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Although it is posted on the internet, this opinion is binding only on the
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-2476-15T3

ASHLEY NELSON-GUEDEZ and
LYNDSAY NELSON-NUGENT,

Plaintiffs-Appellants,

v.

JACQUELINE T. LIMOLI, f/k/a
JACQUELINE T. NELSON, and/or
JACKY NELSON,

Defendant-Respondent.

Argued telephonically March 22, 2017 –
Decided September 19, 2017

Before Judges Espinosa and Guadagno.

On appeal from the Superior Court of New
Jersey, Chancery Division, Union County,
Docket No. C-101-15.

Richard J. Kaplow argued the cause for
appellants.

Stephen J. Edelstein argued the cause for
respondent (Schwartz Simon Edelstein &
Celso, LLC, attorneys; Lawrence S. Schwartz
and Mr. Edelstein, of counsel and on the
brief; Stephen R. Catanzaro, on the brief).

PER CURIAM

Plaintiffs Ashley Nelson-Guedez and Lyndsay Nelson-Nugent appeal from the February 1, 2016 Chancery Division order dismissing their complaint with prejudice. We affirm.

Plaintiffs are the daughters of Paul Nelson, who died in 2007. Paul Nelson's father, Theodore Nelson, died in February 2011, leaving each of his four children an equal share of his estate. Defendant Jacqueline Limoli,¹ who was married to Paul Nelson at the time of his death, received her late husband's share of Theodore Nelson's estate.

Plaintiffs allege that, shortly after Theodore Nelson's death, defendant agreed to divide her inheritance into thirds, with one-third, or approximately one million dollars, going to each of them. On May 26, 2011, defendant executed a written document indicating that as of May 9, 2011, she has given or will give \$500,000 to Ashley. In addition, defendant gave approximately \$250,000 to Lyndsay in various forms.

In September 2015, plaintiffs filed a complaint in the Union County Chancery Division seeking to compel defendant to fully perform her agreement to transfer monies to plaintiffs. Defendants moved to dismiss for failing to state a claim upon which relief can be granted pursuant to Rule 4:6-2(e).

¹ During her marriage to Paul Nelson, defendant was known as Jacqueline or "Jacky" Nelson.

After hearing oral argument, Chancery Judge Katherine R. Dupuis granted defendant's motion. In a statement of reasons accompanying her dismissal order, Judge Dupuis found defendant, who was domiciled in Vermont, was not subject to the court's personal jurisdiction because there were insufficient contacts with New Jersey. Although the estate was probated in New Jersey and the alleged promise was made here, the judge held those contacts did not overcome the burden to defendant in appearing in a New Jersey court.

On appeal, plaintiffs argue their complaint is not subject to dismissal for lack of personal jurisdiction or failure to state a claim upon which relief can be granted.

In considering a motion to dismiss under Rule 4:6-2(e), we must search the allegations of the pleading in depth and with liberality to determine whether a cause of action is "suggested" by the facts. Printing Mart-Morristown v. Sharp Electronics Corp., 116 N.J. 739, 746 (1989). We must "ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim, opportunity being given to amend if necessary." Ibid. (quoting Di Cristofaro v. Laurel Grove Memorial Park, 43 N.J. Super. 244, 252 (App. Div. 1957)). "If a generous reading of the allegations merely suggests a cause of

action, the complaint will withstand the motion." F.G. v. MacDonell, 150 N.J. 550, 556 (1997).

We employ a plenary standard of review to the motion judge's decision to grant or deny a motion to dismiss pursuant to Rule 4:6-2(e) and owe no deference to the judge's conclusions. Rezem Family Assocs., LP v. Borough of Millstone, 423 N.J. Super. 103, 114 (App. Div.), certif. denied, 208 N.J. 366 (2011).

"The Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful 'contacts, ties, or relations.'" Burger King Corp. v. Rudzewicz, 471 U.S. 462, 471-72, 105 S. Ct. 2174, 2181, 85 L. Ed. 2d 528, 540 (1985) (quoting International Shoe Co. v. Washington, 326 U.S. 310, 319, 66 S. Ct. 154, 160, 90 L. Ed. 95, 104 (1945)). "The Due Process Clause . . . limits the power of a state court to render a valid personal judgment against a nonresident defendant." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291, 100 S. Ct. 559, 564, 62 L. Ed. 2d 490, 497 (1980).

