

**NOT DESIGNATED FOR PUBLICATION**

**NEW ORLEANS CHAPTER,  
AMERICAN MERCHANT  
MARINE VETERANS, INC.**

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**NO. 2003-CA-0906**

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**COURT OF APPEAL**

**VERSUS**

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**FOURTH CIRCUIT**

**AMERICAN MERCHANT  
MARINE VETERANS, INC.**

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**STATE OF LOUISIANA**

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APPEAL FROM  
CIVIL DISTRICT COURT, ORLEANS PARISH  
NO. 2002-13544, DIVISION "N-8"  
Honorable Ethel Simms Julien, Judge

\* \* \* \* \*

**Judge Terri F. Love**

\* \* \* \* \*

(Court composed of Chief Judge Joan Bernard Armstrong, Judge Terri F. Love, Judge David S. Gorbaty)

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**AFFIRMED**

The plaintiff, New Orleans Chapter, American Merchant Marine Veterans, Inc. (“New Orleans Chapter”), appeals the trial court’s dismissal of the case based on Declinatory Exceptions of Lack of Jurisdiction, Insufficiency of Service of Process, Lack of Subject Matter Jurisdiction and Improper Venue filed by the defendant, American Merchant Marine Veterans, Inc.(“AMMV, Inc.”).

***STATEMENT OF THE CASE AND PROCEDURAL HISTORY***

AMMV, Inc. is a non-profit veterans organization, which is domiciled in the state of Florida with its sole office in Cape Coral, Florida. In 1995, a group of veterans, who were all domiciled and residents of Louisiana, formed a charter chapter of the AMMV, Inc. in the state of Louisiana. In 2002, the New Orleans Chapter filed this suit against AMMV, Inc. arguing that the election of national officers held in Seattle, Washington, in May 2002, should be set aside due to “fraud and

irregularities.” The New Orleans Chapter filed a petition for declaratory judgment seeking to set aside the results of the election and asking that a special election be held with an independent panel reviewing the results of such election. AMMV, Inc. filed several declinatory exceptions, including insufficiency of service of process, lack of jurisdiction over the person, lack of jurisdiction over the subject matter, and exception of improper venue.

At the hearing of these exceptions, the trial court ruled that it lacked jurisdiction over the defendant and the citation and service of process under the Long Arm Statute was deficient. The trial court also dismissed the New Orleans Chapter’s declaratory judgment, with prejudice. The New Orleans Chapter now files this appeal. We affirm the trial court’s ruling for the following reasons:

### *DISCUSSION*

The New Orleans Chapter contends that the trial court erred when it failed to hold an evidentiary or contradictory hearing to determine if AMMV, Inc. had systematic and continuous contacts with Louisiana necessary to support general jurisdiction.

Louisiana's Long-Arm Statute allows Louisiana courts to exercise

personal jurisdiction over a defendant "on any basis consistent with the constitution of this state and of the Constitution of the United States." LSA-R.S. 13:3201(B). Thus, under current Louisiana law, "the sole inquiry into jurisdiction over a nonresident is a one-step analysis of the constitutional due process requirements." *Ruckstuhl v. Owens Corning Fiberglas Corp.*, 98-1126, p. 5 (La.4/13/99), 731 So.2d 881, 885, (quoting *Petroleum Helicopters, Inc. v. Avco Corp.*, 513 So.2d 1188 (La.1987)). The constitutional due process test for determining personal jurisdiction, established by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S.Ct. 154, requires that a defendant "have certain minimum contacts with the forum state such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *Ruckstuhl*, 731 So.2d at 885, (citing *International Shoe*, 326 U.S. at 320, 66 S.Ct. at 160.) Though the due process inquiry is considered a "one-step analysis," the following "two-part test" has developed: (1) the "minimum contacts" prong, and (2) the "fairness of the assertion of jurisdiction" prong. *Ruckstuhl*, 731 So.2d at 885. If a court determines that one (or both) of the above "prongs" is not satisfied in a given case, the suit must be dismissed for lack of personal jurisdiction.

