

Lacewell v Rocky Mtn. Intl. Ins. Ltd.

2026 NY Slip Op 30161(U)

January 13, 2026

Supreme Court, New York County

Docket Number: Index No. 655328/2019

Judge: Robert R. Reed

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 43

-----X

LINDA A. LACEWELL, SUPERINTENDENT OF
FINANCIAL SERVICES OF THE STATE OF NEW YORK,
IN HER CAPACITY AS LIQUIDATOR OF IDEAL MUTUAL
INSURANCE COMPANY,

INDEX NO. 655328/2019

MOTION DATE 10/03/2025

Plaintiff,

MOTION SEQ. NO. 013

- v -

**DECISION + ORDER ON
MOTION**

ROCKY MOUNTAIN INTERNATIONAL INSURANCE
LTD., UNITED INSURANCE COMPANY

Defendant.

-----X

HON. ROBERT R. REED:

The following e-filed documents, listed by NYSCEF document number (Motion 013) 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 447, 448, 449

were read on this motion to/for ALTERNATE SERVICE.

In this motion, defendant United Insurance Company seeks leave for alternate service of a nonparty subpoena on Manville Personal Injury Settlement Trust (Manville Trust).

Attorney Kevin M. Haas affirms that the Manville Trust website states that its New York Office is located at P.O. Box 270, 1132 Main Street, Suite 4, Peekskill, NY 10566. Two unsuccessful efforts to serve subpoenas were purportedly made at this location (NYSCEF doc. no. 431), requiring Haas to call the telephone number listed on the Manville Trust website. On July 23, 2025, Haas spoke with employee Malissa Antonucci regarding the unsuccessful attempts to serve the subpoenas (*id.*). Antonucci allegedly confirmed that the New York office is permanently closed and stated that subpoenas should be served by email. On August 26, 2025, Antonucci provided Haas with the email address of malissaantonucci@mantrust.org for service (*id.*). Attorney Haas now moves, for an order, pursuant to CPLR 308 (5), permitting alternate service upon Manville Trust.

CPLR § 308 applies to personal service upon a natural person. Sections (1) and (2), a party may perform service by delivering to a person or to a person of suitable age and discretion at the actual place of business. If neither option is available, CPLR § 308 (4) allows a party to affix to the door of either the actual place of business or last known residence of the party being served, or by mailing. If service is impracticable under paragraphs one, two, and four of CPLR § 308, the court may allow for service in such manner as it directs (CPLR § 308 [5]).

CPLR § 311 applies to service upon a domestic or foreign corporation. Subsection (b) permits alternative service if personal service is deemed impracticable under paragraph one of subdivision (a) of this section. Subsection (b) permits alternative service upon the corporation in such manner as the court, upon motion, directs.

The Manville Trust was established in 1988 to resolve asbestos personal injury claims. All Manville Trust claims are resolved by its claim processing facility Claims Resolution Management Corporation (<https://mantrust.claimsres.com/>). Here, it is unclear whether United seeks service of the subpoena on the designated Trustee of the Manville Trust (an individual authorized to accept service) or upon the Claims Resolution Management Corporation who is responsible for resolving and processing the claims on behalf of the Manville Trust. Proper identification and classification of the Manville entity would determine which provision of the CPLR governs the standard for alternate service.

Notwithstanding, the court need not reach the question of whether service under CPLR 308 or 311 is appropriate. Under these circumstances, both provisions permit service by alternative means when a showing that service by other methods is rendered “impracticable” (CPLR § 311 (b) [if service upon a domestic or foreign corporation is impracticable under paragraph one of subdivision (a) of this section, service upon the corporation may be made in

such manner as the court upon motion directs]; CPLR § 308 [5] [if service is impracticable under paragraphs one, two, and four of CPLR § 308, the court may allow for service in such manner as it directs]).

Here, United has established difficulty in serving Manville Trust as the entity no longer maintains a physical place of business. United affirms that the location identified on Mansville's website is vacant. United has met its burden in establishing that both personal service and "nail and mail" service is impracticable pursuant to CPLR § 308 [1], [2], [4] and CPLR § 311 [b].

Plaintiff's arguments in opposition are unavailing. The note of issue in this matter has not been filed and plaintiff has set forth no grounds to "preclude United from taking the Trust's deposition" (memo in opposition, NYSCEF doc. no. 440, pg.7). Nothing before the court demonstrates that service or compliance with the subpoena would be "futile" or would otherwise lead to the disclosure of irrelevant information (*Anheuser-Busch, Inc. v Abrams*, 71 NY2d 327 [1988]).


Alternate service upon Manville Trust is warranted, especially, where, as here, service by email was consented to by the entity to be served (*McHugh v Martinez*, 2025 WL 881382, at *2 (NY Sup Ct Mar 21, 2025) citing, *Knopf v Sanford*, 150 AD3d 608, 610 [1st Dept. 2017])[service by email was valid, as the notice of appearance expressly requested such service]; *NMR e-Tailing LLC v Oak Inv. Partners*, 216 AD3d 572 [1st Dept 2023])[plaintiff made a sufficient showing that service upon pursuant to CPLR 308 (1) through (4) was impracticable, and that email service was reasonably calculated under the circumstances to apprise defendant of the action]).

Accordingly, it is hereby

ORDERED that United's motion for alternate service is granted and United is authorized to serve the nonparty subpoena on Manville Trust by email and standard mail to the last known mailing address; and it is further

ORDERED that all parties appear for a virtual status conference February 26, 2026 at 12 noon.

1/13/26
DATE


ROBERT R. REED, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE