

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

Ardor Fiduciary Services and Jeffery  
Schaff,

Plaintiffs,

v.

Mark S. Mona

Defendant.

Case No. 2018 CH 01906

Calendar 2  
Courtroom 2601

Judge Raymond W. Mitchell

ORDER

This case is before the Court on Defendant Mark S. Mona's motion to dismiss against Plaintiffs Ardor Fiduciary Services and Jeffery Schaff pursuant to 735 ILCS 5/2-301.

I.

In October of 2009, Plaintiffs Ardor Fiduciary Services, Ltd. and its co-owner Jeffery Schaff were hired by Defendant Mark Mona to serve as an expert witness in a Maryland arbitration proceeding. The Maryland arbitrator found against Mona. Mona alleges that the adverse finding was, in part, because the arbitrator disregarded Schaff's expert opinions. Schaff alleges that immediately following the arbitration, Mona stopped payment on a check to be paid to Schaff for his expert services.

Following the arbitration, the payment dispute persisted between Schaff and Mona. In Schaff's effort to collect, he filed multiple lawsuits against Mona in Maryland. On February 12, 2018, Schaff initiated the current lawsuit against Mona—this time in Illinois. Schaff alleges defamation *per se* based on an unflattering opinion that Mona posted on the website ripoffreport.com relating to Schaff's expert services.

Although the present action was filed in Illinois, Mona is a resident of Maryland and has been a Maryland resident at all times since 2008. Mona has never owned property in Illinois or transacted business in Illinois. Schaff does not allege that the expert services agreement was negotiated in Illinois. Schaff is a resident of Illinois and Ardor Fiduciary Services is an Illinois corporation. Schaff provides expert services nationwide. Mona moves to dismiss the complaint in its entirety due to lack of personal jurisdiction.

## II.

A motion to dismiss pursuant to 735 ILCS 5/2-301 challenges the court's exercise of personal jurisdiction over the defendant. *Cardenas Marketing Network v. Pabon*, 2012 IL App (1st) 111645, ¶ 26. The Illinois long arm statute provides that, "a court may exercise jurisdiction on any basis consistent with the Illinois Constitution and the Constitution of the United States." 735 ILCS 5/2-209(c). The plaintiff bears the burden of establishing a *prima facie* case for the exercise of personal jurisdiction over the defendant; however, uncontradicted evidence may overcome the *prima facie* case and defeat jurisdiction. *Old Orchard Urban Ltd. Partnership v. Harry Rosen, Inc.*, 389 Ill. App. 3d 58, 64, 904 N.E.2d 1050, 1057 (1st Dist. 2009). The plaintiff's burden is to demonstrate that the out-of-state defendant has had the necessary minimum contacts with the forum state. *Rosier v. Cascade Mt., Inc.*, 367 Ill. App. 3d 559, 560, 855 N.E.2d 243, 246 (1st Dist. 2006). "The minimum contacts analysis must be based on some act by which the defendant purposefully availed itself of the privilege of conducting activities within the forum state, in order to assure that a nonresident will not be haled into a forum solely as a result of random, fortuitous, or attenuated contacts with the forum or the unilateral acts of a consumer or some other third person." *Id.* Courts have additionally determined that, "[t]he proper focus of the minimum contacts inquiry in intentional-tort cases is the relationship among the defendant, the forum, and the litigation." *Walden v. Fiore*, 571 U.S. 277, 291 (2014).

Mona argues that Plaintiffs fail to make out a *prima facie* case of specific personal jurisdiction over Mona because the alleged defamatory statement posted on ripoffreport.com was not primarily targeted at the state of Illinois.<sup>1</sup> Mona analogizes the present dispute to a Northern District of Illinois case, which held that a non-resident internet blogger could not be haled into an Illinois court. *Bittman v. Fox*, No. 14 C 08191, 2015 U.S. Dist. LEXIS 127272, at 20 (N.D. Ill. Sep. 23, 2015). In that case, the blogger posted a video on a website that allegedly defamed the Illinois plaintiff. *Id.* The court concluded that the plaintiff's injury suffered in Illinois combined with the possibility that Illinois residents viewed the video did not establish sufficient minimum contacts to assert personal jurisdiction over the defendant. *Id.* Similarly, here Plaintiffs merely allege that—as Illinois domiciles—their injury impacted their Illinois business. However, this in no way establishes that Mona maintains minimum contacts with Illinois.

Plaintiffs argue Mona's "electronic entry" into Illinois through his online posting is sufficient to establish personal jurisdiction. Plaintiffs rely on a Seventh Circuit decision that found personal jurisdiction existed over defendants who posted online content encouraging others to boycott and harass the plaintiff's Illinois

---

<sup>1</sup> Mona also argues that the court does not have general personal jurisdiction over him. It is not disputed that Mona is domiciled in Maryland. Plaintiffs do not contest the issue of general personal jurisdiction.

business. *Tamburo v. Dworkin*, 601 F.3d 693, 707 (7th Cir. 2010). The Seventh Circuit's analysis relied on by Plaintiffs, however, is no longer good law. The Supreme Court unequivocally rejected that the defendants' knowledge that their conduct would cause the plaintiff harm in the forum state is sufficient to establish personal jurisdiction. *Walden v. Fiore*, 571 U.S. 277, 290 (2014). The Supreme Court concluded, "[t]he proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way." *Id.* Mona's posting on ripoffreport.com was not made in Illinois, nor did it relate to services Mona received in Illinois. Mona's online posting does not meaningfully connect him to Illinois as required to establish minimum contacts.

Plaintiffs finally direct the Court to consider several libel cases involving magazines that conduct business nationwide. One such case Plaintiff relies on is a Supreme Court case, holding that the forum state properly exercised personal jurisdiction over a national magazine. *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 781 (1984). The Supreme Court considered, "[the magazine] has continuously and deliberately exploited the New Hampshire market, it must reasonably anticipate being haled into court there in a libel action based on the contents of its magazine." *Id.* *Keeton* is entirely inapposite to the present dispute. Plaintiffs do not allege that Mona conducts any business in Illinois whatsoever. Plaintiffs have failed to establish a *prima facie* case for the exercise of personal jurisdiction over Mona. Accordingly, Mona's motion to dismiss is granted.

### III.

Therefore, it is hereby ORDERED:

- (1) Defendant Mark S. Mona's Motion to dismiss Plaintiff Ardor Fiduciary Services and Jeffery Schaff's complaint is GRANTED. The case is dismissed for want of personal jurisdiction.
- (2) The ruling date of October 19, 2018, is stricken.

---

ENTERED,

---

Judge Raymond W. Mitchell, No. 1992

Judge Raymond W. Mitchell

OCT 12 2018