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	:	SUPERIOR COURT of NEW JERSEY
	:	APPELLATE DIVISION
	:	DOCKET NO.: A-
SAMANTHA HAWS,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	ON REQUEST FOR APPEAL FROM
JAMESON RODGERS, BCMF, LLC,	:	THE SUPERIOR COURT OF NEW
SOUTHERN ENTERTAINMENT,	:	JERSEY LAW DIVISION: CAMDEN
SONY MUSIC NASHVILLE,	:	COUNTY
COLUMBIA NASHVILLE,	:	
MOLSON COORS d/b/a MILLER	:	DOCKET No.: CPM-L-202-24
BREWING COMPANY and/or, and,	:	
JOHN DOE 1-10 and ABC CORP.,	:	
INC. 1-10 (said names being fictitious)	:	
	:	
Defendants.	:	
	:	

**BRIEF IN SUPPORT OF A MOTION FOR LEAVE TO APPEAL THE DENIAL
OF DEFENDANT’S MOTION TO DISMISS WITH PREJUDICE OF NAMED
DEFENDANTS, SONY MUSIC NASHVILLE AND COLUMBIA NASHVILLE**

On the brief:
Philip D. Priore, Esquire
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I. PRELIMINARY STATEMENT

On June 16, 2022, Plaintiff was at the Barefoot Country Music Festival in Wildwood, New Jersey, watching Jameson Rodgers perform when she was struck in the head or facial area with an unopened full beer can that was allegedly thrown from the stage. (Da030). Plaintiff alleges that Sony Music Nashville and Columbia Nashville were negligent and that negligence was a direct or proximate cause of the alleged injuries suffered by Plaintiff. (Da033).

However, Sony Music Nashville is not a legal entity and is an unincorporated division of Sony Music Entertainment. (Da151). In addition, Columbia Nashville is not a legal entity and is a record label or “imprint” of Sony Music Nashville. Id. Thus, the parties have agreed to dismiss Sony Music Nashville and Columbia Nashville from the present case, and Sony Music Entertainment is being plead in. Id.

However, New Jersey does not have specific or general jurisdiction over Sony Music Entertainment. Sony Music Entertainment had no affiliation with the Barefoot Country Music Festival. (Da154). Sony Music Entertainment did not hire security for the Barefoot Country Music Festival. Id. Sony Music Entertainment did not advertise for the Barefoot Country Music Festival. Id. Sony Music Entertainment did not pay for any of the costs surrounding Barefoot Country Music Festival. Id. Sony Music Entertainment did not schedule and/or have any involvement with

effectuating Jameson Rodgers' performance at the Barefoot Country Music Festival. (Da155). Sony Music Entertainment did not send anyone to attend the Barefoot Country Music Festival. Id.

For the reasons set forth below and based on other prior decisions, it is clear that New Jersey does not have general or specific jurisdiction over Sony Music Entertainment.

II. STATEMENT OF FACTS

Pursuant to her Complaint filed in the New Jersey Superior Court, Law Division, Cape May County, Plaintiff alleges that on June 16, 2022, she was lawfully in the audience at the Barefoot Country Music Festival in Wildwood, Ner Jersey, watching Defendant, Jameson Rodgers perform, when she was struck in the head with an unopened can of Miller Lite that was thrown from the stage. (Da030).

Within that Complaint, Plaintiff alleges that Defendant's, Sony Music Nashville and Columbia Nashville's, respective agents, servants and employees were the owners, operators, proprietors, lessors, lessees and/or otherwise planned, promoted, sponsored, marketed, directed, supervised, managed, operated coordinated, oversaw and/or otherwise controlled in whole or in part with others at the Barefoot Country Music Festival. (Da033). Plaintiffs allege that at the Barefoot Country Music Festival, Defendants created an unreasonable risk of harm to the Plaintiff and their collective acts and failures to act where of such an extent to constitute gross negligence. Id. Thus, as a result of Defendants' gross negligence, Plaintiff was caused to be struck by a full unopened can of Miller Lite beer in the head and facial area causing her to sustain severe, painful, and permanent bodily injuries. Id. Plaintiffs allege it was a known or obvious risk and highly probable that harm would follow. Id.

