

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

[Filed: August 31, 2018]

AUDREY EDWARDS as Beneficiary of :
the Estate of LEON LEROY :
EDWARDS, :
Plaintiff :

v. :

C.A. No. PC-2010-7100

3M COMPANY, ET AL., :
Defendants. :

DECISION

GIBNEY, P.J. Defendant Raytheon Company (Raytheon) moves this Court to dismiss Plaintiff's Second Amended Complaint for lack of personal jurisdiction and for failure to state a claim upon which relief can be granted pursuant to Super. R. Civ. P. 12(b)(2) and 12(b)(6). In the alternative, Raytheon moves this Court for summary judgment pursuant to Super. R. Civ. P. 56. For the reasons stated herein, this Court grants the motion to dismiss for lack of personal jurisdiction. This Court, therefore, declines to address the motion to dismiss for failure to state a claim upon which relief may be granted and the alternative motion for summary judgment. Jurisdiction is pursuant to G.L. 1956 § 8-2-14.

I

Facts and Travel

The Plaintiff first filed this asbestos action in 2010 and alleged that her husband, Leon Leroy Edwards (the Decedent), died of asbestosis as a result of asbestos exposure that was

attributable to various Defendants, including Raytheon.¹ Raytheon filed an Answer in April 2011. The Plaintiff later amended the Complaint and filed her Second Amended Complaint on April 4, 2012, which Raytheon answered. Raytheon filed the present motion to dismiss for lack of personal jurisdiction, for failure to state a claim upon which relief may be granted, or in the alternative, for summary judgment, on August 4, 2017.

II

Parties' Arguments

In relevant part, Raytheon argues that this Court lacks personal jurisdiction because the Plaintiff failed to show that Raytheon has the necessary minimum contacts with Rhode Island to satisfy the long-arm statute. Raytheon contends that the Court cannot exercise general jurisdiction because Raytheon's contacts are not continuous and systematic as to make it essentially at home in Rhode Island. Raytheon also states that the Plaintiff has not pleaded or produced any evidence to show that the instant lawsuit arises out of or relates to Raytheon's contacts with Rhode Island, and therefore, this Court lacks specific jurisdiction over Raytheon. Accordingly, Raytheon argues, the exercise of personal jurisdiction over it would violate substantive due process.

The Plaintiff objects and asserts that it has provided sufficient evidence of minimum contacts to justify this Court's exercise of specific jurisdiction over Raytheon. Raytheon, the Plaintiff argues, purposefully availed itself of the benefits and privileges of Rhode Island such that it is foreseeable that Raytheon would be haled into Court in this state. The Plaintiff further contends that Raytheon failed to adequately answer discovery requests in order to determine whether the claim arose out of or relates to Raytheon's contacts with Rhode Island. In response

¹ The Decedent passed away in December 2007.

to Raytheon's motion pursuant to Rule 12(b)(6), the Plaintiff states that its Complaint meets Rhode Island's notice pleading standard.

III

Standard of Review

“Jurisdiction in this forum over a nonresident defendant requires both that the complainant allege facts sufficient to satisfy the requirements of Rhode Island’s ‘long-arm’ statute, and that the court’s exercise of personal jurisdiction comports with the requirements of constitutional due process.” *Rose v. Firststar Bank*, 819 A.2d 1247, 1250 (R.I. 2003) (citing *McKenney v. Kenyon Piece Dye Works, Inc.*, 582 A.2d 107, 108 (R.I. 1990)). “[A] plaintiff must allege sufficient facts to make out a *prima facie* case of jurisdiction” to survive a Rule 12(b)(2) motion to dismiss for lack of personal jurisdiction. *Cerberus Partners, L.P. v. Gadsby & Hannah, LLP*, 836 A.2d 1113, 1118 (R.I. 2003) (citing *Ben’s Marine Sales v. Sleek Craft Boats*, 502 A.2d 808, 809 (R.I. 1985)).

To establish a *prima facie* case of jurisdiction, the plaintiff must satisfy the requirements of Rhode Island’s long-arm statute. *Id.* at 1118 (citing *Ben’s Marine Sales*, 502 A.2d at 809). In relevant part, the Rhode Island long-arm statute provides that the nonresident party must have “the necessary minimum contacts with the state of Rhode Island” to be subjected to personal jurisdiction in this state. G.L. 1956 § 9-5-33(a). The Rhode Island Supreme Court has interpreted this statute as permitting “the exercise of jurisdiction over nonresident defendants to the fullest extent allowed by the United States Constitution.” *Rose*, 819 A.2d at 1250 (citing *McKenney*, 582 A.2d at 108).

