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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." 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-0468-22**

MELVIN D. BROWN, JR.,

Plaintiff-Appellant,

v.

PLUSFOUR, INC.,

Defendant-Respondent.

Submitted October 11, 2023 – Decided October 25, 2023

Before Judges Rose and Smith.

On appeal from the Superior Court of New Jersey, Law
Division, Camden County, Docket No. SC-000700-22.

Melvin D. Brown, appellant pro se.

Respondent has not filed a brief.

PER CURIAM

Plaintiff Melvin D. Brown, Jr., appeals from the September 23, 2022
dismissal of his Special Civil Part, Small Claims complaint against defendant

Plusfour, Inc., a debt-collection agency. Because we agree the court lacked in personam jurisdiction over the out-of-state defendant, we affirm.

We summarize the facts from the limited record before the small claims court, recognizing that at all stages of litigation, plaintiff has been self-represented. In his handwritten complaint, plaintiff alleged: "Plusfour did not validate [the] debt, but continue[d] to report to the credit bureaus, violating the Fair Debt Collection Practices Act (FDCPA) . . . Section 809(b)." According to the complaint, plaintiff resided in Sicklerville and Plusfour was located in Henderson, Nevada. Plaintiff sought \$2,000 in damages, plus costs.

On September 21, 2022, proceedings were conducted via Zoom, during which Plusfour was represented by Mitchell Guthrie.¹ Following futile settlement negotiations, Plusfour moved to dismiss the complaint, contending the court lacked jurisdiction for two reasons: (1) plaintiff's FDCPA claims fall within the exclusive jurisdiction of federal courts; and (2) the federal court in Nevada was the proper venue.

¹ Although the cover page of the trial transcript identifies Guthrie as "Attorney for the Defendant," during the hearing Guthrie acknowledged he was a "representative from Plusfour." See R. 6:11 (providing corporate parties may appear in small claims court through an agent).

Guthrie argued plaintiff resided in Nevada when he incurred the debt, and Plusfour was located in Nevada. Guthrie explained, "Plusfour is a third-party debt collection agency," and plaintiff's "account was assigned to [the company] by a client who performed medical services for [plaintiff] . . . in Nevada." Plusfour sought to collect the debt. Thereafter, plaintiff filed the present complaint, asserting Plusfour "failed to validate the debt" as required "under FDCPA law." Plaintiff's \$2,000 demand "impl[ied] that there's [sic] two violations of [the] FDCPA" because "each violation has a \$1,000 penalty."

Plaintiff did not dispute Guthrie's assertions. During colloquy, it became apparent that Plusfour sent the validation notice to plaintiff at an incorrect address. Accordingly, Guthrie agreed to send all documentation to plaintiff's correct address.

At the conclusion of argument, the court dismissed the complaint for lack of venue. See R. 6:1-1(a) ("The jurisdictional requirements of R[ule] 6:2-3 shall be deemed to be venue requirements and all other references in [the Rules pertaining to the Special Civil Part] to jurisdiction shall be deemed to refer, as appropriate, to venue or cognizability."). Addressing plaintiff, the court explained that it did not necessarily agree with Plusfour's argument that federal courts had exclusive jurisdiction over FDCPA claims. Plaintiff responded:

"Normally, it's a [sic] small claims, but I'll definitely just file it in Nevada. That's not a problem." This appeal followed.

In his self-represented merits brief, plaintiff raises the following points for our consideration²:

POINT I

THE COURT HAD PROPER JURISDICTION OVER THIS CASE, AS THE FDCPA ALLOWS FOR ACTIONS TO BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION. . . . DEFENDANT'S ARGUMENT THAT THE CASE WAS IN THE WRONG VENUE IS THEREFORE WITHOUT MERIT.

POINT II

[] DEFENDANT VIOLATED THE FDCPA BY FAILING TO RESPOND TO . . . PLAINTIFF'S WRITTEN REQUESTS FOR DEBT VALIDATION, AND CONTINUING TO REPORT THE DEBT TO CREDIT BUREAUS. . . . PLAINTIFF PROVIDED EVIDENCE OF THE VALIDATION REQUESTS, CERTIFIED MAIL RECEIPTS, AND . . . DEFENDANT'S FAILURE TO RESPOND, WHICH DEMONSTRATES A CLEAR VIOLATION OF THE FDCPA.

² In his merits brief, plaintiff did not include an explanation under point headings VI and VII. As such, we have set forth the first sentence of his argument for those points.

