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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CHARLES WANG,
Plaintiff,
v.
TAYLOR THOMSON, et al.,
Defendants.

Case No. [14-cv-02388-BLF](#)

**ORDER GRANTING WITH
PREJUDICE DEFENDANT
MASSACHUSETTS GENERAL
HOSPITAL'S MOTION TO DISMISS
FOR LACK OF PERSONAL
JURISDICTION**

[Re: ECF 34]

Plaintiff, proceeding pro se,¹ brings a wrongful death suit against a number of defendants, including a hospital and several medical professionals, related to his mother's death. Defendant Massachusetts General Hospital ("MGH"), the only defendant to have yet been served, brings its second motion to dismiss for lack of personal jurisdiction. The Court previously granted MGH's first motion to dismiss on these same grounds. *See* ECF 23. The Court finds this matter suitable for determination without oral argument, pursuant to Civil Local Rule 7-1(b). Having reviewed the papers of the parties, and the governing law, the Court GRANTS MGH's motion, and DISMISSES Plaintiff's action against MGH WITH PREJUDICE, for lack of personal jurisdiction.

I. BACKGROUND

A. Procedural History

On August 11, 2014, the Court granted MGH's first motion to dismiss for lack of personal jurisdiction, finding that Plaintiff had not alleged any facts in his complaint or opposition to

¹ This Court construes a pro se plaintiff's complaint so as to give the plaintiff the benefit of any doubt. *See, e.g., Morrison v. Hall*, 261 F.3d 896, 899 n.2 (9th Cir. 2001) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972), for the proposition that pro se pleadings are "subject to a lesser standard than pleadings drafted by lawyers"). However, pro se plaintiffs "must follow the same rules of procedure that govern other litigants." *Brown v. Rumsfeld*, 211 F.R.D. 601, 605 (N.D. Cal. 2002).

1 support haling MGH into court in California based upon conduct that took place in Massachusetts.
2 See ECF 23 at 3-4. Plaintiff’s amended complaint (“FAC”) was filed on October 9, 2014. MGH
3 again moved to dismiss on October 20, 2014, for lack of personal jurisdiction.

4 **B. Factual Background**

5 In his FAC, Plaintiff alleges that after his mother was admitted to MGH on April 28, 2014,
6 doctors and other employees began subjecting her to “harsh, painful, unnecessary and harmful
7 treatments,” FAC at 8, including antibiotics treatment for tuberculosis which Plaintiff alleges was
8 misdiagnosed in his mother and caused harm to her liver and kidneys. *Id.* Plaintiff further alleges
9 that:

10 Days before Memorial Day, 2011, they drugged her with Dilaudid, a
11 hydromorphine, through IV. While she was unconscious, on or
12 about May 30th, they stopped providing her with water. As a result
13 she passed several days later.

14 FAC at 9.

15 Plaintiff’s FAC also includes a jurisdictional allegation. He contends that the existence of a
16 webpage on which MGH solicits donations, *see* FAC at 2 Exh. A, is part of “an elaborate scheme
17 to solicit donations from Californians,” *id.* at 2, and thus subjects MGH to personal jurisdiction in
18 California.

19 **II. LEGAL STANDARDS**

20 **A. Rule 12(b)(2)**

21 Once a party challenges the Court’s jurisdiction over it through a Rule 12(b)(2) motion to
22 dismiss, the Plaintiff bears the burden of establishing personal jurisdiction. *See, e.g.,*
23 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800-01 (9th Cir. 2004); *see also Scott v.*
24 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986) (stating that a plaintiff must “come forward with
25 facts, by affidavit or otherwise, supporting personal jurisdiction”).

26 When the motion is based on written materials, and not an evidentiary hearing, Plaintiff
27 “need only make a prima facie showing of jurisdictional facts.” *Schwarzenegger*, 374 F.3d 797,
28 800. Plaintiff cannot “simply rest on the bare allegations of [his] complaint,” *Amba Mktg. Sys.,*
Inc. v. Jobar Int’l, Inc., 551 F.2d 784, 787 (9th Cir. 1977), but “uncontroverted allegations in the
complaint must be taken as true.” *Schwarzenegger*, 374 F.3d 797, 800.

1 In the absence of a specific statutory provision conferring jurisdiction, federal courts apply
2 the personal jurisdiction laws of the state in which they sit. California’s long-arm jurisdictional
3 statute is “coextensive with federal due process requirements.” *Panavision Int’l, LP v. Toeppen*,
4 141 F.3d 1316, 1320 (9th Cir. 1998). In order for the Court to exercise jurisdiction, the defendant
5 must have sufficient “minimum contacts” with the forum state, such that the exercise of
6 jurisdiction “does not offend traditional notions of fair play and substantial justice.” *Int’l Shoe Co.*
7 *v. Washington*, 326 U.S. 310, 316 (1945).

8 **B. Leave to Amend**

9 Pursuant to Federal Rule of Civil Procedure 15(a), a court should grant leave to amend a
10 complaint “when justice so requires,” because “the purpose of Rule 15 . . . [is] to facilitate
11 decision on the merits, rather than on the pleadings or technicalities.” *Lopez v. Smith*, 203 F.3d
12 1122, 1127 (9th Cir. 2000) (en banc). The Court may deny leave to amend, however, for a number
13 of reasons, including “undue delay, bad faith or dilatory motive on the part of the movant,
14 repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the
15 opposing party by virtue of allowance of the amendment, [and] futility of amendment.” *Eminence*
16 *Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (2003).

