

1 argues that alternative service would offend due process and that Cascade should have brought a
2 motion for reconsideration.

3 Both of Mr. Watt's arguments are entirely without merit. First, in its order dismissing Mr.
4 Watt, the Court held that to obtain jurisdiction over Mr. Watt under 28 U.S.C. § 1965(b) of the
5 Racketeer Influenced and Corrupt Organization Act ("RICO"), he must be served in the United
6 States. Cascade seeks alternative service in order to comport with -- not bypass -- due process
7 requirements under RICO. Second, Cascade's motion is a request for the opportunity to comply
8 with the Court's order and obtain jurisdiction over Mr. Watt, as the Court may always revisit the
9 issue of personal jurisdiction. Cascade does not seek reconsideration of any part of the Court's
10 order. Accordingly, Cascade's motion for alternative service of process should be granted.

11 **II. DISCUSSION**

12 **A. Alternative Service On Mr. Watt Comports With Due Process.**

13 Mr. Watt does not -- and cannot -- argue that Cascade fails to meet the requirements for
14 alternative service under Rule 4(f)(3). Instead, he baselessly claims that Cascade's motion is "an
15 inappropriate attempt to bypass Constitutional protections afforded to him." Dkt. No. 181 at p. 2.
16 He cites no authority in support of his position. *See* Dkt. No. 181. He also neglects to mention
17 that the Court ruled that, pursuant to RICO, due process would be satisfied if Mr. Watt had been
18 served in the United States. Dkt. No. 161 at p. 11. Mr. Watt does not dispute that the Court may
19 reinstitute suit against him because his dismissal was without prejudice. *See* Fed. R. Civ. P.
20 41(b); *Robinson v. Overseas Military Sales Corp.*, 21 F.3d 502, 507 n.4 (2d Cir. 1994); *Kendall v.*
21 *Overseas Dev. Corp.*, 700 F.2d 536, 539 (9th Cir. 1983); *Malone v. Clark Nuber, P.S.*, 2008 U.S.
22 Dist. LEXIS 70688, at *3 (W.D. Wash., Sept. 12, 2008); *Young v. Actions Semiconductor Co.*,
23 2007 U.S. Dist. LEXIS 54633, at *6 (S.D. Cal., July 27, 2007). Thus, if Cascade is able to serve
24 Mr. Watt in the United States, he will have sufficient nationwide contacts under RICO to support
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1 the exercise of jurisdiction in Washington.¹ Dkt. No. 161 at p. 11. Accordingly, Cascade's
2 request comports with Mr. Watt's constitutional protections.

3 **B. Cascade's Motion For Alternative Service Is Proper.**

4 Mr. Watt also claims that Cascade should have moved for reconsideration of the Court's
5 order that it lacks specific jurisdiction over Mr. Watt. Dkt. No. 181 at p. 2. This argument
6 completely misses the mark. Cascade's motion concerns RICO jurisdiction; specific jurisdiction
7 is, thus, irrelevant. Moreover, Cascade is not requesting reconsideration of any part of the
8 Court's order as to the dismissal of Mr. Watt. It is simply requesting the opportunity to comply
9 with the Court's order, as no binding Ninth Circuit authority required Cascade to serve Mr. Watt
10 in the United States in order to obtain RICO jurisdiction. Dkt. No. 162 at pp. 6-7. Therefore, the
11 Court may order alternate service on Mr. Watt without granting a motion for reconsideration.²

12 Furthermore, Mr. Watt is incorrect that Cascade is foreclosed from bringing a motion for
13 reconsideration. LR 7(h) provides that a motion for reconsideration shall be filed within 14 days
14 after an order is issued. LR 7(h)(2). However, LR 7(h) also provides that the time limitation is
15 discretionary. *Id.* (failure to file a motion within the 14-day period "may" be grounds for denial
16 of the motion). Because a court may revisit the issue of personal jurisdiction *at any time*, it
17 should not impose the time limitation of LR 7(h) on a motion for reconsideration regarding
18 personal jurisdiction. *Malone*, 2008 LEXIS 70688 at *3 (citing *Dessar v. Bank of America Nat'l*
19 *Trust & Sav. Ass'n.*, 353 F.2d 468, 470 (9th Cir. 1965)). Thus, Cascade should be allowed to
20 bring a motion for reconsideration if necessary.

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24 ¹ Mr. Watt will certainly have notice of this lawsuit if he is served in the United States via his
attorneys, who are actively litigating this Court on his behalf, even despite his dismissal.

25 ² If the Court determines that a motion for reconsideration is necessary at this juncture, Cascade
26 requests that its Motion for Alternative Service of Process (Dkt. No. 162) be construed as a
motion for reconsideration.

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C. Mr. Watt’s Appearance Further Demonstrates That He Should Be Subject to Jurisdiction In This Court.

Finally, Mr. Watt acknowledges that he was not required to respond to this motion. Dkt. No. 181 at p. 2. Indeed, Cascade could have moved the Court for this relief *ex parte*. See, e.g., *Gucci Am., Inc. v. Huoqing*, 2011 U.S. Dist. LEXIS 783, at *7-*10 (N.D. Cal., Jan. 3, 2011); *Chanel, Inc. v. Lin*, 2010 U.S. Dist. LEXIS 61295, at *11-*12 n.3 (N.D. Cal. May 7, 2010); *Bank Julius Baer & Co. Ltd. v. WikiLeaks*, 2008 U.S. Dist. LEXIS 14758, at *6 (N.D. Cal., Feb. 13, 2008); *United States v. Padilla*, 2002 U.S. Dist. LEXIS 7477 (E.D. Cal., Feb. 22, 2002). Mr. Watt’s readiness and willingness, even as a dismissed defendant, to vigorously defend himself in this Court only further proves that jurisdiction is proper over him in Washington.³

III. CONCLUSION

Mr. Watt is clearly capable of defending himself in Washington. Cascade simply seeks to comply with the Court’s order and serve Mr. Watt through his attorneys in the United States to properly establish RICO jurisdiction over him. Because Mr. Watt does not dispute that Cascade has satisfied the requirements of Rule 4(f)(3), and because alternative service comports with due process, Cascade’s Motion for Alternative Service should be granted.

Dated: January 21, 2011

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³ In fact, Mr. Watt may have waived his objections to personal jurisdiction by appearing in this action following his dismissal. See *Inurance Corp. of Ireland v. Compagnie Des Bauxites De Guinee*, 456 U.S. 694, 703 (1982) (“regardless of the power . . . to serve process, an individual may submit to the jurisdiction of the court by appearance”).

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CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2011, I made arrangements for my assistant to electronically file the aforementioned Cascade’s Reply in Support of Motion for Alternative Service of Process with the Clerk of Court using the Court’s CM/ECF system which will send notice to counsel as follows:

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I declare under penalty of perjury under the laws of the State of Washington, the State of California and the United States of America that the foregoing is true and correct.

Executed this 21st day of January, 2011 at San Francisco, California.

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