

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 First Way Transport LLC,

10 Plaintiff,

11 v.

12 Rebel Auction Company Incorporated, et al.,

13 Defendants.

No. CV-23-00393-TUC-SHR

**Order Re: Motion to Dismiss**

14  
15 Pending before the Court is a Motion to Dismiss filed by Defendants Rebel Auction  
16 Company, Inc., Larry Davis, and Brad Davis (collectively, “Defendants,” or individually  
17 by their names). This matter has been fully briefed, and Plaintiff, First Way Transport,  
18 LLC, has requested additional limited discovery in its Response. (Docs. 12, 13 at 5, 16.)  
19 For the following reasons, the Court will grant Defendants’ Motion and deny Plaintiff’s  
20 request for discovery.<sup>1</sup>

21 **I. Background**

22 Plaintiff is “an Arizona limited liability company with its principal place of business  
23 in Santa Cruz County, State of Arizona.” (Doc. 1 ¶ 1.) Defendant Rebel Auction  
24 Company, Inc. (“Rebel”) is “a Georgia corporation with its principal place of business in  
25 Jeff Davis County, State of Georgia.” (*Id.* ¶ 2.) Defendants Larry Davis and Brad Davis  
26

---

27 <sup>1</sup> Although Defendants requested oral argument, the Court declines because oral  
28 argument will not aid in resolution of the issues raised. *See* LRCiv 7.2(f) (“The Court may  
decide motions without oral argument.”); Fed. R. Civ. P. 78(b); *Partridge v. Reich*, 141  
F.3d 920, 926 (9th Cir. 1998) (“[A] district court can decide the issue without oral argument  
if the parties can submit their papers to the court.”).

1 are residents of Hazelhurst, Georgia, County of Jeff Davis. (*Id.* ¶¶ 3, 5.) Defendant Larry  
2 Davis is the Chief Executive Officer of Rebel. (*Id.* ¶ 4.) Defendant Brad Davis is the Chief  
3 Financial Officer of Rebel. (*Id.* ¶ 6.)

4 Plaintiff alleges it purchased two tractor trailer trucks (the “vehicles”) from Rebel  
5 on April 14, 2023. (*Id.* ¶ 13.) Shortly after, Plaintiff’s agent traveled to Georgia, paid for  
6 the vehicles in full, and then paid an independent company to ship the vehicles from  
7 Georgia to Arizona. (*Id.* ¶¶ 18, 20.) Following delivery, Plaintiff alleges it had “both  
8 [vehicles] inspected by a mechanic who [found] that the Diesel Exhaust Fluid (DEF) had  
9 been removed from both [vehicles] prior to their delivery to First Way.” (*Id.* ¶ 22.) Plaintiff  
10 alleges Defendants failed to disclose this information to them, and the sale of the vehicles  
11 without their DEFs violated federal law. (*Id.* ¶¶ 24–26.) In addition, Plaintiff alleges  
12 Defendants did not send it the titles for both vehicles until three months after the finalized  
13 sale, in contravention of Rebel’s website terms. (*Id.* ¶¶ 27–28, 42–43.)

14 In response to Plaintiff’s Complaint, Defendants filed the motion to dismiss for lack  
15 of personal jurisdiction. (Doc 12.)

## 16 **II. Legal Standard**

17 When opposing a motion to dismiss for lack of personal jurisdiction, the “plaintiff  
18 bears the burden of establishing . . . jurisdiction is proper.” *Mavrix Photo, Inc. v. Brand*  
19 *Techs., Inc.*, 647 F.3d 1218, 1223 (9th Cir. 2011). When the district court does not conduct  
20 an evidentiary hearing,<sup>2</sup> “the plaintiff need only make a prima facie showing of  
21 jurisdictional facts.” *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th  
22 Cir. 2004) (citation omitted); *see also Boschetto v. Hansing*, 539 F.3d 1011, 1015 (9th Cir.  
23 2008). In these instances, the Court takes the “uncontroverted allegations in the complaint”  
24 as true and resolves conflicts in the plaintiff’s favor. *Schwarzenegger*, 374 F.3d at 800;  
25 *Boschetto*, 539 F.3d at 1015 (citation omitted). Further, the Court, in its discretion, “may  
26 order discovery on . . . jurisdictional issues.” *Doe v. Unocal Corp.*, 248 F.3d 915, 922 (9th  
27 Cir. 2001) (citation omitted).

