

Folkman on Gurung

Theodore J Folkman (Murphy & King, P.C.) has posted Gurung v. Malhotra is wrongly decided on SSRN.

A line of cases, beginning with Gurung v. Malhotra, 279 F.R.D. 215 (S.D.N.Y. 2011), has begun to hold that service by email is proper in cases where the Hague Service Convention applies. This article demonstrates that these cases are wrongly decided where the defendant is to be served in a state that is a party to the Convention and that has objected to service via postal channels. The matter is less clear in states that are party to the Convention but that have not made such an objection, but the article suggests reasons for concluding that service by email is impermissible in those states as well.