

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**PLAINTIFF JANET JENKINS’S MOTION FOR EXTENSION OF TIME  
TO SERVE DEFENDANT LISA MILLER  
AND AN ORDER THAT SERVICE BE MADE BY A UNITED STATES MARSHAL**

Pursuant to Rules 4(c)(3) and (m) of the Federal Rules of Civil Procedure, Plaintiff Janet Jenkins moves for an extension of time to serve Defendant Lisa Miller for an appropriate period and for an order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the Court. In support, Plaintiff states the following:

**I. Lisa Miller’s Fugitive Status Prevented Service of Process**

1. Rule 4(m) of the Federal Rules of Civil Procedure provides that “the court must extend the time for service for an appropriate period” “if the plaintiff shows good cause for the failure” to serve a defendant within 90 days after the complaint is filed. “Relief may be justified, for example, if the applicable statute of limitations would bar the refiled action, or if the defendant is evading service ....” Fed. R. Civ. P. 4 advisory committee’s note to 1993 amendment. The Court may “relieve a plaintiff of the consequences of an application of [Rule 4(m)] even if there is no good cause shown.” *Id.*; accord *Zapata v. City of N.Y.*, 502 F.3d 192, 197 (2d Cir. 2007) (holding that “extensions in the *absence* of good cause, like determinations on the *presence* of good cause,” are committed “to the sound discretion of the district court”).

2. Plaintiff has good cause warranting an extension of time to serve Miller because she was a fugitive for over the last decade. *See, e.g.*, Order, *Jenkins v. Miller*, No. 6:18-cv-78 (W.D. Va. Jan. 3, 2019), ECF 31 (granting motion to extend time to serve Miller); *cf. Corrado v. N.Y. Unified Ct. Sys.*, 163 F. Supp. 3d 1, 15 (E.D.N.Y. 2016) (“Courts within this circuit generally have found good cause when a defendant has been evasive or uncooperative with respect to a plaintiff’s diligent attempts at service.”). This case concerns the September 2009 kidnapping of Isabella Miller-Jenkins, by Miller and co-conspirators, from the United States to Nicaragua to interfere with Jenkins’s parental rights. Miller was a fugitive from September 2009 until on or about January 27, 2021, when she was returned to the United States and arrested in Miami, Florida on a criminal superseding indictment filed in the United States District Court for the Western District of New York. *See United States v. Lisa Miller*, No. 1:14-cr-00175 (W.D.N.Y.); *United States v. Miller*, No. 1:21-mj-02159 (S.D. Fla.).

3. Although Jenkins knew Miller had fled to Nicaragua in September 2009, Jenkins did not have reasonable means to serve her there because she was in hiding. Nicaragua was not even a party to “any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents,” Fed. R. Civ. P. 4(f)(1), until January 2020. *See* Ex. 1: Hague Convention Contracting Parties; Ex. 2: Nicaragua Declarations (declaring certain opposition and objections); Ex. 3: Additional Protocol Signatories. Jenkins had insufficient information about Miller’s whereabouts that would have made other means of service reasonably calculated to give Miller notice, *see* Fed. R. Civ. P. 4(f)(2)–(3), such as personal service or service by letters rogatory or mail, *see, e.g.*, Ex. 4: Preparation of Letters Rogatory 2 (describing the address of the person to be served as an “essential element of letters rogatory”).

## II. Lisa Miller Should Be Served by a United States Marshal

4. Rule 4(c)(3) provides that, “[a]t the plaintiff’s request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court.” Service by a United States marshal appears to be the most reasonable means of effecting service on Miller because of her current incarceration by federal officials, her impending yet uncertain transfer to Buffalo, New York, and Jenkins’s inability to serve her documents while she is quarantined.

5. Miller had her first appearance before a United States magistrate judge on January 28, 2021, in the United States District Court for the Southern District of Florida, during which the magistrate judge ordered Miller removed to the Western District of New York. *See* Warrant of Removal, *Miller*, No. 1:21-mj-02159 (S.D. Fla. Feb. 1, 2021), ECF 4.

6. Miller currently is incarcerated at FDC Miami in Miami, Florida. *See Find an Inmate*, BOP, <https://www.bop.gov/inmateloc/> (last accessed Feb. 9, 2021) (search BOP Register Number 27502-509). Jenkins does not know when Miller will be removed from the Southern District of Florida, when she will arrive in the Western District of New York, or how she will be transported there. FDC Miami cannot disclose that information to Jenkins’s counsel, but it suggested Miller cannot be handed documents in person because she currently is quarantined and represented that she could be quarantined for approximately three to four weeks after her January 27 arrival—meaning as early as February 17 or as late as February 24. *See* Ex. 5: FDC Miami Email.

## CONCLUSION

Jenkins’s motion for an extension of time to serve Defendant Lisa Miller for an appropriate period and for an order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the Court should be granted.

Respectfully submitted.