28 \_\_\_\_\_  
<sup>2</sup> Neither party has requested an evidentiary hearing. (*See generally* Docs. 12, 13.)

1           Where “there is no applicable federal statute governing personal jurisdiction, the  
2 district court applies the law of the state in which the district court sits.” *Schwarzenegger*,  
3 374 F.3d at 800 (citing Fed. R. Civ. P. 4(k)(1)(A)). “The Arizona long-arm statute provides  
4 for personal jurisdiction co-extensive with the limits of federal due process.” *Doe v. Am.*  
5 *Nat’l Red Cross*, 112 F.3d 1048, 1050 (9th Cir. 1997); *see also* Ariz. R. Civ. P. 4.2(a).  
6 Therefore, “the jurisdictional analyses under state law and federal due process are the  
7 same.” *Herbal Brands, Inc. v. Photoplaza, Inc.*, 72 F.4th 1085, 1089 (9th Cir. 2023)  
8 (quoting *Schwarzenegger*, 374 F.3d at 800–01), *cert. denied*, 144 S. Ct. 693 (2024) (mem.).

9           Under the Fourteenth Amendment’s Due Process Clause, “a tribunal’s authority  
10 depends on the defendant[] having such ‘contacts’ with the forum State [to ensure] ‘the  
11 maintenance of the suit’ is ‘reasonable, in the context of our federal system of government,’  
12 and ‘does not offend traditional notions of fair play and substantial justice.’” *Ford Motor*  
13 *Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358 (2021) (quoting *Int’l Shoe Co. v.*  
14 *Washington*, 326 U.S. 310, 316–17 (1945)). There are two types of personal jurisdiction:  
15 general and specific. *See Daimler AG v. Bauman*, 571 U.S. 117, 122 (2014).

16           General jurisdiction exists over a nonresident defendant when the defendant’s  
17 “affiliations with the State are so ‘continuous and systematic’ as to render them essentially  
18 at home in the forum State.” *Id.* at 127 (quoting *Goodyear Dunlop Tires Operations, S.A.*  
19 *v. Brown*, 564 U.S. 915, 919 (2011)); *see also Schwarzenegger*, 374 F.3d at 801. To decide  
20 whether a defendant has the requisite contacts, the Ninth Circuit considers the contact’s  
21 “[l]ongevity, continuity, volume, economic impact, physical presence, and integration into  
22 the [forum] state’s regulatory or economic markets.” *Mavrix Photo, Inc.*, 647 F.3d at 1224  
23 (citation omitted).

24           Alternatively, “specific jurisdiction covers defendants . . . less intimately connected  
25 with a state, but [who] have sufficient minimum contacts with the state . . . relevant to the  
26 lawsuit.” *LNS Enters. LLC v. Cont’l Motors, Inc.*, 22 F.4th 852, 859 (9th Cir. 2022). “The  
27 inquiry whether a forum State may assert specific jurisdiction over a nonresident defendant  
28 focuses on the relationship among the defendant, the forum, and the litigation.” *Walden v.*

1 *Fiore*, 571 U.S. 277, 283–84 (2014) (citation and internal quotation marks omitted). The  
2 Ninth Circuit has implemented a three-prong test to determine if a court has specific  
3 jurisdiction over a defendant:

4 (1) The non-resident defendant must purposefully direct his  
5 activities or consummate some transaction with the forum or  
6 resident thereof; or perform some act by which he purposefully  
7 avails himself of the privilege of conducting activities in the  
8 forum, thereby invoking the benefits and protections of its  
9 laws;

10 (2) the claim must be one which arises out of or relates to the  
11 defendant’s forum-related activities; and

12 (3) the exercise of jurisdiction must comport with fair play and  
13 substantial justice, i.e. it must be reasonable.

14 *Herbal Brands*, 72 F.4th at 1090 (quoting *Schwarzenegger*, 374 F.3d at 802). The plaintiff  
15 bears the burden of proving the first two prongs, and, if the plaintiff meets its burden, “the  
16 burden then shifts to the defendant to present a compelling case that the exercise of  
17 jurisdiction would not be reasonable.” *Id.* (internal quotation marks omitted) (quoting  
18 *Axiom Foods, Inc. v. Acerchem Int’l, Inc.*, 874 F.3d 1064, 1068–69 (9th Cir. 2017)).