POINT III

THE COURT ERRED IN DENYING . . . PLAINTIFF'S REQUEST TO REVIEW. . . DEFENDANT'S EVIDENCE DURING THE TRIAL. . . PLAINTIFF HAD A RIGHT TO REVIEW AND REBUT THE EVIDENCE PRESENTED AGAINST HIM, AND THE COURT'S REFUSAL TO ALLOW THIS DEPRIVED . . . PLAINTIFF OF HIS RIGHT TO A FAIR TRIAL.

POINT IV

[] DEFENDANT'S FAILURE TO RESPOND TO . . . PLAINTIFF'S DEBT VALIDATION REQUESTS AND CONTINUED REPORTING OF THE DEBT TO CREDIT BUREAUS CAUSED FINANCIAL HARM TO . . . PLAINTIFF. . . PLAINTIFF HAS SUFFERED ACTUAL DAMAGES AS A RESULT OF . . . DEFENDANT'S VIOLATION OF THE FDCPA AND IS ENTITLED TO STATUTORY DAMAGES, ACTUAL DAMAGES, COSTS, AND ATTORNEY'S FEES.

POINT V

POINT [V] RELATES TO THE JURISDICTIONAL ISSUE RAISED BY THE JUDGE DURING THE TRIAL. WHILE THE JUDGE FOUND THAT THE CASE WAS IN THE WRONG VENUE, THIS IS NOT A SUFFICIENT REASON TO DISMISS THE CASE, AS THE FDCPA ALLOWS FOR AN ACTION TO BE BROUGHT IN ANY APPROPRIATE UNITED STATES DISTRICT COURT OR ANY OTHER COURT OF COMPETENT JURISDICTION.

POINT VI

THE COURT ERRED IN DENYING . . . PLAINTIFF'S
REQUEST TO REVIEW . . . DEFENDANT'S
EVIDENCE DURING THE TRIAL.

POINT VII

DEFENDANT ENGAGED IN FRAUDULENT AND
DECEPTIVE CONDUCT BY SUBMITTING FALSE
EVIDENCE TO THE COURT.

"A New Jersey court may exercise in personam jurisdiction over a non-resident defendant 'consistent with due process of law.'" Bayway Refin. Co. v. State Utils., Inc., 333 N.J. Super. 420, 428 (App. Div. 2000) (quoting R. 4:4-4(b)(1)). "New Jersey's long-arm jurisdiction extends to the 'outermost limits permitted by the United States Constitution.'" Ibid. (quoting Avdel Corp. v. Mecure, 58 N.J. 264, 268 (1971)).

A defendant can be subject either to specific or general jurisdiction. A defendant is subject to general jurisdiction on any matter, irrespective of its relation to the State, when the defendant has maintained continuous and systematic activities in the forum state. Ibid. A defendant is subject to specific jurisdiction when the "cause of action arises directly out of a defendant's contacts with the forum state." Waste Mgmt., Inc. v. Admiral Ins., 138 N.J. 106, 119 (1994).

"[W]hen the defendant is not present in the forum state, 'it is essential that there be some act by which the defendant purposefully avails [itself] of the privilege of conducting activities within the forum state, thus invoking the benefit and protection of its laws,'" Baanyan Software Servs., Inc. v. Kuncha, 433 N.J. Super. 466, 475 (App. Div. 2013) (quoting Waste Mgmt. Inc., 138 N.J. at 120), such that the defendant can reasonably anticipate being sued in this State. Dutch Run-Mays Draft, LLC v. Wolf Block, LLP, 450 N.J. Super. 590, 599 (App. Div. 2017). The "'purposeful availment' requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of random, fortuitous, or attenuated contacts." McKesson Corp. v. Hackensack Med. Imaging, 197 N.J. 262, 277 (2009) (quoting Lebel v. Everglades Marina, 115 N.J. 317, 323-24 (1989)).

Applying these principles, we conclude, as did the court, that New Jersey courts lack personal jurisdiction over Plusfour. The record establishes Plusfour was located in Nevada, and the cause of action in this matter arose out of conduct that occurred in Nevada. The record is devoid of any evidence that Plusfour purposely availed itself "of the privilege of conducting activities" in New Jersey. Baanyan Software Servs., Inc., 433 N.J. Super. at 475. We therefore conclude

there were insufficient minimum contacts to establish personal jurisdiction over Plusfour.

To the extent we have not addressed a particular argument, it is because either our disposition makes it unnecessary, or the argument was without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION