

**IN THE COURT OF COMMON PLEAS FOR THE STATE OF  
DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

REAL WORLD LAW PC	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CPU4-23-002549
	)	
	)	
JESSE SBAlH &	)	
ASSOCIATES	)	
Defendant	)	

Submitted: October 27, 2023  
Decided: December 27, 2023

**DECISION ON DEFENDANT’S MOTION TO DISMISS**

**Manning, J.**

## **FACTUAL AND PROCEDURAL HISTORY**

This case is a dispute between two law firms, one in Nevada, and one in Delaware, over unpaid legal fees. On August 18, 2023, Plaintiff Real World Law PC, (“Real World”) filed a Complaint in the Court of Common Pleas against Defendant Jesse Sbaih & Associates LTD., (“JSA”) to recover \$7,516.25 plus reasonable attorney fees, costs, and interests. Real World alleged that on April 24, 2023, JSA entered into a fee agreement service contract with Real World, where JSA agreed to pay a retainer fee and replenishing payments to Real World for legal work in the State of Delaware. JSA authorized Real World to withdraw sums from the account to pay the fees for legal services incurred by JSA. Real World further alleges that Real World performed all of their required conditions of the contract, however, JSA failed to comply with the contract by failing to pay Real World for legal services performed.

On August 30, 2023, JSA was served with the Complaint and filed a Motion to Dismiss in response on September 18, 2023. On September 21, 2023, Real World filed a response to JSA’s Motion to Dismiss. On October 20, 2023, JSA filed a response to Real World’s response to JSA’s Motion to Dismiss. On October 24, 2023, Real World filed an affidavit restating the facts of the case and their prayer for relief. On October 27, 2023, a Motion Hearing was scheduled in this Court. The

issue brought to the Court's attention through the Motion to Dismiss is whether the Court of Common Pleas has Personal Jurisdiction over JSA.

### **MOTION HEARING**

At the hearing, argument was presented by Glenn A. Brown, Esquire on behalf of his corporation, Real World, and JSA's Delaware attorney, John S. Malik, Esquire. There are no facts in dispute at this point, the issue is purely a question of law. At the hearing, Mr. Brown argued that the intent of the Delaware Long Arm Statute is to protect Delaware residents and if somebody is going to invite someone into their business then they shouldn't be able to avoid responsibility by claiming that they don't have a presence in the state of Delaware. At the hearing, Mr. Malik argued on behalf of JSA, that the Delaware Long Arm Statute 10 *Del. C.* § 3104 (c) (2) "contracts to supply services or things in this State" does not subject JSA to personal jurisdiction because JSA did not provide any services in Delaware. JSA didn't send anything to Delaware, they didn't appear *Pro hac vice* in Delaware, and that all of JSA's actions were strictly in Nevada. JSA further argued that a contract by itself is insufficient under the United States Supreme Court Case *Burger King Corp. v. Rudzewicz*, to avail themselves of personal jurisdiction in Delaware.<sup>1</sup> At the end of the Hearing, JSA's Motion to Dismiss was taken under advisement.

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<sup>1</sup> *Burger King Corp. v Rudzewicz*, 471 U.S. 462 (1985).

## **APPLICABLE STANDARD OF REVIEW**

On a motion to dismiss for lack of personal jurisdiction under Court of Common Pleas Civil Rule § 12(b)(2), the plaintiff has the burden of proof to establish a basis for the Court's jurisdiction over the defendant.<sup>2</sup> All inferences will be drawn in the light most favorable to the plaintiff.<sup>3</sup> The Court may look to complaints, affidavits and other discovery, when considering a motion to dismiss for lack of personal jurisdiction.<sup>4</sup>

## **RELEVANT FACTS FOR ANALYSIS**

JSA, on behalf of their client in Nevada, retained Real World for the task of filing a motion in the United States Bankruptcy Court for the District of Delaware. JSA and Real World agreed that Real World would bill \$400.00 per hour for services provided by Mr. Brown, \$225.00 per hour for services provided by a paralegal, and a \$1,000.00 retainer paid by JSA. JSA alleged in their Motion to Dismiss that on or about August 3, 2023, Real World sent an invoice to JSA in the amount of \$8,516.25 for work related to filing the motion and other related filings prepared by JSA.

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<sup>2</sup> *Avis Rent A Car Systems, LLC v. Holly*, 2013 WL 5436759 at \*2 (Del. Com. Pl. 2013).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Upon receipt of Real World's invoice, JSA sent an email to Real World stating:

Glenn...I hope all is well. Your invoice is profoundly excessive, unreasonable, and unfair. You were retained for the simple task of filing a motion, which we drafted. Unfortunately, this simple task somehow morphed into an alleged 24 hours of work/almost \$9,000.00 in charges. In reviewing the various entries, it is clear that the alleged work was unnecessary for the task you were retained for and/or way overbilled. In sum, we strongly dispute your charges. Please send us a reasonable and fair invoice (which is reflective of the small task you were retained for), and we will pay it.

JSA argued in their Motion to Dismiss that the Court of Common Pleas lacks Personal Jurisdiction over JSA because Delaware's Long Arm Statute does not apply to JSA and, therefore, subjecting JSA to jurisdiction of Delaware Courts would violate the Due Process Clause of the 14<sup>th</sup> Amendment of the United States Constitution.

In response, Real World cited to the fact that JSA used Delaware counsel to accomplish actions for its Nevada client, JSA gave advice on matters on Delaware law, drafted documents for filing in Delaware Bankruptcy Court, and caused documents to be filed in Delaware Bankruptcy Court through Delaware Counsel, albeit without formal appearance in Delaware. Real Word argued that these facts meet the requirements for the exercise of personal jurisdiction over a non-resident who contracted to supply services in the state of Delaware.

## LEGAL ANALYSIS

In determining whether a party is subject to personal jurisdiction when the party has not consented, Courts follow a two-step analysis.<sup>5</sup> First, the Court must determine whether a subsection of the Delaware long-arm statute, 10 *Del. C.* § 3104, applies to the non-resident.<sup>6</sup> Second, if the Delaware long-arm statute applies, the Court must determine whether exercising personal jurisdiction over the non-resident defendant might violate due process.<sup>7</sup>

### A. Delaware Long-Arm Statute

10 *Del. C.* § 3104 states:

- (c) As to a cause of action brought by any person arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident, or a personal representative, who in person or through an agent:
- (1) Transacts any business or performs any character of work or service in the State;
  - (2) Contracts to supply services or things in this State; . . . .

“Delaware's Long–Arm Statute is a ‘single act’ statute, meaning that jurisdiction can be imposed on a non-resident defendant who engages in a single transaction in the forum state.”<sup>8</sup> The cause of action of the suit must arise out of a jurisdictional act addressed in the long-arm statute.<sup>9</sup>

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<sup>5</sup> *Uribe v. Maryland Auto. Ins. Fund*, 2015 WL 3536574 at \*1 (Del. 2015)

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *State Farm Mut. Auto. Ins. Co. v. Dann*, 794 A. 2d 42, 47 (Del. Super. Ct. 2002).

<sup>9</sup> *Uribe v. Maryland Auto. Ins. Fund*, 2015 WL 3536574 at \*2 (Del. 2015).

There appears to be no case-law directly on-point with the facts here. However, *Sample v. Morgan* 935 A.2d 1046, (Del. Ch. 2007), is somewhat analogous. In *Sample*, the Delaware Court of Chancery ruled that a defendant lawyer and his law firm had transacted business in Delaware for purposes of § 3104(c)(1) when it used a third-party to file legal documents in Delaware. Specifically, the out-of-state law firm engaged with the Corporation Service Company (“CSC”), a Delaware entity, to file a Certificate Amendment on behalf of its client with the Delaware Secretary of State. The defendant lawyer and his law firm had not otherwise engaged in legal services in Delaware itself. The Court held that by arranging for the filing of a corporate instrument in Delaware by the CSC, on behalf of its corporate client, the out-of-state law firm was subject to Delaware jurisdiction.<sup>10</sup>

JSA argues that § 3104(c)(2) does not apply because they never provided any services in Delaware, never sent anything to Delaware, nor did they appear *Pro hance vice* in Delaware. However, JSA does not dispute that they entered into an agreement with Real Law to provide legal services for their client in a Delaware Court. There is also a connection between JSA hiring Real Law to file a document in a Delaware Court and the conduct that forms the basis of this litigation. Therefore, I find that

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<sup>10</sup> *Sample v. Morgan*, 935 A.2d 1046, 1055 (Del. Ch. 2007).

section 3104(c)(1) does apply to JSA and JSA is subject to personal jurisdiction under the Delaware Long-Arm statute.

## **B. Due Process**

It is constitutionally permissible to exercise personal jurisdiction over a non-resident defendant when that defendant should have reasonably anticipated that their actions might result in the forum state exercising jurisdiction over them to adjudicate disputes arising from their actions.<sup>11</sup> A non-resident needs only to engage in such conduct directed towards Delaware that makes it “reasonably foreseeable” that the conduct could give rise to claims against them in Delaware’s courts.<sup>12</sup> Here, JSA’s conduct directed towards Delaware was hiring an Delaware attorney to file a document in a Delaware court and then not paying the Delaware attorney. It is reasonably foreseeable that if someone does not pay a Delaware attorney for services the attorney performed in Delaware, that it could rise to claims against them in a Delaware state court. Therefore, I find that it is constitutionally permissible to exercise personal jurisdiction over JSA.

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<sup>11</sup> *Id.* at 1063.

<sup>12</sup> *Id.*



**CONCLUSION**

For the foregoing reasons, Defendant's Motion to Dismiss for Personal Jurisdiction is DENIED.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read "Bradley V. Manning", written over a horizontal line.

**Bradley V. Manning, Judge**