19 A plaintiff can prove the first prong by showing either “purposeful availment” or  
20 “purposeful direction.” *Id.* Although the Ninth Circuit typically applies purposeful  
21 direction analyses to intentional tort claims and purposeful availment analyses to contract  
22 and unintentional tort claims, there is no “rigid dividing line between these two types of  
23 claims.” *Davis v. Cranfield Aerospace Sols., Ltd.*, 71 F.4th 1154, 1162 (9th Cir. 2023)  
24 (citation omitted), *cert. denied*, 144 S. Ct. 826 (2024) (mem.). Rather, “the first prong  
25 ‘may be satisfied by purposeful availment,’ ‘by purposeful direction,’ or ‘by some  
26 combination thereof.’” *Id.* (quoting *Yahoo! Inc. v. La Ligue Contre Le Racisme Et*  
27 *L’Antisemitisme*, 433 F.3d 1199, 1206 (9th Cir. 2006)).

### 28 **III. Analysis<sup>3</sup>**

As detailed below, the Court finds it lacks specific personal jurisdiction because  
Defendants do not have the requisite contacts with the District of Arizona to satisfy the

---

<sup>3</sup> The analysis does not address general jurisdiction because Plaintiff concedes the Court lacks general personal jurisdiction. (Doc. 13 at 3.)

1 first prong of the *Herbal Brands* test. This Court lacks specific personal jurisdiction  
2 because Plaintiff failed to allege facts indicating Defendants purposefully availed  
3 themselves of Arizona’s laws or purposefully directed their business activities towards  
4 Arizona. Moreover, the Court will deny Plaintiff’s request to conduct jurisdictional  
5 discovery because its allegations are too speculative. However, the Court will grant  
6 Plaintiff leave to amend.

7 A. Specific Personal Jurisdiction

8 Plaintiff’s Complaint alleges this Court has specific personal jurisdiction over  
9 Defendants because they contracted to sell two vehicles to an Arizona company. (Doc. 1  
10 ¶¶ 9, 13.) Plaintiff also generally alleges Defendants intentionally availed themselves of  
11 the benefits of doing business in Arizona by transacting business in Arizona, regularly  
12 doing business in Arizona, and engaging in persistent courses of conduct within Arizona.  
13 (*Id.* ¶ 10.)

14 In their Motion to Dismiss, Defendants challenge Plaintiff’s allegations. (*See*  
15 *generally* Doc. 12.) Larry Davis and Brad Davis deny any involvement in Rebel’s  
16 transaction with Plaintiff and generally deny seeking out or doing business in Arizona. (*Id.*  
17 at 7, Doc. 12-1 ¶ 4, Doc. 12-3 ¶ 4.) Likewise, Rebel denies seeking out or doing business  
18 in Arizona and having officers, agents, or employees there. (Doc. 12 at 7–8.) Rebel also  
19 asserts its “only contacts in connection with this sale consisted of First Way Transport’s  
20 purchase of the two vehicles from auction, which occurred in Georgia, Rebel employees[’]  
21 telephone conversations with First Way [representative], which [representative] initiated,  
22 and Rebel’s mailing the invoice to First Way Transport in Arizona.” (*Id.* at 7.) Rebel also  
23 asserts “[t]here was no formal written contract between [P]laintiff and Rebel” and “Rebel’s  
24 auction terms state the sale was ‘as is, where is,’ indicating Rebel’s desire not to be  
25 responsible for the [vehicles] after the sale.” (*Id.* at 8.) Rebel admits to maintaining “a  
26 universally accessible website” but argues its “passive website does not advertise third-  
27 party business in Arizona and does not target Arizona.” (*Id.*)

28 Rather than dispute Defendants’ course of business with Arizona or involvement in

1 the transaction with Plaintiff, Plaintiff generally argues Rebel conducts business across the  
2 country in its Response. (Doc. 13 at 4–5.) Plaintiff asserts “Rebel is an auction company  
3 that sells a large number of vehicles. . . . [So] it is safe to assume that Rebel routinely  
4 accepts bids from prospective buyers outside of Georgia . . . [and] routinely sells to buyers  
5 outside of Georgia.” (*Id.* at 4.) Plaintiff also points to Rebel’s “website and business model  
6 that markets and accepts business from buyers across the country.” (*Id.* at 4–5.) The nature  
7 of Rebel’s business and website, Plaintiff argues, shows “Rebel was not conducting a single  
8 isolated sale in this matter; rather, Rebel was operating its normal course of business in  
9 accepting bids and making a sale to a buyer outside of Georgia.” (*Id.* at 5.)