Constitutional due process requires minimum contacts “such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Cerberus*, 836 A.2d

at 1118 (quoting *Kalooski v. Albert–Frankenthal AG*, 770 A.2d 831, 832-33 (R.I. 2001) (*per curiam*)); *Int’l Shoe Co. v. State of Washington, Office of Unemployment Comp. and Placement*, 326 U.S. 310, 316 (1945). The nonresident party “purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws” in order to establish such contacts. *Bendick v. Picillo*, 525 A.2d 1310, 1312 (R.I. 1987) (quoting *Hanson v. Denckla*, 357 U.S. 235 (1958)); *Asahi Metal Industry Co., Ltd. v. Superior Court of California, Solano Cty.*, 480 U.S. 102, 110 (1987). The minimum contacts requirement “protect[s] a defendant from the burden of litigating in an inconvenient forum.” *Cassidy v. Lonquist Mgmt. Co., LLC*, 920 A.2d 228, 233 (R.I. 2007) (citing *Cerberus*, 836 A.2d at 118). The Court will review the facts of each particular case to determine whether the minimum contacts satisfy due process requirements. *Ben’s Marine Sales*, 502 A.2d at 810. In this analysis, the Court is mindful that the critical inquiry is “whether ‘the defendant’s conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.’” *Cerberus*, 836 A.2d at 1118 (quoting *Bendick*, 525 A.2d at 1312).

IV

Analysis

A

Motion to Dismiss Pursuant to Rule 12(b)(2)

The Plaintiff must prove that the Court has either general or specific personal jurisdiction over a nonresident defendant. *Cerberus*, 836 A.2d at 1118. A nonresident defendant is subject to the general personal jurisdiction of this Court “[w]hen its contacts with a state are continuous, purposeful, and systematic . . . regardless of whether they relate to or arise out of the nonresident’s contacts with the forum.” *Rose*, 819 A.2d at 1250 (citing *Int’l Shoe Co.*, 326 U.S.

at 318). The defendant then may be sued in the forum state, regardless of whether its contacts in the forum state gave rise to the action. *Id.* at 1251 (citing *Int'l Shoe Co.*, 326 U.S. at 318).

“Proffering proof sufficient to predicate a finding of specific jurisdiction is a far less onerous burden for the plaintiff to carry than that of general jurisdiction.” *Cerberus*, 836 A.2d at 119 (citing *Ben's Marine Sales*, 502 A.2d at 812). “[E]ven when a defendant’s contacts with the forum are insufficient to support general jurisdiction, a court may exercise specific personal jurisdiction over the nonresident defendant if the claim sufficiently relates to or arises from any of a defendant’s purposeful contacts with the forum.” *Rose*, 819 A.2d at 1251. In order for the Court to exercise specific jurisdiction, “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.’” *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County*, 582 U.S. ____, 137 S. Ct. 1773, 1780 (2017) (alteration in original) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)). Accordingly, “specific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.” *Id.* at 1780 (quoting *Goodyear*, 564 U.S. at 919).

To determine whether the exercise of personal jurisdiction is reasonable, the Court may look at “the burden on the defendant, the forum state’s interest in adjudicating the dispute, the plaintiff’s interest in obtaining the most effective resolution of the controversy, and the shared interest of the several states in furthering fundamental substantive social policies.” *Cerberus*, 836 A.2d at 1121 (citing *World-Wide Volkswagen v. Woodson*, 444 U.S. 286, 292 (1980) and *State of Md. Cent. Collection Unit v. Bd. of Regents for Educ. of Univ. of R.I.*, 529 A.2d 144, 151 (R.I. 1987)). These “gestalt factors” “sometimes serve to establish the reasonableness of jurisdiction

upon a lesser showing of minimum contacts than would otherwise be required.” *Id.* at 1122 (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 477 (1985)). This Court emphasizes that “a failure to demonstrate the necessary minimum contacts eliminates the need even to reach the issue of reasonableness: [t]he [g]estalt factors come into play only if the first two segments of the test for specific jurisdiction have been fulfilled.” *Id.* at 1122 (alterations in original) (quoting *Sawtelle v. Farrell*, 70 F.3d 1381, 1394 (1st Cir. 1995)).

