

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

JEFF REDDING,

Plaintiff,

vs

Case No. 21-000604-CK
Honorable Carol Kuhnke

LAHORE UNIVERSITY OF
MANAGEMENT SCIENCES,

Defendant.

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT’S MOTION FOR SUMMARY DISPOSITION AND SANCTIONS**

At a Session of the Court held in the
Washtenaw County Courthouse in
the City of Ann Arbor, on
12/20/2021

PRESENT: HONORABLE CAROL KUHNKE, Circuit Judge

Pending before the Court is defendant’s “Motion for Summary Disposition, to Dismiss Plaintiff’s Complaint, and for Sanctions.” Because the Court concludes that it lacks personal jurisdiction over defendant, the motion is GRANTED in part and the case is DISMISSED. Defendant’s request for sanctions is DENIED.

I. BACKGROUND

This case involves an alleged breach of an employment contract. Plaintiff alleges that on or around January 20, 2020, he entered into a 3-year contract of employment with defendant, a private university located in Lahore, Pakistan. The contract allowed for early termination upon either party providing 6 months’ notice. Plaintiff claims that he was in Ann Arbor, Michigan when

he negotiated and signed the contract. Plaintiff does not allege that defendant or its agents were ever present in Michigan during this time. Rather, the evidence submitted by plaintiff indicates he communicated via e-mail with defendant's vice-chancellor, who was located in Lahore.

The onset of the COVID-19 pandemic prevented plaintiff from traveling to Pakistan on the planned start date of his employment. Plaintiff alleges that he performed his job duties remotely until defendant unilaterally terminated his employment on January 11, 2021.

This lawsuit followed. Plaintiff alleges that defendant breached the parties' agreement by not providing 6 months' notice of termination and refusing to provide compensation in lieu thereof.

Defendant moved to dismiss plaintiff's complaint for lack of personal jurisdiction over the defendant, see MCR 2.116(C)(1), and because of defects in the process and its manner of service, see MCR 2.116(C)(2) and (3). In the alternative, defendant asked the Court to dismiss the lawsuit on the basis of *forum non conveniens*. See *Cray v General Motors Corp*, 389 Mich 382 (1973). Defendant also sought sanctions pursuant to former MCR 2.114(E),¹ MCR 2.625(A)(2), and MCL 600.2951.

II. PERSONAL JURISDICTION

Personal jurisdiction is a "court's power to bring a person into its adjudicative process; jurisdiction over a defendant's personal rights." *Black's Law Dictionary* (11th ed). A court of this state may exercise personal jurisdiction over a defendant if (i) there are statutory grounds for the exercise of jurisdiction and (ii) the exercise comports with due process. See *Starbrite Distributing, Inc v Excelda Mfg Co*, 454 Mich 302, 304 (1997).

To preserve the issue of personal jurisdiction the defendant must raise it in their "first motion under [MCR 2.116] or in [their] responsive pleading, whichever is filed first," otherwise

¹ See MCR 1.109(E)(6) and (7).

the issue is waived. MCR 2.116(D)(1). “The plaintiff bears the burden of establishing [personal] jurisdiction over the defendant . . . but need only make a prima facie showing of jurisdiction to defeat a motion for summary disposition.” *Jeffrey v Rapid American Corp*, 448 Mich 178, 184 (1995). In resolving a motion under MCR 2.116(C)(1) the Court must consider, in addition to the pleadings, any “affidavits . . . depositions, admissions, and documentary evidence then filed in the action or submitted by the parties,” MCL 2.116(G)(5), but only to the extent the evidence “would be admissible . . . to establish or deny the grounds stated in the motion,” MCR 2.116(G)(6).

The statutory bases for personal jurisdiction are set forth at MCL 600.701—MCL 600.735. These statutes describe two manners of establishing jurisdiction: general and specific (or limited). Compare, e.g., MCL 600.711 (general personal over corporations) with MCL 600.715 (limited personal jurisdiction over corporations). General jurisdiction means that the defendant may be sued in the forum for any type of claim, whereas specific jurisdiction means the claim being asserted must have some connection to the defendant’s contacts with the state. See *Ford Motor Co v Montana Eighth Judicial Dist Ct*, ___ US ___; 141 S Ct 1017, 1024-1025 (2021).

