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parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1956-15T2

ROBERT J. TRIFFIN,

Plaintiff-Appellant,

v.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY,

Defendant-Respondent,

and

JOHN GIORDANO and MELISSA
GIORDANO,

Defendants.

Argued March 2, 2017 – Decided June 7, 2017

Before Judges Hoffman and Whipple.

On appeal from Superior Court of New Jersey,
Law Division, Special Civil Part, Monmouth
County, Docket No. DC-7774-15.

Robert J. Triffin, appellant, argued the cause
pro se.

James H. Rohlfing argued the cause for
respondent (Law Offices of William E. Staehle,
attorneys; Jaunice M. Canning, on the brief).

PER CURIAM

Plaintiff Robert J. Triffin appeals from the December 8, 2015 Law Division order dismissing his complaint against defendant Board of County Commissioners Hernando County (the Board) without prejudice. Plaintiff argues "the trial court committed reversible error when it . . . dismissed plaintiff's complaint in contravention of the mandatory venue selection provisions of 15 U.S.C.A. § 1692[i]." Because we conclude this venue selection statute has no relevance to whether the trial court had personal jurisdiction over the Board, we reject plaintiff's arguments and affirm.

I.

The Board, a public entity in the State of Florida, issued a \$176.93 refund check to John and Melissa Giordano of Middletown. The check concerned a Florida property in Hernando County. The Giordanos cashed the check with Friendly Check Cashing (Friendly) in New Jersey. The Board's bank declined to pay the check and returned it to Friendly because the Giordanos had previously cashed the check electronically.

Friendly then assigned its rights to plaintiff, who filed this action against the Giordanos and the Board in Monmouth County. Only the Board filed an answer, in which it asserted lack of jurisdiction as a defense. The Board promptly filed a motion to

dismiss plaintiff's claims against it based upon lack of personal jurisdiction, and plaintiff filed his opposition. After hearing oral argument, the motion court granted the Board's motion and dismissed plaintiff's claims against the Board without prejudice.

II.

We review a trial court's determination as to jurisdiction de novo. YA Global Invs., L.P. v. Cliff, 419 N.J. Super. 1, 8 (App. Div. 2011). The court's factual findings, however, will not be disturbed if "supported by substantial, credible evidence." Ibid. "[W]e do not disturb the factual findings and legal conclusions of the trial judge unless . . . they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." Rova Farms Resort, Inc. v. Inv'rs Ins. Co., 65 N.J. 474, 484 (1974) (quoting Fagliarone v. Twp. of N. Bergen, 78 N.J. Super. 154, 155 (App. Div. 1963)). Nevertheless, we do not defer to a trial court's application of the law to the facts. Manalapan Realty v. Manalapan Twp. Comm., 140 N.J. 366, 378 (1995).

New Jersey may exercise long-arm jurisdiction if it comports with due process of law. R. 4:4-4(b)(1); see also Charles Gendler & Co. v. Telecom Equip. Corp., 102 N.J. 460, 469 (1986) (stating New Jersey courts exercise jurisdiction over non-resident defendants to the extent permitted by the United States

Constitution). To satisfy due process, the exercise of jurisdiction must be adequate and reasonable; that is, the non-resident defendant must have (1) sufficient minimum contacts with the forum state and (2) reliance upon those contacts to establish personal jurisdiction do not "offend 'traditional notions of fair play and substantial justice.'" Blakey v. Cont'l Airlines, 164 N.J. 38, 65 (2000) (quoting Int'l Shoe Co. v. Washington, 326 U.S. 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 95, 102 (1945)).

The "adequacy" of minimum contacts depends on the type of jurisdiction sought. Pressler & Verniero, Current N.J. Court Rules, cmt. 3.1.1. on R. 4:4-4 (2016). "There are two types of personal jurisdiction: specific and general." Jacobs v. Walt Disney World Co., 309 N.J. Super. 443, 452 (App. Div. 1998).

Specific jurisdiction is established when a defendant's acts within the forum-state give rise to the cause of action. In contrast, when the defendant's presence in the state is unrelated to the subject matter of the lawsuit, general jurisdiction may be obtained based on the defendant's continuous and substantial contacts with the forum.