Here, the Plaintiff argues solely in support of specific jurisdiction. This Court, therefore, will not address the applicability of general jurisdiction. This Court turns to the issues of whether the Plaintiff has met her burden of showing that Raytheon has sufficient minimum contacts in Rhode Island and that the instant claim relates to or arises from these purposeful contacts. *See Cerberus*, 836 A.2d at 1118.

Raytheon is a Delaware corporation and its principal place of business is in Waltham, Massachusetts. The record shows that Raytheon is registered to do business in Rhode Island and has one facility in Portsmouth, Rhode Island. The Rhode Island facility is dedicated to sonar and radar projects. The Plaintiff argues that Raytheon purposefully availed itself of the benefits and privileges of Rhode Island by maintaining this Rhode Island facility, hiring Rhode Island employees, and paying Rhode Island taxes. The Plaintiff advances that it is fair, reasonable, and foreseeable that Raytheon would be haled into court in this forum because of this purposeful availment, and therefore she has met her *prima facie* burden of showing personal jurisdiction is proper.

This Court agrees with the Plaintiff that Raytheon has purposeful contacts with Rhode Island such that Raytheon reasonably could foresee the possibility of being haled into a Rhode Island court. However, the Plaintiff merely relies on the existence of such purposeful contacts to

carry her arguments without regard for the other aspect of the specific jurisdiction requirement: that the claim “relates to or arises from any of a defendant’s purposeful contacts with the forum.” *See Rose*, 819 A.2d at 1251; *Bristol-Myers Squibb*, 137 S. Ct. at 1780. The record in this case is devoid of any allegation that the instant claim arises from or relates to these contacts with Rhode Island. The Plaintiff does not allege that there is a connection between the Decedent’s exposure to asbestos and Raytheon’s contacts in Rhode Island. Additionally, the Plaintiff has not provided any discovery to that effect. Rather, the Plaintiff’s memorandum merely states that she has established that Raytheon has a Rhode Island facility, which is “sufficient to establish the matter *may* relate [to] Defendant’s contacts with the forum,” and contends that Raytheon failed to adequately respond to jurisdictional discovery. (emphasis added).

This Court finds these arguments unpersuasive. The fact that Raytheon has a facility in Rhode Island does not establish specific jurisdiction because the Plaintiff has not made any showing that it is connected to the instant claim. *See, e.g., Bristol-Myers Squibb*, 137 S. Ct. at 1781 (explaining that a defendant’s “general connections with the forum are not enough” to establish specific jurisdiction and holding that “[w]hat is needed—and what is missing here—is a connection between the forum and the specific claims at issue”); *Ben’s Marine Sales*, 502 A.2d at 816 (finding specific jurisdiction in a breach-of-contract case because the contract required performance and payment in Rhode Island). Further, while the Responses are not particularly detailed and contain extensive objections, Raytheon provided sufficient information about the aforementioned Rhode Island facility including its location and the projects it handles. This Court notes that throughout the Responses and the memoranda for the instant motion, Raytheon asserts that the sonar and radar projects in the facility “do not appear to be implicated in this lawsuit.” However, the Plaintiff does not contest this assertion. The information provided by

Raytheon is sufficient for the Plaintiff to allege a connection between Raytheon's contacts in Rhode Island and the instant claim, if one exists. To allow additional jurisdictional fact discovery at this stage would amount to a "fishing expedition." *See Coia v. Stephano*, 511 A.2d 980, 984 (R.I. 1986).

In sum, Plaintiff has not proffered proof to show that the instant claim arises from or relates to Raytheon's contacts with Rhode Island. Therefore, this Court does not reach the analysis of the gestalt factors and finds that it lacks personal jurisdiction over Raytheon. *See Cerberus*, 836 A.2d at 1122 (noting that the Court may only consider the gestalt factors "if the first two segments of the test for specific jurisdiction have been fulfilled.") (quoting *Sawtelle*, 70 F.3d at 1394).

V

Conclusion

The instant motion to dismiss for lack of personal jurisdiction is granted. Counsel shall present the appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: Audrey Edwards as Beneficiary of the Estate of Leon Leroy Edwards v. 3M Company, et al.

CASE NO: PC-2010-7100

COURT: Providence County Superior Court

DATE DECISION FILED: August 31, 2018

JUSTICE/MAGISTRATE: Gibney, P.J.

ATTORNEYS:

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For Defendant: Adam A. Larson, Esq.; Anthony J. Sbarra, Esq. (**Raytheon**)