February 9, 2021

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*Counsel for Plaintiff Janet Jenkins*

**CERTIFICATE OF SERVICE**

I hereby certify that, on this date, the foregoing document was served on the following counsel of record through the Court's CM/ECF system:

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February 9, 2021

/s/ Diego A. Soto  
Diego A. Soto  
*Counsel for Plaintiff Janet Jenkins*



# STATUS TABLE

## 14: Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Entry into force: 10-II-1969

Last update: 27-VII-2020

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Number of Contracting Parties to this Convention: 78

*The expression "Contracting Party" covers both cases in which the Convention has, and cases in which the Convention has not yet, entered into force for that Party following the deposit of its instrument of ratification, accession, acceptance or approval (see column EIF in the chart).*

Contracting Parties to this Convention that are also Members of the HCCH (i.e., the Organisation) are in **bold**; Contracting Parties that are not Members of the HCCH are in *italics*.

Contracting Party	S <sup>1</sup>	R/A/S <sup>2</sup>	Type <sup>3</sup>	EIF <sup>4</sup>	EXT <sup>5</sup>	Auth <sup>6</sup>	Res/D/N/DC <sup>7</sup>
<b>Albania</b>		1-XI-2006	A	1-VII-2007		3	
<b>Andorra</b>		26-IV-2017	A	1-XII-2017		4	D
<i>Antigua and Barbuda</i>		1-V-1985	<b>Su</b>	1-XI-1981		1	
<b>Argentina</b>		2-II-2001	A	1-XII-2001		2	D,Res
<b>Armenia</b>		27-VI-2012	A	1-II-2013		1	
<b>Australia</b>		15-III-2010	A	1-XI-2010	7	5	D
<b>Austria</b>	22-XI-2019	14-VII-2020	R	12-IX-2020		3	D,Res
<i>Bahamas</i>		17-VI-1997	A	1-II-1998		1	
<i>Barbados</i>		10-II-1969	A	1-X-1969		1	
<b>Belarus</b>		6-VI-1997	A	1-II-1998		1	
<b>Belgium</b>	21-I-1966	19-XI-1970	R	18-I-1971		2	D
<i>Belize</i>		8-IX-2009	A	1-V-2010		1	

**EXHIBIT**  
**1**

<b>Bosnia and Herzegovina</b>		16-VI-2008	A	1-II-2009		1	
<i>Botswana</i>		10-II-1969	A	1-IX-1969		3	D
<b>Brazil</b>		29-XI-2018	A	1-VI-2019		1	D,Res
<b>Bulgaria</b>		23-XI-1999	A	1-VIII-2000		3	D
<b>Canada</b>		26-IX-1988	A	1-V-1989		4	D
<b>China, People's Republic of</b>		6-V-1991	A	1-I-1992		8	D,N
<i>Colombia</i>		10-IV-2013	A	1-XI-2013		1	D
<b>Costa Rica</b>		16-III-2016	A	1-X-2016		1	
<b>Croatia</b>		28-II-2006	A	1-XI-2006		3	D,Res
<b>Cyprus</b>		26-X-1982	A	1-VI-1983		4	D
<b>Czech Republic</b>		28-I-1993	Su	1-I-1993		4	D,Res
<b>Denmark</b>	7-I-1969	2-VIII-1969	R	1-X-1969		3	D
<b>Egypt</b>	<a href="#">1-III-1966</a>	12-XII-1968	R	10-II-1969		1	Res
<b>Estonia</b>		2-II-1996	A	1-X-1996		1	D
<b>Finland</b>	15-XI-1965	11-IX-1969	R	10-XI-1969		2	D
<b>France</b>	12-I-1967	3-VII-1972	R	1-IX-1972	1	3	D
<b>Germany</b>	15-XI-1965	27-IV-1979	R	26-VI-1979		3	D
<b>Greece</b>	20-VII-1983	20-VII-1983	R	18-IX-1983		1	D
<b>Hungary</b>		13-VII-2004	A	1-IV-2005		3	D
<b>Iceland</b>		10-XI-2008	A	1-VII-2009		1	D,Res
<b>India</b>		23-XI-2006	A	1-VIII-2007		1	D,Res
<b>Ireland</b>	20-X-1989	5-IV-1994	R	4-VI-1994		3	D,Res
<b>Israel</b>	25-XI-1965	14-VIII-1972	R	13-X-1972		2	D,Res
<b>Italy</b>	25-I-1979	25-XI-1981	R	24-I-1982		3	D
<b>Japan</b>	12-III-1970	28-V-1970	R	27-VII-1970		3	D
<b>Kazakhstan</b>		15-X-2015	A	1-VI-2016		1	D
<b>Korea, Republic of</b>		13-I-2000	A	1-VIII-2000		2	D,Res

<i>Kuwait</i>		8-V-2002	A	1-XII-2002		3	D,Res
<b>Latvia</b>		28-III-1995	A	1-XI-1995		4	D
<b>Lithuania</b>		2-VIII-2000	A	1-VI-2001		3	D,Res
<b>Luxembourg</b>	27-X-1971	9-VII-1975	R	7-IX-1975		1	D,Res
<i>Malawi</i>		24-IV-1972	A	1-XII-1972		1	
<b>Malta</b>		24-II-2011	A	1-X-2011		2	D
<i>Marshall Islands</i>		29-VII-2020	A	1-II-2021		3	D
<b>Mexico</b>		2-XI-1999	A	1-VI-2000		2	D
<b>Monaco</b>		1-III-2007	A	1-XI-2007		2	D
<b>Montenegro</b>		16-I-2012	A	1-IX-2012		2	D
<b>Morocco</b>		24-III-2011	A	1-XI-2011		1	
<b>Netherlands</b>	15-XI-1965	3-XI-1975	R	2-I-1976	1	5	D
<b>Nicaragua</b>		24-VII-2019	A	1-II-2020		1	D
<b>Norway</b>	15-X-1968	2-VIII-1969	R	1-X-1969		3	D,Res
<i>Pakistan</i>		7-XII-1988	A	1-VIII-1989		3	D
<b>Philippines</b>		4-III-2020	A	1-X-2020		1	D
<b>Poland</b>		13-II-1996	A	1-IX-1996		4	Res
<b>Portugal</b>	5-VII-1971	27-XII-1973	R	25-II-1974		2	D
<b>Republic of Moldova</b>		4-VII-2012	A	1-II-2013		2	D,Res
<b>Republic of North Macedonia</b>		23-XII-2008	A	1-IX-2009		1	D,Res
<b>Romania</b>		21-VIII-2003	A	1-IV-2004		2	D
<b>Russian Federation</b>		1-V-2001	A	1-XII-2001		4	D,Res
<i>Saint Vincent and the Grenadines</i>		6-I-2005	Su	27-X-1979		3	D
<i>San Marino</i>		15-IV-2002	A	1-XI-2002		3	D
<b>Serbia</b>		2-VII-2010	A	1-II-2011		2	D
<i>Seychelles</i>		18-XI-1980	A	1-VII-1981		1	D

<b>Slovakia</b>		15-III-1993	Su	1-I-1993		4	D
<b>Slovenia</b>		18-IX-2000	A	1-VI-2001		1	D,Res
<b>Spain</b>	21-X-1976	4-VI-1987	R	3-VIII-1987		3	D
<b>Sri Lanka</b>		31-VIII-2000	A	1-VI-2001		3	D
<b>Sweden</b>	4-II-1969	2-VIII-1969	R	1-X-1969		2	D
<b>Switzerland</b>	21-V-1985	2-XI-1994	R	1-I-1995		3	D,Res
<b>Tunisia</b>		10-VII-2017	A	1-II-2018		1	D
<b>Turkey</b>	11-VI-1968	28-II-1972	R	28-IV-1972		3	Res,D
<b>Ukraine</b>		1-II-2001	A	1-XII-2001		3	D,Res
<b>United Kingdom of Great Britain and Northern Ireland</b>	10-XII-1965	17-XI-1967	R	10-II-1969	14	4	D
<b>United States of America</b>	15-XI-1965	24-VIII-1967	R	10-II-1969	1	1	D
<b>Venezuela</b>		29-X-1993	A	1-VII-1994		1	D,Res
<b>Viet Nam</b>		16-III-2016	A	1-X-2016		3	D,N

1) S = Signature

2) R/A/Su = Ratification, Accession or Succession

3) Type = R: Ratification;

A: Accession;

A\*: Accession giving rise to an acceptance procedure; click on A\* for details of acceptances of the accession;

C: Continuation;

Su: Succession;

Den: Denunciation;

4) EIF = Entry into force

5) EXT = Extensions of application

6) Authorities per Convention = Designation of Authorities

7) Res/D/N/DC = Reservations, declarations, notifications or depositary communications

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## DECLARATION/RESERVATION/NOTIFICATION

### Declarations

Articles: Arts 2-6

#### **Declarations:**

20-04-2020

(Translation)

#### Article 2

Nicaragua interprets the Convention's provisions as being applicable as well to family law, in accordance with Article 1 of said Convention, in view of the fact that at the date of the Convention's signature family-law institutions were part of civil law, so that Nicaragua understands that it was the intention of the Parties not to exclude family-law matters.

#### Article 3

Nicaragua declares that it is opposed to the service of judicial documents within its territory under Article 8, second paragraph of the Convention.

#### Article 4

Nicaragua declares that it objects to the forms and channels of sending and service of documents set out in Article 10 (a), (b) and (c) of the Convention.

#### Article 5

Nicaragua declares that it accepts the provisions of Article 15, second paragraph of the Convention.

#### Article 6

Nicaragua declares that in accordance with Article 16, third paragraph of the Convention, an application for relief will not be entertained if it is filed after the expiration of a period of one year following the date that the judgment has been entered.

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EXHIBIT

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## Multilateral Treaties

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### SIGNATORIES AND RATIFICATIONS

#### **B-46: ADDITIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON LETTERS ROGATORY**

**ADOPTED AT:** MONTEVIDEO, URUGUAY

**DATE:** 05/08/79

**CONF/ASSEM/MEETING:** SECOND INTER-AMERICAN SPECIALIZED CONFERENCE ON PRIVATE INTERNATIONAL LAW

**ENTRY INTO FORCE:** 06/14/80 IN ACCORDANCE WITH ARTICLE 9 OF THE PROTOCOL

**DEPOSITORY:** GENERAL SECRETARIAT, OAS (ORIGINAL INSTRUMENT AND RATIFICATIONS)

**TEXT:** OAS, TREATY SERIES, NO. 56

**UN REGISTRATION:** 03/20/89 No. 24386 Vol.

**OBSERVATIONS:** The Protocol shall remain open for signature and subject to ratification or accession by those Member States of the OAS that have signed, ratified, or acceded to the Inter-American Convention on Letters Rogatory, signed in Panama on January 30, 1975.

#### GENERAL INFORMATION OF THE TREATY: B-46

SIGNATORY COUNTRIES	SIGNATURE REF	RA/AC/AD REF	DEPOSIT INST	INFORMA REF
Argentina .....	05/19/86	06/15/87	07/17/87 RA	/ /
Bolivia .....	08/02/83	08/14/15	08/31/15 RA	/ /
Brazil .....	05/08/79	08/31/95	11/27/95 RA	/ / j
Chile .....	/ /	11/20/89 D	01/11/90 AD	11/20/89 e
Colombia .....	05/08/79	02/17/95	04/28/95 RA	04/15/99
Costa Rica .....	05/08/79	/ /	/ /	/ /
Dominican Republic ..	05/08/79	/ /	/ /	/ /
Ecuador .....	05/08/79	g 04/27/82	05/18/82 RA	04/23/84 a
El Salvador .....	08/11/80	09/11/00	01/24/02 RA	/ /
Guatemala .....	05/08/79	01/06/88	02/26/88 RA	/ /
Haiti .....	05/08/79	/ /	/ /	/ /
Honduras .....	05/08/79	/ /	/ /	/ /
Mexico .....	08/03/82	1 01/21/83	03/09/83 RA	03/09/83 b
Panama .....	05/08/79	06/27/91	08/28/91 RA	10/04/91 f
Paraguay .....	05/08/79	07/05/85	08/16/85 RA	/ / k
Peru .....	05/08/79	04/09/80	05/15/80 RA	/ /
United States .....	04/15/80	11/10/86 DR	07/28/88 RA	07/28/88 d
Uruguay .....	05/08/79	D 2 02/12/80 D	05/15/80 RA	08/30/85 c

**EXHIBIT**

**3**

=====

REF = REFERENCE INST = TYPE OF INSTRUMENT  
D = DECLARATION RA = RATIFICATION  
R = RESERVATION AC = ACCEPTANCE  
INFORMA = INFORMATION REQUIRED BY THE TREATY AD = ACCESSION

\*DECLARATIONS/RESERVATIONS/DENUNCIATIONS/WITHDRAWALS

**B-46: ADDITIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON LETTERS  
ROGATORY**

**1. Mexico:**

Signed ad referendum.

**2. Uruguay:**

(Declaration made at the time of signature)

The scope of public order:

Uruguay wishes to state that it expressly ratifies the line of thought enunciated in Panama at CIDIP-I, reaffirming its genuine Pan American spirit and its clear and positive decision to contribute with its ideas and endorsement to the successful development of the legal community.

This line of thinking and conduct has been evidenced in uncountable form by the unreserved ratification by Uruguay of all the Conventions of Panama, approved by law number 14,534 in 1976.

In line with the foregoing, Uruguay gives its affirmative vote to the formula regarding public order. Nevertheless, Uruguay wishes to state expressly and clearly that, in accordance with the position it maintained in Panama, its interpretation of the aforementioned exception refers to international public order as an individual juridical institution, not necessarily identifiable with the internal public order of each state.

Therefore, in the opinion of Uruguay, the approved formula conveys an exceptional authorization to the various States Parties to declare in a nondiscretionary and well-founded manner that the precepts of foreign law are inapplicable whenever these concretely and in a serious and open manner offend the standards and principles essential to the international public order on which each individual state bases its legal individuality.

**a. Ecuador:**

(Provided information in accordance with Article 2)

Appointed the Asesoría Técnico-Jurídica of the Ministry of Foreign Affairs of Ecuador as the Central Authority competent to carry out the functions entrusted to it in the Protocol. ( April 23rd, 1984)

**b. Mexico:**

(Provided information in accordance with Article 2)

Appointed by the Secretariat of Foreign Affairs of Mexico as the Central Authority competent to receive and distribute letters rogatory as provided for in the Protocol.

**c. Uruguay:**

(Declaration made at the time of ratification)

With the declaration made at the time of signature.

(Provided information in accordance with Articles 2, 6 and 7)

Appointed the Ministry of Education and Culture the "Central Authority for International Legal Cooperation" as the central authority competent to carry out the functions entrusted to it in the Protocol. ( August 30th, 1985 )

Moreover, the Government of Uruguay informed that, "For the purposes indicated in Articles six and seven of the above-cited Protocol, I wish to state that the single fixed amount of the cost of the services necessary for execution of the letter rogatory will be twenty readjustable units or its equivalent in currency. Also the schedule of the services that must be paid directly by the interested party will be limited to the possibility of resorting to the need for the services of appraisers, experts and other assistants in the case affected."

**d. United States:**

(Reservations made at the time of ratification)

1. Pursuant to Article 2 b) of the Inter-American Convention on Letters Rogatory, letters rogatory that have as their purpose the taking of evidence shall be excluded from the rights, obligations and operation of this Convention between the United States and another State Party.