Although New Jersey's long-arm provision permits our courts to assert jurisdiction over nonresidents, the use of that authority must comply with the due process limits imposed by the United States Constitution. Avdel Corp. v. Mecure, 58 N.J. 264,

268 (1971). Critical to the due-process analysis is the question whether the defendant should reasonably anticipate being haled into court in the forum state. Burger King, supra, 471 U.S. at 474, 105 S. Ct. at 2183, 85 L. Ed. 2d at 542. "[T]he requisite quality and quantum of contacts is dependent on whether general or specific jurisdiction is asserted[.]" Citibank, N.A. v. Estate of Simpson, 290 N.J. Super. 519, 526 (App. Div. 1996).

"If a cause of action is unrelated to the defendant's contacts with the forum state, the court's jurisdiction is 'general.'" Mische v. Bracey's Supermarket, 420 N.J. Super. 487, 491 (App. Div. 2011). To obtain general jurisdiction, the defendant must have contacts with this State that are "'so continuous and substantial as to justify subjecting the defendant to jurisdiction.'" Waste Management, Inc. v. Admiral Ins. Co., 138 N.J. 106, 123 (1994) (internal citations omitted), cert. denied sub nom., WMX Techs. v. Canadian Gen. Ins. Co., 513 U.S. 1183, 115 S. Ct. 1175, 130 L. Ed. 2d 1128 (1995).

Specific jurisdiction is available when the "cause of action arises directly out of a defendant's contacts with the forum state." Waste Mgmt., supra, 138 N.J. at 119. The "minimum contacts inquiry must focus on 'the relationship among the 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)). "The 'minimum contacts' requirement is satisfied so long as the contacts resulted from the defendant's purposeful conduct and not the unilateral activities of the plaintiff." Ibid.

A nonresident's direct contacts with the forum may vest the court with specific jurisdiction. Fairfax Fin. Holdings Ltd. v. S.A.C. Capital Mgmt., L.L.C., 450 N.J. Super. 1, 74 (App. Div. 2017). "In assessing the sufficiency of the relationship between the forum and the nonresident, the initial step examines two factors: whether minimum contacts exist at all and whether those contacts provide adequate grounds for asserting jurisdiction." Ibid.

If a plaintiff demonstrates the existence of minimum contacts, the inquiry shifts to verifying that "the maintenance of the suit [would] not offend traditional notions of fair play and substantial justice." Int'l Shoe, supra, 326 U.S. at 316, 66 S. Ct. at 158, 90 L. Ed. at 102 (internal quotation omitted). Relevant factors in the "fair play" evaluation include "the burden on [the] defendant, the interests of the forum state, the plaintiff's interest in obtaining relief, the interstate judicial system's interest in efficient resolution of disputes,

and the shared interest of the states in furthering fundamental substantive social policies." Waste Mgmt., supra, 138 N.J. at 124-25.

To establish defendant's minimum contacts with New Jersey, plaintiffs rely not only on defendant's travel here and her communication with New Jersey residents, but point to the actions and contacts of other parties. Plaintiffs reference defendant's "frequent visits" to New Jersey to visit plaintiff Lyndsay Nelson-Nugent; defendant's travel to New Jersey to attend Theodore Nelson's funeral; Theodore Nelson's New Jersey residence; the sale of property located in New Jersey which accounted for a significant portion of the inherited estate; the administration of the estate by a New Jersey law firm; and the New Jersey residence of the executrix of the estate.

When examining minimum contacts, the focus must be on contacts defendant creates with the forum state, as "the State's adjudicative authority principally protect the liberty of the nonresident defendant – not the convenience of plaintiffs or third parties." Walden v. Fiore, ___ U.S. ___, ___, 134 S. Ct. 1115, 1122, 188 L. Ed. 2d 12, 20 (2014). Courts have consistently rejected attempts to satisfy the minimum contacts inquiry by demonstrating contacts between the plaintiff or third parties and the forum State. Ibid. (citing Helicopteros

Nacionales de Colombia, S. A. v. Hall, 466 U.S. 408, 417, 104 S. Ct. 1868, 80 L. Ed. 2d 404 (1984)) ("[The] unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction"). "[O]ur 'minimum contacts' analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there." Ibid.; Baanyan Software Services, Inc. v. Kuncha, 433 N.J. Super. 466, 477 (App. Div. 2013) ("[C]ommunications with individuals and entities located in New Jersey alone," constitute "insufficient minimum contacts to establish personal jurisdiction over a defendant.").

In summary, defendant's contacts with New Jersey were limited, sporadic, and insufficient to establish general jurisdiction. There is no evidence that she sought to avail herself of the benefits and privileges of New Jersey law and thus do not establish specific jurisdiction. We are therefore satisfied that the facts support Judge Depuis' finding that plaintiffs failed to establish that defendant has sufficient minimum contacts with the State of New Jersey for jurisdiction to exist.

As New Jersey lacked jurisdiction over defendant, we need not address plaintiffs' arguments regarding the sufficiency of their complaint.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION