

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, JACKSONVILLE DIVISION

PanAmerica Trade, Inc. v. Food Service Gaskets, LLC, et al.

PanAmerica Trade · No. 3:25-cv-473-MMH-SJH · Decided February 5, 2026

SUMMARY

The United States District Court for the Middle District of Florida denied without prejudice Plaintiff PanAmerica Trade, Inc.’s motion for clerk’s default against Baliwag LLC. The court held that although Plaintiff demonstrated due diligence sufficient to invoke Florida’s substituted-service provisions, the motion did not establish strict compliance with the statutory notice requirements for service through the Florida Secretary of State. The court granted Plaintiff one final opportunity to perfect service or seek renewed relief by February 25, 2026.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Jacksonville Division
WRITING FOR THE COURT	Samuel J. Horovitz
JURISDICTION	United States District Court for the Middle District of Florida
DECIDED	February 5, 2026
DOCKET	3:25-cv-473-MMH-SJH
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved for the clerk's default against Baliwag LLC after attempting to serve it through substituted service under Florida law.
STANDARD OF REVIEW	The court required strict compliance with the statutory requirements for substituted service of process.
PRECEDENTIAL VALUE	Unknown

TOPICS

- service of process
- default judgment
- civil procedure
- commercial litigation

PRACTICE AREAS

- Civil procedure
- Service of process
- Trademark litigation

QUESTIONS PRESENTED

1. Whether Plaintiff established the due diligence and statutory prerequisites for substituted service on Baliwag LLC through the Florida Secretary of State.
2. Whether Plaintiff strictly complied with the notice, proof-of-service, and affidavit requirements of Florida Statutes section 48.161(3)–(4) so that service on Baliwag was properly perfected.
3. Whether clerk's default should be entered against Baliwag LLC.

HOLDINGS

1. Substituted service under section 48.062(4) was authorized because Plaintiff exercised appropriate due diligence, could not complete service under section 48.062(2), and Boys was both the only person listed publicly on Baliwag's latest annual report and the registered agent on whom service had been attempted.
2. Plaintiff did not establish proper substituted service because the Motion and related papers did not demonstrate strict compliance with the notice and affidavit requirements of Florida Statutes section 48.161(3)–(4).
3. The motion for clerk's default was denied without prejudice because Plaintiff had not demonstrated that service on Baliwag was properly perfected.

KEY QUOTATIONS

“Plaintiff has not demonstrated the requisite strict compliance with the statutory requirements for substitute service.”

“Accordingly, the Motion (Doc. 72) is denied without prejudice, and Plaintiff will be given one final opportunity to properly perfect service on Baliwag.”

FACTUAL BACKGROUND

Baliwag LLC was a business entity whose registered agent was Christopher Boys. Boys was also the only person publicly listed on Baliwag's latest amended annual report. Plaintiff attempted service on Boys as registered agent, but the court found those efforts insufficient. After determining that Plaintiff had exercised due diligence and that Florida Statutes section 48.062(4) permitted resort to substituted service, the court found that Plaintiff's papers did not show compliance with the additional notice and affidavit requirements of section 48.161(3)–(4).

PROCEDURAL HISTORY

The court had previously found Plaintiff's efforts to serve Baliwag insufficient and issued related rulings and directives. After Plaintiff's latest service efforts, Plaintiff moved for clerk's default. The court denied the motion without prejudice because Plaintiff had not demonstrated strict compliance with the notice and affidavit requirements governing substituted service, while allowing one final opportunity to perfect service or seek renewed relief.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand was ordered. On or before February 25, 2026, Plaintiff was directed to file proof of proper service of the summons and Amended Complaint on Baliwag and/or seek renewed relief, if appropriate, with respect to Baliwag.

CASES CITED

- Greenridge v. Fla. Dep't of Revenue, No. 8:25-cv-927-KKM-TGW, 2025 WL 1615446, at *1 (M.D. Fla. June 6, 2025)
- HSBC Bank USA, Nat. Ass'n v. Ctr. Ct. Ridge Condo. Ass'n, Inc., 147 So. 3d 593, 594 (Fla. 5th DCA 2014)

OPINION

Boys

PER CURIAM.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

JACKSONVILLE DIVISION

PANAMERICA TRADE, INC., etc.,

Plaintiff, v. CASE NO. 3:25-cv-473-MMH-SJH

FOOD SERVICE GASKETS, LLC,

etc., et al., Defendants. _____/

ORDER

THIS CAUSE is before the Court on Plaintiff's Motion for Clerk's Default of Baliwag LLC ("Motion"). Doc. 72. The Court carefully reviewed, and ultimately deemed insufficient, Plaintiff's prior efforts to serve Baliwag LLC ("Baliwag"). See Docs. 50, 52, 61, 66. Familiarity with those efforts and the resulting rulings and directives from the Court are presumed and will not be repeated here. The Motion follows Plaintiff's latest efforts at service on Baliwag. It is again insufficient. Under Florida law:

(2) A domestic limited liability company or registered foreign limited

liability company may be served with process required or authorized by law by service on its registered agent designated by the domestic limited liability company or registered foreign limited liability company under chapter 605.