2. In ratifying the Inter-American Convention on Letters Rogatory, the United States accepts entry into force and undertakes treaty relations only with respect to States which have ratified or acceded to the Additional Protocol as well as the Inter-American Convention, and not with respect to States which have ratified or acceded to the Inter-American Convention alone.

(Provided information in accordance with Article 2)

Pursuant to Article 4 of the Convention and Article 2 of the Additional Protocol, the Government of the United States wishes to inform the Secretary General that the Department of Justice is the Central Authority competent to receive and distribute letters rogatory. The mailing address for these purposes is:

Office of International Judicial Assistance  
Civil Division  
Department of Justice  
Todd Building, Room 1234  
550 11th Street, N.W.  
Washington, D.C. 20530

(Declarations made at the time of ratification)

Pursuant to Article 6 of the Additional Protocol, the Government of the United States declares that the United States reserves the right to charge a total of twenty-five dollars for performance of

the services referred to therein.

Pursuant to Article 7 of the Additional Protocol, the Government of the United States declares that the aforementioned charge shall be waived on a reciprocal basis for the execution of a letter rogatory emanating from any State Party to both the Convention and Additional Protocol and may be otherwise appropriate.

On **May 1, 2014**, the General Secretariat received from the Office of International Judicial Assistance of the Department of Justice of the United States updated contact information regarding the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory.

The United States Central Authority for service of judicial documents under the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory requested to update the following information.

The mailing address of the Office of International Judicial Assistance is:

United States Department of Justice

Office of International Affairs

Benjamin Franklin Station

P.O. Box 14360

Washington, D.C. 20004

USA

Telephone: 1-202-514-6700

Fax: 1-202-514-6584

Email: [OJJA@usdoj.gov](mailto:OJJA@usdoj.gov)

Website: <http://www.justice.gov/civil/common/oija/oija.html>

The Office of International Judicial Assistance has elected to utilize a private contractor to execute service request under this Convention to Process Forwarding International (PFI), which is known as ABC Legal. Accordingly, Requesting Authorities should send documents directly to PFI at the following contact information.

The mailing address of PFI is:

Process Forwarding International

633 Yesler Way

Seattle, WA 98104

USA

Telephone: 1-206-521-2979

Fax: 1-206-224-3410

Email: [info@hagueservice.net](mailto:info@hagueservice.net)

Website: <http://www.hagueservice.net>

Contact person: Michael Hawkins, International Service Specialist

Telephone: 1-206-521-2861; 1-800-331-3087 (direct)

Email: [MHawkins@PFIServes.com](mailto:MHawkins@PFIServes.com)

On **March 27, 2015, United States** informed of the renewal of a contract by the Department of Justice of the "[Process Forwarding International](#)" as the central authority for the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory.

Process Forwarding International  
633 Yesler Way  
Seattle, WA 98104  
USA  
Telephone: 1-206-521-2979  
Fax: 1-206-224-3410  
Email: [info@hagueservice.net](mailto:info@hagueservice.net)  
Website: <http://www.hagueservice.net>

**e. Chile:**

(Declaration made at the time of accession)

In accordance with Article 6, the single fixed amount of the cost referred to in this provision shall be of twenty-five U.S. dollars.

**f. Panama:**

(Provided information in accordance with Article 2 of the Protocol)

On October 4, 1991, Panama designated the Ministry of Foreign Affairs as the Central Authority competent pursuant to the functions of article 2 of the Protocol .

**g. Ecuador**

The Government of Ecuador has designated the Ministry of Foreign Affairs, Technical and Legal Advisory Office, General Directorate of Legal Affairs as the central authority to receive and distribute letters rogatory, for the purposes set forth in the Protocol.

On **July 13, 2012, Ecuador** informed on the designation of the "[Dirección de Asuntos Jurídicos Internacionales del Ministerio de Relaciones Exteriores, Comercio e Integración](#)" as the Central Authority for the purpose of the Inter-American Convention on Letters Rogatory, the Additional Protocol to the Inter-American Convention on Letters Rogatory, Inter-American Convention on the Taking of Evidence Abroad and the Inter-American Convention on Proof of and Information on Foreign Law.

**h. Colombia**

The Government of Colombia has designated the Ministry of Foreign Affairs, Carrera 6 No.9-46 Santa Fe de Bogota, D.C. Colombia tel. 57-1-2 832800 fax 57-1-2 866055, 2 861813 as the Central Authority competent pursuant to the functions of article 2 of the Protocol.

**i. El Salvador**

Appointed the Supreme Court of Justice as the Central Authority on January 24, 2002.

Declaration made at the time of ratification:

"According to domestic law, pursuant to Article 181 of the Constitution of the Republic, no charge shall be made for the execution of letters requisitorial or rogatory in this country (January 24, 2002)."

**j.- Brazil:**

Designation of Central Authority (January 26, 2007)

On **January 26, 2007, Brazil** appointed the Ministério da Justiça as the central authority for the Additional Protocol to the Inter-American Convention on Letters Rogatory:

Esplanada dos Ministérios,  
bl. T, 4 andar, sl. 424,  
70000-900, Brasília, DF,  
+ 55 (61) 3429-8900

On **April 18, 2011, Brazil** informed on the designation of the "[Ministerio de Justicia](#)"

as the Central Authority of the Additional Protocol to the Inter-American Convention on Letters Rogatory.