10 As a threshold matter, Plaintiff fails to even attempt to make a prima facie case for  
11 personal jurisdiction over Defendants Larry Davis and Brad Davis. Plaintiff lumps  
12 Defendants together when discussing jurisdictional facts. (*See generally* Docs. 1, 13.)  
13 When discussing individual Defendants, Plaintiff merely alleges “Larry Davis was the  
14 Chief Executive Officer (CEO) of Rebel Auction Company, Inc.” and “Brad Davis was the  
15 Chief Financial Officer (CFO) of Rebel Auction Company, Inc.” (Doc. 1 ¶¶ 4, 6.) Yet  
16 Plaintiff does not assert Defendants Larry Davis and Brad Davis had any direct  
17 involvement in the sale between Rebel and First Way. Defendants specifically controvert  
18 Plaintiff’s generic assertions by providing affidavits from Larry and Brad Davis, which  
19 indicate they were not involved at all in the sale of the two vehicles, never spoke to  
20 Plaintiff, and never traveled to Arizona. (Doc. 12 at 7.) Plaintiff did not refute these  
21 specific denials in its response. (*See generally* Doc. 13.) Accordingly, the Court will  
22 dismiss Defendants Larry Davis and Brad Davis because Plaintiff has failed to prove they  
23 purposefully directed their activities towards Arizona or purposefully availed themselves  
24 of the privilege of conducting business in Arizona. Thus, the Court will focus the  
25 discussion below only on Rebel’s characteristics and actions.

26 *a. Purposeful Availment*

27 The purposeful availment analysis typically involves showing a defendant  
28 deliberately “engaged in significant activities within a State or has created ‘continuing

1 obligations' between [itself] and the residents of the forum.” *Gray & Co. v. Firstenberg*  
2 *Mach. Co.*, 913 F.2d 758, 760 (9th Cir. 1990) (quoting *Burger King Corp. v. Rudzewicz*,  
3 471 U.S. 462, 475–76 (1985)). At a minimum, the party seeking to enforce jurisdiction in  
4 the forum state must show “the defendant deliberately ‘reached out beyond’ its home” and  
5 “avail[ed] itself of the privilege of conducting activities within the forum state.” *Ford*, 592  
6 U.S. at 359 (citations omitted). Such a showing “typically consists of evidence of the  
7 defendant’s actions in the forum, such as executing or performing a contract there.”  
8 *Schwarzenegger*, 374 F.3d at 802.

9       However, “an individual’s contract with an out-of-state party alone” cannot subject  
10 the individual to the jurisdiction of the other party’s home state. *Burger King*, 471 U.S. at  
11 478 (emphasis omitted). Instead, the court must consider whether the contract creates  
12 “‘continuing obligations’ between [the defendant] and residents of the forum.” *Id.* at 476  
13 (citation omitted). If a nonresident’s contract with a forum resident does not create any  
14 ongoing obligations, purposeful availment does not exist. *Boschetto*, 539 F.3d at 1017.

15       The Ninth Circuit’s decision in *Boschetto v. Hansing* is particularly on point here.  
16 *Id.* In *Boschetto*, the Ninth Circuit found a single contract for the sale of a car at auction  
17 on eBay did not create a substantial connection to California under the purposeful  
18 availment test. *Id.* There, the plaintiff purchased a vehicle on a third-party auction site,  
19 with the vehicle and seller located out of state, and the plaintiff independently arranged for  
20 the vehicle’s transport to his state. *Id.* at 1014. After this, the transaction was complete  
21 (i.e., it was “a one-shot affair”). *Id.* at 1015, 1017 (citation omitted). Relying upon the  
22 “limited nature of the transaction,” the court found the contract did not create continuing  
23 obligations and failed the purposeful availment test. *Id.* at 1017.