Sony Music Entertainment (“SME”)¹ had no affiliation or involvement with the Barefoot Country Music Festival. (Da154). SME did not hire security for the Barefoot Country Music Festival. Id. SME did not advertise for the Barefoot Country Music Festival. Id. SME did not pay for any of the costs surrounding Barefoot Country Music Festival. Id. **SME did not schedule and/or have any involvement with effectuating Jameson Rodgers’ performance at the Barefoot Country Music Festival.** (Da128). SME did not send anyone to attend the Barefoot Country Music Festival. Id.

III. PROCEDURAL HISTORY

On May 21, 2024, Plaintiff filed the abovementioned Complaint. (Da028). On July 3, 2024, an Answer was filed by Franklin Barbosa, Esquire of Schenck, Price, Smith, & King, LLP on behalf of Defendants, BCMF, LLC, and Southern Entertainment, LLC i/p/a Southern Entertainment. (Da048). On July 26, 2024, an Answer was filed by Joseph Poretto, Esquire of Law Office Of Victoria A. Turchetti on behalf of Defendant, Jameson Rodgers. (Da066). On August 28, 2024, a Motion for Admission Pro Hac Vice was submitted by Christopher E. Torkelson, Esquire of Eckert, Seamans, Cherin, & Mellott, LLC on behalf of Defendant Molson Coors Beverage Company USA LLC (improperly named as Molson Coors d/b/a Miller

¹ Sony Music Entertainment is a Delaware general partnership with its principal place of business at 25 Madison Avenue, New York, New York, 10010.

Brewing Company). (Da111). On September 16, 2024, the Motion for Admission Pro Hac Vice submitted by Christopher E. Torkelson, Esquire of Eckert, Seamans, Cherin, & Mellott, LLC on behalf of Defendant Molson Coors Beverage Company USA LLC (improperly named as Molson Coors d/b/a Miller Brewing Company) on August 28, 2024 was granted by the Hon. James H. Pickering Jr., J.S.C. (Da122).

Due to the improper service on non-entities, Sony Music Nashville and Columbia Nashville, as well as their lack of contacts with New Jersey, and for lack of personal jurisdiction for Sony Music Nashville, Columbia Nashville, and/or Sony Music Entertainment, pursuant to Rule 4:6-2(b), Defendants filed a Motion to Dismiss the Plaintiff's Complaint for lack of personal jurisdiction. (Da001). The Motion was returnable on December 20, 2024.

Plaintiff filed an Opposition to the Defendant's Motion to Dismiss on December 12, 2024, and submitted a brief (Da157) wherein Plaintiff alleges that Sony Music Nashville and Columbia Nashville entered into a recording deal in 2019 and "defendant Sony Music Nashville and/or Columbia Nashville promoted and marketed defendant Jameson Rodgers performances throughout the United States," (Da164) and included an Exhibit of tour dates from 2020.² (Da281). But nowhere in

² The Exhibit supplied by Plaintiff is a list of Jameson Rodgers tour dates from February 28, 2020, to April 24, 2020. The Plaintiff's alleged injuries occurred in June 2022. In addition, that list of tour dates does not include the State of New Jersey – the alleged forum State. (Da282).

Plaintiff's brief did it mention specifically how New Jersey had personal jurisdiction over SME.

Therefore, on December 16, 2024, Defendants submitted a Reply letter brief wherein they highlighted that Plaintiff submitted no evidence whatsoever to support such a statement. (Da291).

