

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT, IN AND
FOR PALM BEACH COUNTY, FL

GABE HOFFMAN,

CASE NO.: 50-2019-CA-013860

Plaintiff,

v.

THOMAS SCHOENBERGER,

Defendant.

DEFENDANT THOMAS SCHOENBERGER'S LIMITED AND
SPECIAL APPEARANCE FOR THE FOLLOWING PURPOSES:
(1) MOTION TO QUASH SERVICE OF PROCESS and (2) MOTION TO
DISMISS FOR LACK OF PERSONAL JURISDICTION

The Defendant, THOMAS SCHOENBERGER, Pro Se, enters this limited and special appearance in this matter for the sole and limited purposes of moving to quash the service of process and dismiss for lack of personal jurisdiction.

Defendant Schoenberger does not seek or assert any affirmative relief at this time that could operate to waive his objection to personal jurisdiction. Further, Defendant Schoenberger does not, with this pleading, waive affirmative defenses available to him in initial responsive pleadings, such as dismissal for failure to state a claim.

Applicable Law

1. Florida's long-arm statute, Fla. Stat. 48.193, sets forth the acts subjecting a person to the jurisdiction of the state.

2. Florida's long-arm statute is to be strictly construed by trial courts when hearing a motion to dismiss for lack of personal jurisdiction. Crowe v. Paragon Relocation Resources, Inc., 506 F. Supp 2d 1113, 1119 (N.D. Fla. 2007).

3. If a plaintiff fails to allege any basis for long-arm jurisdiction, then a defendant's motion to dismiss should be granted without a hearing. Fishman v. Fishman, 657 So. 2d 44, 45 (Fla. 4th DCA 1995) (where petitioning litigant has not first pled legally sufficient basis for long-arm jurisdiction, responding litigant need not come forward with affidavits to prove that there is no jurisdictions).

4. A plaintiff who wishes to properly perfect personal jurisdiction in Florida over a nonresident must properly plead the specific acts or conduct that form the basis for subjecting the nonresident defendant to Florida's jurisdiction in the original complaint. Venetian Salami Co. v. Parthenais, 554 So. 2d 499, 502 (Fla. 1989) (emphasis added).

Law Applied to Plaintiffs Complaint

5. In the present action, the Plaintiff's complaint fails to allege any basis for long-arm jurisdiction. Thus, it is due to be dismissed without a hearing. Fishman, 657 So. 2d at 45.

6. Specifically, the Plaintiff's complaint is void of any reference to Florida's long-arm statute and fails to identify a specific provision of the statute sufficient to provide a statutory basis for long-arm jurisdiction.

7. The Defendant, Schoenberger, is a resident of Utah. The complaint states that Schoenberger's whereabouts are California, but Plaintiff miraculously served Schoenberger with the complaint at his home and

residence in Utah, as witnessed by a recording of the process server that Plaintiff published on the internet the same day. The complaint does not even bother to nakedly assert that all conditions precedent have been met and venue is appropriate. Further, the complaint fails to establish any basis whatsoever for this Court to strictly construe Florida's long-arm statute. As such, the complaint is due to be dismissed.

8. The Plaintiff's complaint is fatally void of the specific acts or conduct that form the basis for subjecting the nonresident defendant to Florida's jurisdiction in the original complaint. Venetian Salami Co. v. Parthenais, 554 So. 2d at 502 (emphasis added). Thus, not even an amended complaint can revive any deficiencies, and the Plaintiffs complaint must be dismissed.

Conclusion

The Plaintiffs complaint fails to allege any basis for long-arm jurisdiction. Thus, service is due to be quashed, and the complaint is due to be dismissed without a hearing.

Respectfully submitted on this the 12TH day of June, 2020.

/s/ Thomas Schoenberger

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