

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

=0=

VIRGIN ISLANDS WATER AND POWER	:	
AUTHORITY,	:	
Plaintiff	:	
vs.	:	CIVIL NO. 292/1982
JACKSON ENTERPRISES, INC.,	:	
Defendant	:	

VICTOR G. SCHNEIDER, Esq.
V. I. Water & Power Authority
P. O. Box 1450
St. Thomas, Virgin Islands
(Attorney for Plaintiff)

Jackson Enterprises, Inc.
Edith L. Bornn, Resident Agent
No. 8 Norre Gade
St. Thomas, Virgin Islands
(For Defendant)

MEMORANDUM OPINION AND ORDER
(October 24, 1982)

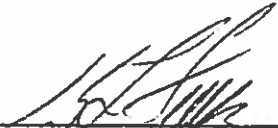
FEUERZEIG, J.

Plaintiff was ordered on July 13, 1982 "to show cause by what authority this court can find that service on Urlene Lettsome was proper service on the defendant." Plaintiff filed nothing in response. As a result, on September 10, 1982 plaintiff was ordered to comply with the order or face dismissal without prejudice. Plaintiff responded on September 24, 1982 indicating Ms. Lettsome is the receptionist for the resident agent of defendant Jackson Enterprises, Inc. With no further adieu, it is concluded:
"Accordingly, proper service was made . . . "

Rule 4(d)(3) of the Federal Rules of Civil Procedure states that personal service may be made on a foreign or domestic corporation by delivering process to any agent authorized by appointment or by law to receive service of process. Despite plaintiff's assurances to the contrary, it is by no means certain here that service was, in fact, proper.

In Ramamurti v. Rolls Royce, Ltd., 457 F.Supp. 407 (D.D.C. 1978), aff'd 612 F.2d 587 (D.C. Cir. 1980), the clerk of defendant's Washington D.C. agent was served with process. The court noted that although the defendant objected to service on its agent being effective against it, it did not question whether the service of the agent's clerk was effective against the agent. The court further pointed out that there was no question as to either the defendant's or the agent's timely receipt of actual notice. Thus the court denied the defendant's motion to quash service and to dismiss the complaint for lack of personal jurisdiction. See also Koninklijke Luchtvaart Naatschappij N.V. v. Curtis-Wright Corp., 17 F.R.D. 49 (D. N.Y. 1955); United States v. Mollenhauer Labs, Inc., 267 F.2d 260 (7th Cir. 1959). Unlike Ramamurti, defendant in this action may not have notice of the complaint. Under these circumstances, the court is reluctant to enter a judgment of default in plaintiff's favor without it either serving the resident agent herself or providing this court with more convincing authority than has been submitted. Accordingly, it is

ORDERED that plaintiff within fifteen days either submit authority by which the court can find that service on the resident agent's receptionist is sufficient service on the resident agent herself or face dismissal of this action without prejudice.



HENRY L. FEUERZEIG
Judge of the Territorial Court