At oral argument on December 19, 2024, The Honorable James H. Pickering, J.S.C. denied the Defendant's Motion to Dismiss. (Da296). On December 23, 2024, the Order denying Defendant's Motion to Dismiss was docketed and uploaded to eCourts. (Da305).³

IV. STANDARD OF REVIEW

Appellate review of a ruling on a jurisdiction is plenary because the question of jurisdiction is a question of law. Rippon v. Smigel, 449 N.J. Super. 344, 358 (App. Div. 2017) (citing Mastondrea v. Occidental Hotels Mgmt., S.A., 391 N.J. Super. 261, 268 (App. Div. 2007)). Accordingly, the Appellate Division's review is thus *de novo*. Id.

³ Accordingly, Defendants Motion for Leave to Appeal is timely.

V. LEGAL ARGUMENT

THE TRIAL COURT ERRED IN FINDING NEW JERSEY HAS PERSONAL JURISDICTION OVER SONY MUSIC ENTERTAINMENT

This Motion for Leave to Appeal stems from the trial court’s denial of SME’s Motion to Dismiss Plaintiff’s Complaint for lack of personal jurisdiction. A motion to dismiss for lack of personal jurisdiction pursuant to Rule 4:6-2(b) presents “‘a mixed question of law and fact’ that must be resolved at the outset, ‘before the matter may proceed[.]’” Pullen v. Galloway, 461 N.J. Super. 587, 596 (App. Div. 2019) (quoting Rippon v. Smigel, 449 N.J. Super. 344, 359, (App. Div. 2017), certif. denied, 241 N.J. 137, 226 A.3d 496 (2020)).

In addition, while recognizing the use of jurisdictional discretion, the Court places the burden on plaintiff to initially “state with specificity the factual basis of [his] jurisdictional claims” and while the level of specificity may be limited in a case with jurisdictional uncertainty, that does not relieve the plaintiff of at least “alleg[ing] or plead[ing] sufficient facts with respect to jurisdiction.” Hawkins v. Quick, No. A-4142-15T1, 2017 WL 4183254, at 1 (N.J. Super. Ct. App. Div. Sept. 22, 2017) (quoting Blakey v. Cont'l Airlines, Inc., 164 N.J. 38, 71 (2000)). New Jersey courts may exercise personal jurisdiction over a non-resident defendant “consistent with due process of law.” R. 4:4–4(e); see also, Egg Harbor Care Ctr. v. Scheraldi, 455 N.J. Super. 343, 351 (App. Div. 2018). New Jersey’s long-arm jurisdiction extends “to the uttermost limits permitted by the United States

Constitution.” Baanyan Software Services, Inc. v. Kuncha, 433 N.J. Super. 466, 473 (App. Div. 2013) (citing Avdel Corp. v. Mecure, 58 N.J. 264, 268 (1971)). The United States Constitution, particularly the Fourteenth Amendment, requires plaintiff to demonstrate that defendant has sufficient “minimum contacts” with the forum state in order for personal jurisdiction to exist. See, Exton v. Our Farm, Inc., 943 F.Supp. 432, 437 (D.N.J. 1996).

Defendant’s minimum contacts with a State are “purposeful acts by that party, directed toward a State, which make it reasonable for the defendant to anticipate being haled into court there.” World Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980), (citing Kulko v. California Superior Court, 436 U.S. 84, 97-98 (1978)). See also, Exton v. Our Farm, Inc., 943 F.Supp. 432 at 438. Moreover, the Supreme Court has held that if the defendant is not present within the forum jurisdiction, he must have “certain minimum contacts with it such that the maintenance of the suit does not offend “traditional notions of fair play and substantial justice.” International Shoe, Co. v. Washington, 326 U.S. 310, 316 (1945).

In examining International Shoe, Co., the Court later found that “it is essential in each case that there be some act by which the defendant purposely avails itself of the privilege of conducting activities within the forum State, thus evoking the benefits and protections of its laws.” Hanson v. Denckla, 357 U.S. 235, 253 (1958).

See also, Giangola v. Walt Disney World Co., 753 F. Supp. 148, 155 (D.N.J. 1990).

“The ‘purposeful availment’ ‘requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of ‘random,’ ‘fortuitous,’ ‘attenuated,’ contacts, or of the ‘unilateral activity of another party or a third person.’” Exton v. Our Farm, Inc., 943 F.Supp. 432 at 438 (citing Burger King, Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985)). See also, Giangola at 155.

However, the court must ensure that defendant’s due process rights are not violated. Accordingly, the New Jersey “long-arm statute” for personal jurisdiction must be guided by the Fourteenth Amendment to the United States Constitution. See, Decker v. Circus Hotel, 49 F.Supp.2d 743, 745-746 (D.N.J. 1999). See also, Giangola v. Walt Disney World, Corp., 753 F.Supp. 148, 154 (D.N.J. 1990). SME maintains that the New Jersey Court’s exercise of personal jurisdiction over it, in this matter, is a direct violation of its due process rights as guaranteed under the United States Constitution.

There are two types of jurisdiction, general and specific. The lower court has determined that no general jurisdiction existed and thus whether specific jurisdiction existed over SME became the issue to decide. (Da302). Specific jurisdiction requires defendant’s acts in the forum state “give rise to the cause of action brought in that forum.” Giangola at 155. See also, Baanyan Software Services, Inc. v. Kuncha, 433 N.J. Super. 466, 474-475 (App. Div. 2013). Moreover, Plaintiff bears the “burden of

establishing a *prima facie* basis for exercising personal jurisdiction over defendant.” Baanyan Software Servs., Inc. v. Kuncha, at 476. In addition, “[i]f a cause of action arises directly out of a defendant's contacts with the forum state, the court's jurisdiction is “specific.” Waste Management, Inc. v. Admiral Ins. Co., 138 N.J. 106, 119 (1994). (quoting Lebel v. Everglades Marina, Inc., 115 N.J. 317, 322, 558 A.2d 1252 (1989)).

Perhaps most importantly, the United States Supreme Court has held that personal jurisdiction only exists over a corporation in a state where it is “at home”, typically only the state(s) where it is incorporated or has its principal place of business. Daimler AG v. Bauman, 571 U.S. 117, 129, (2014). In Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 138, (2023), the United States Supreme Court reiterated that “a corporation is typically “at home” in both its place of incorporation and principal place of business, Daimler, 571 U.S. at 137.”

For the reasons set forth below, it is clear that New Jersey has no specific jurisdiction exists over SME.

It appears from the hearing transcripts that the lower court believed that, because Plaintiff alleges that Jameson Rodgers, the performing artist at the time that Plaintiff was allegedly injured, had a contract to record an album with Sony Music Nashville, an unincorporated division of SME, on the date that Plaintiff suffered her

alleged injuries, and he was in the state of New Jersey at the time of the incident, then New Jersey would possess personal jurisdiction over SME. (Da302).

Stated differently, if Rodgers was acting on behalf of SME at the subject concert, then the Court would possess specific jurisdiction over SME. But that did not happen, as clearly set forth in the affidavit signed by Angie Magill, who was the Senior Vice President of SME at the time. (Da154). SME cannot be subject to jurisdiction in every state that an artist travels to just because that artist agreed to deliver an album to SME.

This is exactly what International Shoe v. Washington, 326 U.S. 310 (1945), and the cases that followed it prohibit. At the time of the Plaintiff's alleged incident, SME had no contacts with New Jersey that would suggest that it could be brought into court in this jurisdiction; moreover, as specifically stated in the affidavit signed by Angela R. MaGill wherein she states SME "had no affiliation not involvement with the Barefoot Country Music Festival where Plaintiff was when she was allegedly injured." (Da154)

In addition, during oral arguments on December 19, 2024, despite SME's lack of contacts with New Jersey, The Hon. James H. Pickering, J.S.C supposedly placed some weight in his decision on Ford Motor Co. v. Montana Eighth Judicial Dist. Court, 141 S. Ct. 1017 (2021). (Da302). In that case, the United States Supreme Court held that Ford Motor Co. was subject to specific jurisdiction in a products-

liability suit in Montana stemming from a car accident because its substantial business in that state supported specific personal jurisdiction when due process principles and the due process test did not depend on the strict causation only approach.