**k.- Paraguay:**

On **March 20, 2015, Paraguay** informed on the designation of the "[Dirección de Asuntos](#)

[Legales del Ministerio de Relaciones Exteriores](#)" as the central authority for the Inter-American Convention on Letters Rogatory, the Additional Protocol to the Inter-American Convention on Letters Rogatory, the Inter-American Convention on Proof of and Information of Foreign Law, the Inter-American Convention on the Taking of Evidence Abroad, and the Inter-American Convention on Execution of Preventive Measures.

[[Text of the Treaty](#)]

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Information for Lawyers and

## Preparation of Letters Rogatory

### Preparation of Letters Rogatory

#### Disclaimer:

The information relating to the legal requirements of specific foreign countries is provided for general information only and may not be totally accurate in a particular case. Questions involving interpretation of specific foreign laws should be addressed to foreign ATTORNEYS. This circular seeks only to provide information; it is not an opinion on any aspect of U.S., foreign, or international law. The U.S. Department of State does not intend by the contents of this circular to take a position on any aspect of any pending litigation.

#### Summary

Letters rogatory are the customary means of obtaining judicial assistance from overseas in the absence of a treaty or other agreement. Letters rogatory are requests from courts in one country to the courts of another country requesting the performance of an act which, if done without the sanction of the foreign court, could constitute a violation of that country's sovereignty. Letters rogatory may be used to effect service of process or to obtain evidence if permitted by the laws of the foreign country.

Before initiating the letters rogatory process, parties should determine whether the country where they are seeking to serve process or take evidence is a party to any multilateral treaties on judicial assistance such as the [Hague Service](#) or [Evidence](#) Conventions, or the [Inter-American Convention on Letters Rogatory and Additional Protocol](#). Streamlined procedures for requesting judicial assistance under these conventions greatly reduce the time and burden associated with traditional letters rogatory. Parties should also review the Department of State's country specific judicial assistance pages to determine whether other alternatives are available, such as serving process by mail or in person, or hiring a local attorney to petition a court directly to collect evidence.

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EXHIBIT 4

## Judges

- Advice about Possible Loss of U.S. Nationality and Dual Nationality

**Time Frame for Execution of Letters Rogatory**

Execution of letters rogatory may take a year or more. Letters rogatory are customarily transmitted via diplomatic channels, a time-consuming means of transmission. The time involved may be shortened by transmitting a copy of the request through a local attorney directly to the foreign court or other appropriate authority if permitted in the foreign country. Lists of foreign attorneys who have expressed a willingness to assist U.S. clients are available on the websites of U.S. embassies and consulates overseas.

**Drafting Letters Rogatory:**

- Letters rogatory should be written in simple, non-technical English and should not include unnecessary information which may confuse a court in the receiving foreign country.
- Many countries have different systems for obtaining evidence and may view U.S. discovery rules as overbroad.
- Requests for documents should be as specific as possible to avoid the appearance of being overbroad, which may result in refusal of the foreign country to execute the request.
- If particular procedures to be followed by the foreign court are preferable, include the specifics in the letters rogatory (for example, verbatim transcript, place witness under oath, permission for U.S. or foreign attorney to attend or participate in proceedings if possible, etc.)
- The letters rogatory should be addressed To the Appropriate Judicial Authority of (Insert name of Country).
- The form of letters rogatory depends on the country to which it is addressed and the assistance being sought. Some countries have statutory guidelines for granting assistance.

**Essential Elements of Letters Rogatory:**

- A statement that a request for international judicial assistance is being made in the interests of justice;
- A brief synopsis of the case, including identification of the parties and the nature of the claim and relief sought to enable the foreign court to understand the issues involved;
- The type of case [e.g. civil, criminal, administrative];
- The nature of the assistance required [compel testimony or production of evidence; service of process];
- Name, address and other identifiers, such as corporate title, of the person overseas to be served or from whom evidence is to be compelled, documents to be served;
- A list of questions to be asked, where applicable, generally in the form of written interrogatories;
- A list of documents or other evidence to be produced;
- A statement from the requesting court expressing a willingness to provide similar assistance to judicial authorities of the receiving state;
- Statement that the requesting court or party is willing to reimburse the judicial authorities of the receiving state for costs incurred in executing the requesting court's letters rogatory.

**Signature and Authentication**

Letters rogatory must be signed by a judge. The clerk should not sign on behalf of the judge. For most countries, the seal of the court and signature of the judge is sufficient. Consult our country-specific information for guidance about authentication procedures for particular countries. Many countries will not accept letters rogatory issued by an Administrative Law Judge. In administrative cases, it may be possible to obtain letters rogatory issued by a federal district court under 28 U.S.C. 1651.

**Translation**

The letters rogatory and any accompanying documents must be translated into the official language of the foreign country. The translator should execute an affidavit as to the validity of the translation before a notary.

**Number of Copies****Travel Tip**

Check passport expiration dates carefully for all travelers!  
Children's passports are issued for 5 years, adult passports for 10 years.