Here, plaintiff argues that *specific* personal jurisdiction over defendant is authorized by MCL 600.715.² That statute provides:

The existence of any of the following relationships between a corporation or its agent and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such corporation and to enable such courts to render personal judgments against such corporation arising out of the act or acts which create any of the following relationships:

- (1) The transaction of any business within the state.

² By its terms, MCL 600.715 only applies when the defendant is a “corporation.” There are, however, near identical jurisdiction-conferring statutes when the defendant is a “person,” “partnership or limited partnership,” or a “partnership association or unincorporated voluntary association.” See MCL 600.705, MCL 600.725, MCL 600.735. Thus, the exact nature of the entity is irrelevant to this Court’s decision.

(2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.

(3) The ownership, use, or possession of any real or tangible personal property situated within the state.

(4) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(5) Entering into a contract for services to be performed or for materials to be furnished in the state by the defendant.

Plaintiff has not alleged any tortious activity, his breach of contract claim does not arise out of defendant's ownership, use or possession of property within this State, and the parties did not contract to insure property. And while an employment contract is a "contract for services," the services were to be performed by plaintiff in Pakistan, not by defendant in Michigan. Thus, subsections (2)-(5) are not applicable.

Plaintiff argues that personal jurisdiction over defendant is conferred by subsection (1). So, to defeat defendant's motion, plaintiff must make a prima facie showing that the alleged breach of contract arises out of defendant's "transaction of any business within the state."

The Court concludes that plaintiff's evidence does not make a prima facie showing of jurisdiction pursuant to MCL 600.715(1). Plaintiff offers evidence that defendant holds itself out as a "partner university" to the University of Michigan. Plaintiff also claims that defendant regularly has its professors act as visiting professors to the University of Michigan. But even assuming for the sake of argument that defendant's alleged relationship with the University of Michigan constitutes the transaction of business within this state, plaintiff has not shown that his breach of contract claim arises out of that relationship. Critically, plaintiff does not point to any relationship between *himself* and the University of Michigan.³ Instead, plaintiff suggests that

³ Aside from his claimed residence in Ann Arbor, plaintiff does not identify any relationship between himself and the University of Michigan. Plaintiff's undergraduate and graduate degrees

defendant's status as a "partner university" to the University of Michigan reflects defendant's efforts to grow its international brand recognition, which had the effect of making defendant's offer of employment more attractive to plaintiff personally. Suffice to say, this alleged connection is far too tenuous, and the Court concludes that plaintiff's breach of contract claim did not "arise out of" defendant's alleged relationship with the University of Michigan. For that reason, the Court concludes that plaintiff has not made a prima facie showing of personal jurisdiction under MCL 600.715(1).

Moreover, the Court also concludes that exercising jurisdiction over defendant in these circumstances would be contrary to the Due Process Clause of the Fourteenth Amendment of the federal constitution. See *International Shoe Co v Washington*, 326 US 310 (1945). As the Supreme Court for the United States recently explained, in cases involving the assertion of *specific* personal jurisdiction, due process requires that the defendant

. . . must take some act by which [it] purposefully avails itself of the privilege of conducting activities within the forum State. . . . The contacts must be the defendant's own choice and not random, isolated, or fortuitous. . . . They must show that the defendant deliberately reached out beyond its home—by, for example, exploit[ing] a market in the forum State or entering a contractual relationship centered there. . . . The plaintiff's claims . . . must arise out of or relate to the defendant's contacts with the forum. . . . Or put just a bit differently, there must be an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation. [*Ford Motor Co*, 141 S Ct at 1024-1025. Internal quotation marks and citations omitted.]