The accident happened in the State where the suit was brought, and the victim was one of the State's residents. Id. However, where our case differs is that in Ford, it did substantial business in the State such as advertising, selling, and servicing the **specific** model of the vehicle that the suit claimed was defective. The United States Supreme Court found that when "a company like Ford serves a market for a product in a State and that product causes injury in the State to one of its residents, the State's courts may entertain the resulting suit." Id.

Not so here. Ford Motor Co. has no applicability where zero evidence has been offered by Plaintiff of SME doing any business (much less substantial business) in New Jersey in connection with the subject Festival or with respect to Rodgers' live performances generally. Accordingly, this case differs from Ford because the harm alleged relates to activities in New Jersey with which SME had no involvement – Rodgers' live performances.

SME had no affiliation with the Barefoot Country Music Festival in New Jersey, where Plaintiff allegedly suffered her injuries which is outlined in the affidavit signed by Angela R. MaGill that Defendants submitted to the Court with

our Motion to Dismiss. (Da154). SME did not hire security for the Barefoot Country Music Festival. Id. SME did not advertise for the Barefoot Country Music Festival. Id. SME did not pay for any of the costs surrounding Barefoot Country Music Festival. Id. SME did not schedule and/or have any involvement with effectuating Jameson Rodgers' performance at the Barefoot Country Music Festival. (Da155). SME did not send anyone to attend the Barefoot Country Music Festival. Id. Therefore, SME did not have the substantial business required by Ford for the New Jersey Courts system to be able to effectuate specific personal jurisdiction over it. The case that the lower court relied on during the hearing wherein he made his decision does not apply to this case.

The lower court seemed to believe that Plaintiff is entitled to discovery as to whether SME had any involvement with co-defendant, Jameson Rodgers, acting on its behalf at the Barefoot Country Music Festival. (Da301). First, Plaintiff did not request discovery. But even putting that aside, further discovery and investigation into the issue is not going to change the facts specifically stated in the Affidavit. SME had no affiliation or involvement in the Barefoot Country Music Festival (Da154) and did not schedule or have any involvement with effectuating Jameson Rodgers performance at the Barefoot Country Music Festival. (Da155). SME's lack of involvement could not be stated more clearly. Therefore, New Jersey has no specific jurisdiction over Sony Music Entertainment.

Sony Music Entertainment respectfully submits that the trial court's decision, finding that it had personal jurisdiction over SME, was incorrect and a clear overreach of its authority. Accordingly, Sony Music Entertainment respectfully maintains that the trial court erred in denying its Motion to Dismiss for lack of personal jurisdiction, and asks this Court to grant its Motion for Leave to Appeal.

VI. CONCLUSION

“Once [] defendants have shown that they have no territorial presence in this state, the burden shifts, as it were, to [] plaintiff, who must then demonstrate their amenability, nonetheless, to an exercise of in personam jurisdiction based on minimum contacts.” Blakey v. Continental Airlines, Inc., 164 N.J. 38, 71 (2000) (citing Citibank, N.A. v. Estate of Simpson, 290 N.J. Super. 519, 533 (App. Div. 1996)). As Defendant, Sony Music Entertainment has established that it had no connection with the Barefoot Country Music Festival at issue, or Jameson Rodgers’ performance therein, as well as a total lack of any basis for in personam jurisdiction.

Thus, Sony Music Entertainment hereby respectfully requests that this Honorable Court grant its Motion for Leave and hear this issue on appeal.

**Respectfully submitted,
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