(4) If, after due diligence, the process cannot be completed under

subsection (2) and if ... [t]he only person listed publicly by the domestic limited liability company or registered foreign limited liability company on its latest annual report, as most recently amended, is also the registered agent on whom service was attempted under subsection (2) ... the service of process may be served as provided in s. 48.161 on the Secretary of State as an agent of

the domestic limited liability company or the registered foreign limited liability company or by order of the court under s. 48.102, Fla. Stat. § 48.062; see also Fed. R. Civ. P. 4(e)(1), 4(h)(1)(A). For the reasons set forth in Plaintiff's Motion and prior notice, Docs. 70, 72, the Court is now satisfied that Plaintiff exercised appropriate due diligence and that, after due diligence, process could not be completed under Fla. Stat. § 48.062(2). Thus, and because Christopher Boys is both the only person listed publicly on Baliwag's latest annual report and also the registered agent on whom service was attempted, see 2025 Florida Limited Liability Company Amended Annual Report, Sunbiz (July 7, 2025), <https://search.sunbiz.org/Inquiry/CorporationSearch/GetDocument?aggregateId=flal-l22000388514-ed0351dd-886e-4016-a11f-aa2717bd7d78&transactionId=l22000388514-3c10ccdb-6cff-467e-aec3-092c922cbf85&formatType=PDF>, Fla. Stat. § 48.062(4) was triggered. The Motion argues that service was properly made under Fla. Stat. § 48.161. But due diligence to trigger resort to Fla. Stat. § 48.161 is only part of the equation. Plaintiff must also show strict adherence to the requirements for perfecting such service. See Doc. 52 at 2; see also *id.* at 3 n.1. In that regard, the Motion is lacking. Under Fla. Stat. § 48.161:

(1) When authorized by law, substituted service of process on a nonresident individual or a corporation or other business entity incorporated or formed under the laws of any other state, territory, or commonwealth, or the laws of any foreign country, may be made by sending a copy of the process to the office of the Secretary of State. Such process must be issued in the name of the party to be served, in the care of the Secretary of State, and must be made by personal delivery; by registered mail; by certified mail, return receipt requested; by use of a commercial firm regularly engaged in the business of document or package delivery; or by electronic transmission. Such service is sufficient service on a party that has appointed or is deemed to have appointed the Secretary of State as such party's agent for service of process.

(2) When an individual or a business entity is a nonresident or conceals his, her, or its whereabouts, the party seeking to effectuate service may, after exercising due diligence to locate and effectuate personal service, use the substituted service method specified in subsection (1) in connection with any action in which the court has jurisdiction over the individual or business entity.

(3) Whenever a party is using substituted service specified in subsection (1), notice of service and a copy of the process must also be sent forthwith to the party being served by the party effectuating service or by such party's attorney by registered mail; by certified mail, return receipt requested; or by use of a commercial firm regularly engaged in the business of document or package delivery. In addition, if the parties have recently and regularly used e-mail or other electronic means to communicate between themselves, the notice of service and a copy of the process must also be sent by such electronic means. The notice of service and a copy of the process must be sent to the last known physical address and, if applicable, last known electronic address of the party being served. The party effectuating service shall file proof

of service or return receipts showing delivery to the other party by mail or courier and by electronic means, if electronic means were used, unless the party is actively refusing or rejecting the delivery of the notice or the party is concealing himself, herself, or itself. An affidavit of compliance of the party effectuating service or such party's attorney must be filed within 40 days after the date of service on the Secretary of State or within such additional time as the court allows. The affidavit of compliance must set forth the facts that justify such substituted service and must contain sufficient facts showing: (a) That due diligence was exercised in attempting to locate and effectuate personal service on the party; and (b) To the extent applicable, the party's nonresidence, or concealment, or that the party is a business entity for which substituted service is otherwise authorized by law. The party effectuating service does not need to allege in its original or amended complaint the facts required to be set forth in the affidavit of compliance.

(4) When an individual or a business entity conceals its whereabouts, the party seeking to effectuate service may, after exercising due diligence to locate and effectuate personal service, use substituted service pursuant to subsection (1) in connection with any action in which the court has jurisdiction over such individual or business entity. The party seeking to effectuate service must also comply with subsection (3); however, a return receipt or other proof showing acceptance of receipt of the notice of service and a copy of the process by the concealed party need not be filed. Fla. Stat. § 48.161. The Motion and related papers do not reflect—or even address— compliance with Fla. Stat. § 48.161(3)–(4), which, among other things, require, even where substitute service is authorized (and even where a party is concealing its whereabouts), certain notice forthwith to the party as well. As such, Plaintiff has not demonstrated the requisite strict compliance with the statutory requirements for substitute service. See *Greenridge v. Fla. Dep't of Revenue*, No. 8:25-cv-927-KKM-TGW, 2025 WL 1615446, at *1 (M.D. Fla. June 6, 2025); *HSBC Bank USA, Nat. Ass'n v. Ctr. Ct. Ridge Condo. Ass'n, Inc.*, 147 So. 3d 593, 594 (Fla. 5th DCA 2014). Accordingly, the Motion (Doc. 72) is denied without prejudice, and Plaintiff will be given one final opportunity to properly perfect service on Baliwag. On or before February 25, 2026, Plaintiff must file proof of proper service of the summons and Amended Complaint on Baliwag and/or seek renewed relief, if appropriate, with respect to Baliwag. DONE AND ORDERED in Jacksonville, Florida, on February 5, 2026. [Z J. Horovitz United States Magistrate Judge Copies to: Counsel of Record