Forward to the U.S. Department of State for transmittal to the foreign authorities:

- The original English version bearing the seal of the court and signature of the judge [or a certified copy]; a photocopy of the English.
- The original translation and a photocopy of the translation.
- The original documents will be served upon the designated recipient or deposited with the foreign court in connection with a request for evidence, and the copies returned to the court in the U.S. as proof of execution.
- For requests involving multiple witnesses in diverse locations, either prepare separate letters rogatory for each witness, or provide a certified copy of the letters rogatory (plus translation and duplicate copy noted above) for each witness. The foreign country may assign the matter to different courts.

## **Fees**

The current consular fees for transmittal of letters rogatory are available at 22 CFR 22.1 Schedule of Fees. Requests must include a certified check payable to the U.S. Embassy (insert name of capital of the foreign country, for example, U.S. Embassy Tokyo). Corporate or personal checks are not acceptable. Foreign authorities may also charge a fee. The U.S. embassy and/or the Office of American Citizens Services and Crisis Management in the Department of State will notify the requesting party if the Embassy is advised by foreign authorities of any applicable local fees. If the letters rogatory request compulsion of evidence from more than one witness or service of process on more than one person, multiple fees may be charged if more than one foreign court is required to execute the request due to multiple jurisdictions.

## **Transmittal to the Department of State**

The letters rogatory and accompanying documents may be submitted to:

ATTN: Judicial Assistance Officer  
U.S. Department of State  
Office of Legal Affairs, (CA/OCS/L)  
SA-17, 10th Floor  
2201 C Street, NW  
Washington, DC 20522-1710

## **Cover Letter**

The documents should be accompanied by a cover letter including the following elements:

- Name of case;
- Docket number;
- Foreign country;
- Nature of request: (service of process; compulsion of testimony; production of documents, etc.)
- Person to be served or from whom evidence is to be obtained: (name and address mandatory, phone number if possible.)
- Mailing address of U.S. court or attorney to which the executed letters rogatory should be returned:
- Special instructions: (Example, Federal Express account number; U.S. hearing/trial date, etc.)
- Fee enclosed
- Deposit (if required) enclosed
- Statement of responsibility, if applicable, for additional costs incurred in excess of the required deposit which accompanies the letter.
- Local foreign attorney (if any): (name and address, phone number)
- Name, address, telephone, fax number and email address of requesting attorney in United States.

## **Transmittal of Letters Rogatory by Department of State to the Foreign Authorities through Diplomatic Channels**

Letters rogatory generally are transmitted to foreign judicial authorities through diplomatic channels, a formal system of communication between governments.

This system is used to transmit letters rogatory to a foreign government so that they may be directed to the appropriate foreign court.

### **Execution of Letters Rogatory by the Foreign Court:**

Foreign courts will generally execute letters rogatory in accordance with the laws and regulations of the foreign country. In compelling evidence, for example, many foreign courts do not permit foreign attorneys to participate in their court proceedings. Not all foreign countries utilize the services of court reporters or routinely provide verbatim transcripts. Sometimes the presiding judge will dictate his or her recollection of the witness' responses.

### **Return of Executed Letters Rogatory**

When letters rogatory are executed by foreign authorities, they are generally returned to the Department of State via diplomatic channels and the Office of American Citizens Services will send them to the requesting court in the United States via certified mail. The requesting party is also notified. At the request of the court, the executed letters rogatory and proof of service/evidence produced can be returned directly to the requesting attorney.

### **Example - Letters Rogatory**

NAME OF COURT IN SENDING STATE REQUESTING JUDICIAL ASSISTANCE

NAME OF PLAINTIFF

V.

NAME OF DEFENDANT

DOCKET NUMBER

REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE (LETTERS ROGATORY)

(NAME OF THE REQUESTING COURT) PRESENTS ITS COMPLIMENTS TO THE APPROPRIATE JUDICIAL AUTHORITY OF (NAME OF RECEIVING STATE), AND REQUESTS INTERNATIONAL JUDICIAL ASSISTANCE TO (OBTAIN EVIDENCE/EFFECT SERVICE OF PROCESS) TO BE USED IN A (CIVIL, CRIMINAL, ADMINISTRATIVE) PROCEEDING BEFORE THIS COURT IN THE ABOVE CAPTIONED MATTER. A (TRIAL/HEARING) ON THIS MATTER IS SCHEDULED AT PRESENT FOR (DATE) IN (CITY, STATE, COUNTRY).

THIS COURT REQUESTS THE ASSISTANCE DESCRIBED HEREIN AS NECESSARY IN THE INTERESTS OF JUSTICE. THE ASSISTANCE REQUESTED IS THAT THE APPROPRIATE JUDICIAL AUTHORITY OF (NAME OF RECEIVING STATE) (COMPEL THE APPEAR OF THE BELOW NAMED INDIVIDUALS TO GIVE EVIDENCE/PRODUCE DOCUMENTS) (EFFECT SERVICE OF PROCESS UPON THE BELOW NAMED INDIVIDUALS).

(NAMES OF WITNESSES/PERSONS TO BE SERVED)

(NATIONALITY OF WITNESSES/PERSONS TO BE SERVED)

(ADDRESS OF WITNESSES/PERSONS TO BE SERVED)

(DESCRIPTION OF DOCUMENTS OR OTHER EVIDENCE TO BE PRODUCED)

FACTS

(THE FACTS OF THE CASE PENDING BEFORE THE REQUESTING COURT SHOULD BE STATED BRIEFLY HERE, INCLUDING A LIST OF THOSE LAWS OF THE SENDING STATE WHICH GOVERN THE MATTER PENDING BEFORE THE COURT IN THE RECEIVING STATE.)

(QUESTIONS)

(IF THE REQUEST IS FOR EVIDENCE, THE QUESTIONS FOR THE

WITNESSES SHOULD BE LISTED HERE).

(LIST ANY SPECIAL RIGHTS OF WITNESSES PURSUANT TO THE LAWS OF THE REQUESTING STATE HERE).

(LIST ANY SPECIAL METHODS OR PROCEDURES TO BE FOLLOWED).

(INCLUDE REQUEST FOR NOTIFICATION OF TIME AND PLACE FOR EXAMINATION OF WITNESSES/DOCUMENTS BEFORE THE COURT IN THE RECEIVING STATE HERE).

RECIPROCITY

THE REQUESTING COURT SHOULD INCLUDE A STATEMENT EXPRESSING A WILLINGNESS TO PROVIDE SIMILAR ASSISTANCE TO JUDICIAL AUTHORITIES OF THE RECEIVING STATE.

REIMBURSEMENT FOR COSTS

THE REQUESTING COURT SHOULD INCLUDE A STATEMENT EXPRESSING A WILLINGNESS TO REIMBURSE THE JUDICIAL AUTHORITIES OF THE RECEIVING STATE FOR COSTS INCURRED IN EXECUTING THE REQUESTING COURT'S LETTERS ROGATORY.

SIGNATURE OF REQUESTING JUDGE

TYPED NAME OF REQUESTING JUDGE

NAME OF REQUESTING COURT

CITY, STATE, COUNTRY

DATE

(SEAL OF COURT)

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## Diego Soto

---

**From:** MIM-LegalLiaison-S <MIM-LegalLiaison-S@bop.gov>  
**Sent:** Tuesday, February 9, 2021 6:30 AM  
**To:** Diego Soto  
**Subject:** Re: Request for Appointment to Serve Legal Documents on Lisa Miller (27502-509)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

All of those questions is not public information and cannot be provided. You will have to check back regularly to see when she is off of quarantine to serve the papers in person. She arrived on the 27th, so her quarantine can last anywhere from 3 to 4 weeks approximately.

>>> Diego Soto <Diego.Soto@splcenter.org> 2/8/2021 11:42 AM >>>  
Good morning,

I would like to set up an appointment to serve legal documents on Lisa Miller (27502-509), who is a defendant in one of my cases. She is not my client. It is my understanding that she has been ordered removed to New York and that she might be in quarantine until then. Can you tell me when she is scheduled to be removed from Miami, when she is scheduled to arrive in New York, and at which facility she will be housed in New York?

Please also let me know what information you will need for the appointment. My plan is to hire a process server to make the appointment and hand her the documents in person, assuming that is even possible.

Thanks,  
Diego



**Diego Soto** he/him/his  
Staff Attorney | LGBTQ Rights & Special Litigation  
Southern Poverty Law Center  
T 334.956.8427 C 334.604.1414 F 334.956.8481  
[diego.soto@splcenter.org](mailto:diego.soto@splcenter.org) | [www.splcenter.org](http://www.splcenter.org)  
Admitted in Alabama and the District of Columbia

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**DECLARATION OF DIEGO A. SOTO IN SUPPORT OF  
PLAINTIFF'S MOTION FOR EXTENSION OF TIME  
TO SERVE DEFENDANT LISA MILLER  
AND AN ORDER THAT SERVICE BE MADE BY A UNITED STATES MARSHAL**

I, Diego A. Soto, declare under penalty of perjury that the following is true and correct:

1. I am a Staff Attorney at the Southern Poverty Law Center and represent Plaintiff Janet Jenkins in this case.

2. Exhibit 1 is a true and correct copy of 14: Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, HCCH, <https://www.hcch.net/en/instruments/conventions/status-table/?cid=17> (last accessed Feb. 9, 2021).

3. Exhibit 2 is a true and correct copy of *Declaration/Reservation/Notification: Nicaragua*, HCCH, <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=1418&disp=resdn> (last accessed Feb. 9, 2021).

4. Exhibit 3 is a true and correct copy of *Signatories and Ratifications B-46: Additional Protocol to the Inter-American Convention on Letters Rogatory*, Org. Am. St., <http://www.oas.org/juridico/english/sigs/b-46.html> (last accessed Feb. 9, 2021).

5. Exhibit 4 is a true and correct copy of *Preparation of Letters Rogatory*, U.S. Dep't State, <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-asst/obtaining-evidence/Preparation-Letters-Rogatory.html> (last accessed Feb. 9, 2021).

6. Exhibit 5 is a true and correct copy of an email exchange between me and FDC Miami.

Executed on February 9, 2021

/s/ Diego A. Soto

Diego A. Soto

*Counsel for Plaintiff Janet Jenkins*