The minimum contacts prong has been further refined by Louisiana

courts, depending on the type of personal jurisdiction sought to be exercised in the case: (1) specific jurisdiction, or (2) general jurisdiction. See *Babcock & Wilcox Co. v. Babcock Mexico, S.A. de C.V.*, 597 So.2d 110, 112 (La.App. 4th Cir.1992). Generally, a state asserts specific jurisdiction "when the lawsuit arises out of the defendant's contacts with the forum." B. Glenn George, "In Search of General Jurisdiction," 64 Tul. L.Rev. 1097, 1099 (May 1990). On the other hand, a state asserts general jurisdiction when "the defendant's contacts with the forum ... are unrelated to the cause of action." *Id.*

When a state seeks to assert specific jurisdiction over a defendant, the minimum contacts prong of the due process analysis is satisfied "if the defendant has purposefully directed his activities at residents of the forum." *deReyes v. Marine Management and Consulting, Ltd.*, 586 So.2d 103, 106 (La.1991), citing *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 104 S.Ct. 1473, 79 L.Ed.2d 790 (1984). According to the *deReyes* decision, this rule "ensures that [the defendant] will not be haled into a jurisdiction solely as a result of a random, fortuitous or attenuated contact, or by the unilateral activity of another party or a third person." *DeReyes*, 586 So.2d at 106. However, a non-resident defendant is considered to have minimum contacts with the forum state for purposes of general jurisdiction only if it engages in

"continuous and systematic activities" in the forum. *Id.* at 108. Thus, this court has held that "much more substantial contacts with the forum state are required to establish general, as opposed to specific jurisdiction." *Bosarge v. Master Mike, Inc.*, 95-0986, p. 3 (La.App. 4 Cir. 1/31/96), 669 So.2d 510, 512. In fact, the contacts must be "so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those activities." *International Shoe Co.*, 326 U.S. at 318, 66 S.Ct. at 159, 90 L.Ed. at 95.

In the instant case, the New Orleans Chapter argues that Louisiana courts may assert jurisdiction over AMMV, Inc. based on 1) AMMV, Inc. granting a charter to the New Orleans Chapter 2) the New Orleans Chapter was formed in order to develop membership, in addition to receiving and remitting dues to the national office in Florida and 3) and all of the members of the New Orleans Chapter are Louisiana residents.

According to the hearing transcripts, AMMV, Inc. responded to these allegations by stating that in order to show that personal jurisdiction exists in a parent and subsidiary relationship you must show that a significant number of its members reside in the forum State. Counsel asserted that the New Orleans Chapter only has eleven out of five thousand members nationwide, which accounts for \$338.00 out of \$57,000 in annual membership dues. The

New Orleans Chapter opened a local bank account used strictly to manage the membership dues paid to the chapter and that are subsequently remitted to the national office in Florida. AMMV, Inc. only held meetings and symposiums in the forum state of Florida. The New Orleans Chapter initiated contact with AMMV, Inc. by submitting an application to start a charter in this state to the national office in Florida. AMMV, Inc. did not initiate any contact with the New Orleans Chapter. Additionally, counsel contended that AMMV, Inc.'s publication is merely an "informative newsletter" and it does not solicit business from any of the fifty states that receive the publication. The New Orleans Chapter did not profit from the sale of the newsletter.

The trial court's judgment read, in pertinent part:

**The Court having reviewed the Exceptions, Memoranda and Exhibits filed by both parties, and considering the law and evidence to be in favor of defendant/exceptor, American Merchant Marine Veterans, Inc., the Court finds that plaintiff has failed to establish sufficient minimum contacts of defendant, American Merchant Marine Veterans, Inc., with the State of Louisiana, in order to satisfy the due process requirements of the Louisiana Long Arm Statute are likewise deficient; and for those reasons, and the reasons orally assigned in Open Court:**

We agree. There is no evidence contained in the record, which supports the plaintiff's contention that Louisiana has general jurisdiction

over this case. The alleged wrongful conduct occurred in Seattle, Washington. AMMV, Inc. is non-profit organization organized under the laws of the state of Florida. AMMV, Inc. did not initiate contact with any of the residents in Louisiana nor did it solicit business through the circulation of its newsletter in this state. In fact, the New Orleans Chapter initiated contact with AMMV, Inc. The only contact that AMMV, Inc. maintains with the New Orleans Chapter is through the circulation of a newsletter, which is circulated nationwide. This is exactly the type of unilateral activity or attenuated contact that the *deReyes* decision sought to protect a non-resident defendant from being subject to the general jurisdiction of this state.

Therefore, we find that to subject AMMV, Inc. to the jurisdiction of this state would offend traditional notions of fair play and substantial justice in violation of the constitutional right to due process.

Based on a review of the record, we do not find that the trial court erred in not holding an evidentiary hearing to determine if AMMV, Inc. was subject to the jurisdiction of this state.

**AFFIRMED**