

STATE OF MICHIGAN
COURT OF APPEALS

INDEPENDENT BANK,

Plaintiff-Appellant,

V

ALLISON STEIN IRREVOCABLE TRUST and
ALLISON STEIN,

Defendants-Appellees.

UNPUBLISHED
October 20, 2011

No. 299492
Oakland Circuit Court
LC No. 2010-107922-CK

Before: FORT HOOD, P.J., and HOEKSTRA and METER, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition. We affirm.

Plaintiff and the predecessor in interest extended a loan to defendant trust for the benefit of the individual defendant. The time to repay the loan was extended after the time period for the trust expired. After the trust expired, plaintiff filed suit against the trustee to recover the outstanding loan balance. The lawsuit against the trustee was dismissed and is not at issue in this appeal. Plaintiff filed this appeal against defendant trust and the individual defendant, a resident of California. Defendants filed a motion for summary disposition, contesting jurisdiction and the sufficiency of the contacts to confer jurisdiction. Defendants also alleged that the expiration of the trust, prior to the filing of the litigation, precluded the lawsuit. The circuit court agreed and granted defendants' motion for summary disposition, and plaintiff appeals as of right.

When an appellant fails to dispute the basis of the trial court's ruling, we need not even consider granting the relief sought by the appellant. *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004). The trial court's decision regarding a motion for summary disposition is reviewed de novo with the evidence examined in the light most favorable to the nonmoving party. *In re Egbert R Smith Trust*, 480 Mich 19, 23-24; 745 NW2d 754 (2008). Issues involving statutory interpretation present questions of law reviewed de novo. *Klooster v City of Charlevoix*, 488 Mich 289, 295-296; 795 NW2d 578 (2011).

Circuit courts are courts of general jurisdiction vested with original jurisdiction over all civil claims and remedies unless exclusive jurisdiction is given by constitution or statute to some other court. *Manning v Amerman*, 229 Mich App 608, 610-611; 582 NW2d 539 (1998). Probate courts are courts of limited jurisdiction that derive all of its power from statutes. *Id.* at 611; *In re*

Wirsing, 456 Mich 467, 472; 573 NW2d 51 (1998). To determine jurisdiction, this Court looks beyond the plaintiff's choice of labels to examine the true nature of the plaintiff's claims. *Manning*, 229 Mich App at 613.

Questions surrounding subject-matter jurisdiction present questions of law and are reviewed de novo. *In re Lager Estate*, 286 Mich App 158, 162; 779 NW 2d 310 (2009). Generally, subject-matter jurisdiction is defined as a court's power to hear and determine a cause or matter. *Id.*

Jurisdiction of the subject matter is the right of the court to exercise judicial power over a class of cases, not the particular case before it; to exercise the abstract power to try a case of the kind or character of the one pending. The question of jurisdiction does not depend on the truth or falsity of the charge, but upon its nature: it is determinable on the commencement, not at the conclusion, of the inquiry. Jurisdiction always depends on the allegations and never upon the facts. When a party appears before a judicial tribunal and alleges that it has been denied a certain right, and the law has given the tribunal the power to enforce that right if the adversary has been notified, the tribunal must proceed to determine the truth or falsity of the allegations. The truth of the allegations does not constitute jurisdiction. [*Altman v Nelson*, 197 Mich App 467, 472; 495 NW2d 826 (1992) (citations omitted).]

Subject-matter jurisdiction is the deciding body's authority to try a case of the kind or character pending before it, regardless of the particular facts of the case. *MJC/Lotus Group v Twp of Brownstown*, ___ Mich App ___; ___ NW2d ___ (2011) (Docket No. 295732), slip op p 3. Subject-matter jurisdiction cannot be waived and can be raised at any time by any party or by the court. *Id.* The plaintiff bears the burden of demonstrating subject-matter jurisdiction. *Phinney v Perlmutter*, 222 Mich App 513, 521; 564 NW2d 532 (1997).

The plaintiff also bears the burden of demonstrating that the lower court possesses personal jurisdiction over a defendant. *Electrolines, Inc v Prudential Assurance Co, Ltd*, 260 Mich App 144, 166; 677 NW2d 874 (2003).

Before a court may obligate a party to comply with its orders, the court must have in personam jurisdiction over the party. Jurisdiction over the person may be established by way of general personal jurisdiction or specific (limited) personal jurisdiction. The exercise of general jurisdiction is possible when a defendant's contacts with the forum state are of such nature and quality as to enable a court to adjudicate an action against the defendant, even when the claim at issue does not arise out of the contacts with the forum. When a defendant's contacts with the forum state are insufficient to confer general jurisdiction, jurisdiction may be based on the defendant's specific acts or contacts with the forum. [*Oberlies v Searchmont Resort, Inc*, 246 Mich App 424, 427; 633 NW2d 408 (2001) (citations omitted).]

The exercise of personal jurisdiction over a nonresident must comport with notions of fair play and substantial justice required by the Due Process Clause of the Fourteenth Amendment. *Jeffrey v Rapid American Corp*, 448 Mich 178, 184-186; 529 NW2d 644 (1995).

In the present case, plaintiff contends that jurisdiction is appropriate pursuant to MCL 700.7202. However, plaintiff failed to address the trial court's ruling that the lawsuit may not continue because of the expiration of the trust period. When an appellant fails to address the basis of the trial court's ruling, it is not entitled to the relief requested. *Derderian*, 263 Mich App at 381. Moreover, assuming without deciding that MCL 700.7202 applied to this case,¹ plaintiff failed to demonstrate that the exercise of statutory personal jurisdiction comports with notions of fair play and substantial justice required by the Due Process Clause of the Fourteenth Amendment. *Jeffrey*, 448 Mich at 184-186.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Patrick M. Meter

¹ MCL 700.7202(1) applies if the trust is registered in this state or has its principal place of administration in this case. Plaintiff concludes that the trust has its principal place of administration in this state, but failed to present proofs to support this assertion. Plaintiff bears the burden of demonstrating subject-matter and personal jurisdiction. *Phinney*, 222 Mich App at 521; *Electrolines*, 260 Mich App at 166. Plaintiff's blanket assertion is insufficient to support this burden.