does not speak Portuguese and is unable to translate the summons, complaint and notice of suit, as per 28 U.S.C. §1608(a)(3).

**AUTHORIZED MANNER TO SERVE BRAZILIAN DEFENDANTS:**

8. HALE vs. EVIDENCIA DISPLAY, 2015 U.S. Dist. LEXIS 10129/ (C.D. Calif., 2015) offers the following legal information on serving Brazil:

- a. Brazil is NOT a party to the HAGUE CONVENTION;
- b. "... the Court has not been able to find any indication that

Brazilian law permits service by mail. Rather, courts have stated that 'Brazilian law mandates that foreign legal proceedings be served upon corporate citizens of BRAZIL by means of **LETTERS ROGATORY ISSUED TO THE MINISTRY OF FOREIGN RELATIONS.**'"

c. Since BRAZIL is not a member of the HAGUE, methods of service within 28 U.S.C. §1608(a)(1) does not apply.

d. §1608(a)(2) through letter of ROGATORY, as permitted by the IAC, to which Brazil is a signatory is valid. Problem, "citing the expense and long delays involved in service through letters of ROGATORY in Brazil." See, FN. 2.

e. §1608(a)(3) service of process to the head of the ministry of foreign affairs of Brazil. (translation also)

f. §1608(a)(4), translation and dispatched by the Clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services -- and the Secretary shall transmit through diplomatic channels to Brazil.

9. DHL GLOBAL FORWARDING MGMT. LATIN AM. vs. PFIZER, INC., 2014 U.S. Dist. LEXIS 146592 (S.D.N.Y., 2014), stated "An internationally agreed means of serving a **BRAZILIAN DEFENDANT** is by LETTERS ROGATORY, as provided by the Inter-American Convention on LETTERS ROGATORY, Jan. 30, 1975, S. Treaty Doc. No. 98-27 (1984), 1438 U.N.T.S. 287, to which both the United States and **Brazil** are signatories. .... 'The U.S. has determined, through discussions with the Brazilian government, that, pursuant to the **FOREIGN SOVEREIGN IMMUNITIES ACT, 28 U.S.C. §1608**, and the Inter-American Convention on Letters Rogatory, 1438 U.N.T.S. 287, the ONLY MODE of service in this case with respect to BRAZIL is to personally serve Brazil's Federal Consel-General via letters rogatory.'" \*\*

10. As stated above within paragraph 8(d), "expense and long delays involved in service through letters of ROGATORY in Brazil." Movant does not



have the funds to serve letters ROGATORY nor the information to correctly serve same.

**THIS COURT EFFECTUATES SERVICE OF PROCESS FOR "FORMA PAUPERIS" PARTY:**

11. Plaintiff - Movant John Gregory Lambros is requesting this Court's **HELP WITH SENDING COPY OF SUMMONS, COMPLAINT AND NOTICE OF SUIT - WITH TRANSLATION INTO PORTUGUESE - TO THE DEFENDANTS IN THIS ACTION.** Therefore, granting Movant the right to proceed in forma pauperis, as Movant is also incarcerated. See, HERBIN vs. HOFFEL, 727 A.2d 883 (D.C. App. 1999)(trial court's obligation, pursuant to Super. Ct. Civ. R. 54-11, to serve process on behalf of Herbin, who was proceeding in forma pauperis. Id. at 885).

**SUPER. CT. CIV. RULE 54-II - WAIVER OF COSTS, FEES, OR SECURITY:**

12. Movant Lambros will offer the Court a short response to each Section (a) thru (k) with Super. Ct. Civ. Rule 54-II:

a. **SECTION (a) GENERAL:** Movant presents **FORM 106A** (Application to proceed Without Prepayment or Costs, Fees, or Security). See, EXHIBIT A. Please note that Movant Lambros' debt for more than \$700,000.00. See, Paragraph 8, within FORM 106A and the fact the U.S. Supreme Court has granted Movant leave to proceed in forma pauper, due to same.

b. **PUBLIC BENEFIT:** Movant is incarcerated within the U.S. Bureau of Prisons and has been incarcerated since 1991.

c. **HEALTH CARE BENEFITS:** Movant is incarcerated and the U.S. Bureau of Prisons provides health care to Movant.

d. **SIGNIFICANT COSTS:** Movant believes this litigation will entail significant costs, as defendant is a foreign state. Also, Movant will be requesting the Court to appoint him an attorney due to the complex nature of this