24       Here, Plaintiff similarly fails the purposeful availment test because “the lone  
25 transaction for the sale of [two items] does not establish” Rebel purposefully availed itself  
26 of “the privilege of doing business in [Arizona].” *Id.* The transaction between Rebel and  
27 First Way for the sale of the two vehicles was primarily a contract for the sale of goods,  
28 which is insufficient alone to create a substantial connection between Defendants and

1 Arizona. Rebel did not create any significant continuing obligations to First Way. (*See*  
2 *generally* Doc. 1 and Doc. 13.) While Rebel’s website states titles will be shipped to buyers  
3 after the auction, this one obligation to ship a title to the buyer’s state is incidental to the  
4 overall nature of the transaction and is not “continuing.” Instead, the thrust of the purchase  
5 was for vehicles “as is, where is,” and the parties were to go their separate ways once the  
6 sale of the vehicles was finalized and the titles were sent. (Doc. 12 at 8.) Additionally,  
7 execution of the contract did not require Defendants to engage in substantial business, if  
8 any business, in Arizona. Plaintiff’s own allegations show Plaintiff’s representatives  
9 traveled to Georgia to pay for the vehicles and Plaintiff arranged to have both tractors  
10 transported to Arizona via a third party. (Doc. 1 ¶¶ 15, 17–18, 20.) This transaction was  
11 “a one-shot affair.” *Boschetto*, 539 F.3d at 1017 (citation omitted).

12 Although Plaintiff alleges this case is distinguishable from *Boschetto*, this Court  
13 disagrees. (*See* Doc. 13 at 4.) Rebel’s identity as an auction company is not enough to  
14 create a substantial connection between Rebel and Arizona or demonstrate continuing  
15 obligations between Rebel and Plaintiff. Plaintiff provides no evidence Defendant Rebel  
16 intentionally engaged in significant activities or created continuing obligations with the  
17 state of Arizona. Instead, Plaintiff alleges Defendant Rebel regularly accepted bids and  
18 made sales to buyers outside of Georgia. (*Id.*) At most, this allegation shows contacts with  
19 the various states generally, not Arizona specifically. Accordingly, the Court finds Plaintiff  
20 has failed to show Defendant Rebel purposely availed itself of Arizona’s jurisdiction.

21 *b. Purposeful Direction*

22 Purposeful direction is evaluated under the following three-part “effects” test: “the  
23 defendant must have allegedly ‘(1) committed an intentional act, (2) expressly aimed at the  
24 forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum  
25 state.’” *Davis*, 71 F.4th at 1162–63 (quoting *Schwarzenegger*, 374 F.3d at 803) (internal  
26 citation omitted). The test centers on the defendant’s actions, not a third party’s, and  
27 requires the defendant to specifically target the forum state. *See Morrill v. Scott Fin. Corp.*,  
28 873 F.3d 1136, 1143 (9th Cir. 2017). Further, the test “focuses on the forum in which the



1 defendant's actions were felt, whether or not the actions themselves occurred within the  
2 forum." *Herbal Brands*, 72 F.4th at 1091 (quoting *Mavrix Photo, Inc.*, 647 F.3d at 1228).  
3 Accordingly, internet activity, when "expressly aimed" at the forum state, can constitute  
4 purposeful direction. *Id.*

5 Plaintiff argues Defendant Rebel has minimum contacts with Arizona because it is  
6 an auction company with a website that "markets and accepts business from buyers across  
7 the country." (Doc. 13 at 5.) This Court disagrees. While Plaintiff satisfies the first and,  
8 arguably, third elements of the test, it fails on the second element. Rebel acted intentionally  
9 when selling the two vehicles to First Way at auction. Further, First Way informed Rebel  
10 the sale caused First Way harm through multiple phone calls with Rebel agents regarding  
11 the lack of title and DEFs for the vehicles. However, First Way has failed to show Rebel  
12 "expressly aimed" its conduct at the forum state.

13 Plaintiff first argues because Rebel is an auction company, "it is safe to assume"  
14 Rebel regularly sells large numbers of vehicles to out of state buyers. (Doc. 13 at 4.)  
15 However, Plaintiff cites no authority for this bold proposition. Because of this, though,  
16 Plaintiff alleges, "Rebel was operating its normal course of business in accepting bids and  
17 making a sale to a buyer outside of Georgia." (*Id.* at 5.) Plaintiff fails to show or even  
18 argue Rebel has contacts with Arizona specifically. Rather, Plaintiff has, at most, alleged  
19 Rebel's Georgia-based auctions are open to buyers from any state via third-party online  
20 bidding sites. This is not enough to show Rebel "expressly aimed" its business at Arizona.