17 **III. DISCUSSION**

18 The Court construes Plaintiff’s argument as an allegation that MGH is subject to both
19 general and specific jurisdiction in California, and considers both arguments in turn.

20 **A. General Jurisdiction**

21 A non-resident party is subject to general personal jurisdiction in a state where it has
22 “continuous and systematic general business contacts.” *Helicopteros Nacionales de Colombia,*
23 *S.A. v. Hall*, 466 U.S. 408, 416 (1984). This standard is met only through “continuous corporate
24 operations within a state thought so substantial” that it would be fair to hale a defendant into court
25 there “on causes of action arising from dealings entirely distinct from those activities.” *King v.*
26 *Am. Family Mut. Ins. Co.*, 632 F.3d 570, 579 (9th Cir. 2011). This Circuit has held that the
27 standard for exercising general jurisdiction over non-resident companies is an exacting one.
28 *Schwarzenegger*, 374 F.2d 797, 801.

1 Plaintiff's allegations do not come close to meeting this high standard. Plaintiff concedes
2 that MGH is a Massachusetts company, and does not allege that it has any physical or economic
3 presence in California. *See Tuazon v. R.J. Reynolds Tobacco Co.*, 433 F.3d 1163, 1172 (9th Cir.
4 2006) (noting that courts consider a business's "longevity, continuity, volume, economic impact,
5 physical presence, and integration into the state's regulatory or economic markets" when
6 determining general jurisdiction").

7 Plaintiff points only to a web page on which individuals can "make a gift," in the form of a
8 monetary donation, to MGH, and which includes instructions and guides as to how to make
9 various donations to the hospital. *See* FAC Exh. A; *see also* Opp. Exh. 1. Plaintiff does not allege
10 that MGH sent emails to California seeking donations – even if it did, the solicitation of donations
11 in a state does not subject a party to general jurisdiction in that state. *Cf. Bancroft & Masters, Inc.*
12 *v. Augusta Nat'l, Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000) (holding that only contacts that
13 "approximate a physical presence" in a state suffice for purposes of general jurisdiction). That a
14 web page exists on a corporate or non-profit website permitting an individual to make donations to
15 that entity does not subject that entity to jurisdiction in any and all states from which a donation
16 could be made. As such, MGH is not subject to general personal jurisdiction in California.

17 **B. Specific Jurisdiction**

18 In this Circuit, specific jurisdiction over a non-resident defendant is determined by a three-
19 prong test:

- 20 (1) The non-resident defendant must purposefully direct his
21 activities or consummate some transaction with the forum or
22 resident thereof; or perform some act by which he purposefully
23 avails himself of the privilege of conducting activities in the forum,
24 thereby invoking the benefits and protections of its laws;
(2) the claim must be one that arises out of or relates to the
25 defendant's forum-related activities; [and]
(3) the exercise of jurisdiction must comport with fair play and
substantial justice, i.e. it must be reasonable.

26 *Schwarzenegger*, 374 F.3d 797, 802.

27 If a plaintiff fails to make a showing under all three prongs of this test, the Court may not
28 exercise jurisdiction over the non-resident defendant. *Id.* Here, Plaintiff has not shown that MGH
has purposefully directed any activities toward California with regard to the conduct at issue in

1 this lawsuit. *Cf. Walden*, 134 S. Ct. 1115, 1123.

2 Plaintiff cannot use the existence of the donation web page to support the exercise of
3 specific jurisdiction, as no part of that web page relates to the conduct of this suit – his wrongful
4 death allegations regarding his mother. *See id.* at 1121 (“For a State to exercise [specific]
5 jurisdiction consistent with due process, the defendant’s suit-related conduct must create a
6 substantial connection with the forum state.”). Plainly, “the plaintiff cannot be the only link
7 between the defendant and the forum.” *Id.* at 1122. Here, that seems to be the case: Plaintiff does
8 not even allege that his mother was a resident of California, only that he is. *See* FAC at 6.
9 Plaintiff’s allegations that he must file suit here because he “attempted to get attorney help
10 numerous times in Boston, Massachusetts, without any success,” are irrelevant to the jurisdictional
11 inquiry, because it is the activities of the Defendant which drive the question of personal
12 jurisdiction. *See, e.g., Walden* at 1121-23. In this case, there is no indication that MGH directed
13 any activities toward California, let alone that they did so in such a manner to avail themselves of
14 the jurisdiction of its courts.

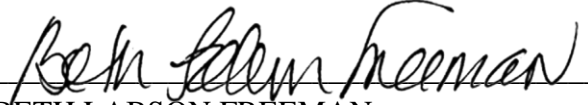
15 MGH is not subject to specific jurisdiction in California because Plaintiff has made no
16 showing that MGH directed *any* activities toward the state with regard to its care of Plaintiff’s
17 mother. This does not mean that Plaintiff’s claim can never be heard; simply that it cannot be
18 heard here.

19 **IV. ORDER**

20 For the foregoing reasons, IT IS HEREBY ORDERED that Defendant’s motion to dismiss
21 for lack of personal jurisdiction is GRANTED. Plaintiff’s claims against MGH are DISMISSED,
22 WITH PREJUDICE, and Plaintiff may not refile this suit in this forum against MGH with regard
23 to his mother’s death. The clerk shall close the file.

24 **IT IS SO ORDERED.**

25 Dated: December 19, 2014

26 
27 BETH LABSON FREEMAN
28 United States District Judge