Further, the mere existence of a contract between a resident of the forum and a foreign party will not, standing alone, support the assertion of personal jurisdiction over the foreign party. See *Burger King v Rudzewicz*, 471 US 462, 478 (1978). Rather, the due-process analysis must consider "prior

are from institutions located in Massachusetts and Illinois. He refers to various research and teaching positions he has held, but none of them in Michigan.

negotiations and contemplated future consequences, along with the terms of the contract and the parties' actual course of dealing[.]” *Id.* at 479.

Here, plaintiff has presented evidence showing that he was residing in Michigan (although not always physically present in the state) at the time his employment was solicited by a foreign university located in Pakistan, for work to be performed in Pakistan. Plaintiff again refers to defendant's alleged status as a “partner university” to the University of Michigan. He also claims that defendant employs individuals who have some academic connection to the University of Michigan.

This Court concludes that these are *not* the sort of activities that are so “substantially connected with Michigan to make the exercise of jurisdiction over the defendant reasonable.” *Jeffrey*, 448 Mich at 186, quoting *Mozdy v Lopez*, 197 Mich App 356, 359 (1992). Regardless of defendant's knowledge of plaintiff's exact whereabouts at the time the contract was negotiated and executed, the Court finds that it lacks personal jurisdiction over defendant where the employment contract was centered in Pakistan, not Michigan, and plaintiff's alleged residency in this state is the only link. See *Walden v Fiore*, 571 US 277, 286 (2014) (“But the plaintiff cannot be the only link between the defendant and the forum. Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him.”). To the extent plaintiff relies on defendant's alleged contacts with the University of Michigan, his argument is equally unavailing. “Due process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the random, fortuitous, or attenuated contacts he makes by interacting with other persons affiliated with the State.” *Id.* at 286 (internal quotation marks and citation omitted).

In sum, the Court finds that the case should be dismissed for lack of personal jurisdiction over defendant. Given this conclusion, the Court declines to address plaintiff's arguments regarding the service of process and *forum non conveniens*.

III. SANCTIONS

Defendant argues that plaintiff's claim is "frivolous" and, consequently, that plaintiff and his counsel should be ordered to pay the attorneys fees and costs that defendant incurred in bringing its motion for dismissal.

"Pursuant to MCL 600.2591, a claim is frivolous when: (1) the party's primary purpose was to harass, embarrass or injure the prevailing party; (2) the party had no reasonable basis to believe the underlying facts were true; or (3) the party's position was devoid of arguable legal merit." *Jerico Const, Inc v Quadrants, Inc*, 257 Mich App 22, 35-36 (2003). Additionally, an attorney who files a signed pleading that is not well-grounded in fact or warranted by existing law will be subject to similar sanctions pursuant to MCR 1.109(E)(6).

The Court concludes that sanctions are not warranted in this matter. There is no evidence that plaintiff's motivation in filing suit was to harass, embarrass, or cause injury to defendant, or that the facts alleged in the complaint are untrue. The Court finds that defendant's main argument in support of its request for sanctions is that plaintiff's personal-jurisdiction argument lacks merit. While the Court agrees that plaintiff's personal-jurisdiction analysis is unavailing, that alone is not enough to warrant sanctions under statute or court rule. While the alleged connection between defendant and Michigan is weak, the Court concludes that plaintiff's lawsuit was filed in the only state with plausible jurisdiction over defendant as it relates to plaintiff's claim. As such, the Court concludes that there was a good-faith basis for the filing.


III. CONCLUSION

Because the Court concludes that it lacks personal jurisdiction over defendant, defendant's motion is GRANTED in part and the case is DISMISSED without prejudice. MCR 2.116(C)(1); MCR 2.504(B). Defendant's request for sanctions is DENIED.

This is a final order that resolves the last pending claim and closes the case.

/s/ Carol Kuhnke
December 20, 2021

Carol Kuhnke
Circuit Court Judge

The seal of the Circuit Court of Washtenaw County, Michigan, is circular with a decorative border. The text "THE CIRCUIT COURT OF WASHTENAW COUNTY MICH." is written around the perimeter. In the center, there is a shield with a scale of justice and a book, with a star below it.