21 Plaintiff next points to Rebel's "website and business model that markets and  
22 accepts business from buyers across the country." (Doc. 13 at 4–5.) A website must exhibit  
23 particular characteristics to constitute "express aiming." *See Herbal Brands*, 72 F.4th at  
24 1091–92. To start, there is "a distinction between 'passive' websites that merely make  
25 information available to visitors and 'interactive' websites, where 'users can exchange  
26 information with the host computer . . .'" *Id.* at 1091 (citation omitted). For a website to  
27 constitute "express aiming," the website must not only be interactive but also "something  
28 more." *Id.* at 1092 (citation omitted). "When the website itself is the only jurisdictional

1 contact, our analysis turns on whether the site had a forum-specific focus or the defendant  
2 exhibited an intent to cultivate an audience in the forum.” *Id.* Alternatively, “if a  
3 defendant, in its regular course of business, sells a physical product via an interactive  
4 website and causes that product to be delivered to the forum, the defendant ‘expressly  
5 aimed’ its conduct at that forum.” *Id.* at 1093.

6 Here, it is clear Rebel sold two physical items, the vehicles, to Plaintiff. However,  
7 Plaintiff has failed to show, or even allege, Rebel’s website is interactive. Moreover,  
8 Plaintiff failed to describe the website aside from quoting the terms on the website relevant  
9 to its claims. While Rebel admits to maintaining “a universally accessible website,” the  
10 company describes its website as “passive,” and Plaintiff does not specifically controvert  
11 this statement. (Doc. 12 at 8; *see also* Doc. 13 at 4.) While Plaintiff appears to argue Rebel  
12 regularly used its website to “accept[] bids and mak[e] a sale to a buyer outside of Georgia,”  
13 (Doc. 13 at 5), online bidding does not occur on Rebel’s website, but “through third-party  
14 facilitators, EquipmentFacts and Proxibid.” (Doc. 12 at 2.) Therefore, Rebel did not  
15 “expressly aim” its business at Arizona.

16 **B. Plaintiff’s Request for Limited Discovery**

17 This Court denies Plaintiff’s “request . . . to conduct additional discovery to  
18 determine the number of prior sales Rebel has made to buyers in Arizona.” (Doc. 13 at 5.)  
19 The district court has broad discretion to permit or deny discovery. *Hallett v. Morgan*, 296  
20 F.3d 732, 751 (9th Cir. 2002); *see Boschetto*, 539 F.3d at 1020. “[A] mere hunch that  
21 discovery might yield jurisdictionally relevant facts, or bare allegations in the face of  
22 specific denials, are insufficient reasons for a court to grant jurisdictional discovery.”  
23 *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 507 (9th Cir. 2023) (citation omitted). Here,  
24 Plaintiff’s allegations are speculative at best, and Plaintiff has failed to explain how  
25 determining the number of prior sales Rebel made to buyers in Arizona would provide  
26 support for its personal jurisdiction argument. Accordingly, this Court denies Plaintiff’s  
27 request for discovery.

28

1           C. Leave to Amend

2           Plaintiff did not request leave to amend, and Defendants did not address this issue  
3 in their pleadings. Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, the Court  
4 must give leave to amend “freely . . . when justice so requires.” “This policy is ‘to be  
5 applied with extreme liberality.’” *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048,  
6 1051 (9th Cir. 2003) (quoting *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708,  
7 712 (9th Cir. 2001)). Therefore, the Court must grant leave to amend unless “the  
8 amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an  
9 undue delay in litigation; or (4) is futile.” *AmerisourceBergen Corp. v. Dialysist W., Inc.*,  
10 465 F.3d 946, 951 (9th Cir. 2006).

11           The Court will grant Plaintiff leave to amend. The Court is not convinced leave to  
12 amend would prejudice Defendants, be in bad faith, produce an undue delay in litigation,  
13 or be futile at this point. Although the Court doubts Plaintiff will be able to plead sufficient  
14 facts to maintain this suit in Arizona, the Court could stretch to envision some set of factual  
15 allegations by which Plaintiff could cure the deficiencies outlined above. Moreover,  
16 because the Court does not want to speculate in the absence of any arguments from the  
17 parties regarding these factors and in the presence of an extreme liberality standard, the  
18 Court will give Plaintiff this one chance to cure its jurisdictional deficiencies. However,  
19 Plaintiff should strongly consider filing its suit in the Southern District of Georgia.

20       **IV. Conclusion**

21           For the reasons outlined above,

22           **IT IS ORDERED** Defendants' Motion to Dismiss for Lack of Personal Jurisdiction  
23 (Doc. 12) is **GRANTED**.

24           **IT IS FURTHER ORDERED** Plaintiff's request to conduct additional discovery  
25 is **DENIED**.

26       . . . .

27       . . . .

28       . . . .