[Ibid. (citations omitted).]

Inquiry into specific jurisdiction centers around "the relationship [between] the [non-resident] defendant, the forum, and the litigation." Lebel v. Everglades Marina, Inc., 115 N.J. 317, 323 (1989) (quoting Shaffer v. Heitner, 433 U.S. 186, 204, 97 S. Ct. 2569, 2579, 53 L. Ed. 2d 683, 698 (1977)). Specifically,

"[t]he record must demonstrate that the [non-resident] defendant has purposefully availed [it]self of the privilege of engaging in activities within the forum state, thereby gaining the benefits and protections of its laws." Waste Mgmt. v. Admiral Ins. Co., 138 N.J. 106, 120-21 (1994), cert. denied, 513 U.S. 1183, 115 S. Ct. 1175, 130 L. Ed. 2d 1128 (1995); see also Lebel, supra, 115 N.J. at 324 ("The question is whether 'the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.'" (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297, 100 S. Ct. 559, 567, 62 L. Ed. 2d 490, 501 (1980))).

The burden to prove the sufficiency of a defendant's contacts with the forum state rests with the plaintiff, most readily accomplished "through the use of 'sworn affidavits, certifications or testimony.'" Walt Disney World, supra, 309 N.J. Super. at 454 (quoting Catalano v. Lease & Rental Mgmt. Corp., 252 N.J. Super. 545, 547-48 (Law Div. 1991)). Where plaintiff cannot prove sufficient contacts to establish specific jurisdiction, it makes the existence of continuous and systematic activity highly unlikely. Id. at 453 ("[A] plaintiff seeking to overcome the challenge to general jurisdiction must show substantially more than mere minimum contacts to establish this form of personal jurisdiction.").

"[T]he venue section of the Federal Fair Debt Collection Practices Act (Act), 15 U.S.C.A. § 1692i, requires that debt collection actions be filed either in the county where the debtor lives or in the county where the debtor signed the contract underlying the debt." Rutgers-The State University v. Fogel, 403 N.J. Super. 389, 391 (App. Div. 2008). However, "for purposes of section 1692i, venue must be laid in the state judicial unit which has jurisdiction over the claim, if that unit is smaller than a county." Id. at 399. More specifically, 15 U.S.C.A. § 1692i states:

(a) Venue. Any debt collector who brings any legal action on a debt against any consumer shall—

(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

(A) in which such consumer signed the contract sued upon; or

(B) in which such consumer resides at the commencement of the action.

15 U.S.C.A. § 1692a defines "consumer" as "any natural person obligated or allegedly obligated to pay any debt." Consequently,

if a defendant is not a natural person, 15 U.S.C.A. § 1692i is irrelevant to a court's jurisdiction over a defendant concerning a debt collection claim. Moreover, personal jurisdiction is a distinct legal requirement from venue. See R. 4:4-4 (addressing in personam jurisdiction); R. 4:3-2 (addressing venue).


Plaintiff argues that because 15 U.S.C.A. § 1692i required him to file his complaint against the Giordanos in Monmouth County, the motion court should have found it had jurisdiction over the Board. This argument clearly lacks merit. While plaintiff correctly notes he had to file his debt collection claim against the Giordanos in Monmouth County, see U.S.C.A. § 1692i, he incorrectly asserts this venue provision enables him to sue a defendant in a court that lacks personal jurisdiction over it. See R. 4:4-4(b)(1); Charles Gendler & Co., supra, 102 N.J. at 469; Fogel, supra, 403 N.J. Super. at 399.

The Board's only contact with New Jersey was the check it issued to the Giordanos, who then cashed it with a New Jersey company after previously cashing it electronically. This contact is inadequate to satisfy "traditional notions of fair play and substantial justice." Blakey, 164 N.J. at 65 (quoting Int'l Shoe Co., supra, 326 U.S. at 316, 66 S. Ct. at 158, 90 L. Ed. at 102). Further, 15 U.S.C.A. § 1692i is irrelevant to whether the trial

court had personal jurisdiction over the Board, which is not a natural person. See U.S.C.A. § 1692a.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION