

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Christopher A. Roller,

Case No. 06-4702 JRT/FLN

Plaintiff,

vs.

The James Randi Educational Foundation,
Inc. (JREF),

Defendant.

Christopher Roller,

Case No. 07-1296 JFT/FLN

Plaintiff,

vs.



The James Randi Educational
Foundation, Inc. (JREF) c/o Magician
James Randi,

Defendant.

**DEFENDANT’S MEMORANDUM IN SUPPORT
OF MOTION TO CONSOLIDATE, TO DISMISS FOR
LACK OF PERSONAL JURISDICTION, AND FOR SANCTIONS**

MEMORANDUM OF POINTS AND AUTHORITIES

Defendant James Randi Educational Foundation, Inc. (“JREF”) respectfully submits this memorandum of points and authorities in support of its motion to:

(1) consolidate the above cases; (2) dismiss all plaintiff’s claims on the ground that JREF lacks the requisite minimum contacts with Minnesota for this Court to assert personal

jurisdiction; and (3) to sanction and enjoin plaintiff from bringing litigation against defendant and its representatives in this district.

I. FACTS

A. Complaint in No. 06-4702 JRT/FLN.

Plaintiff Roller is a resident of Minnesota. (Complaint.) Defendant JREF is, and at all relevant times, has been a resident of Florida. (Randi Decl.) JREF was served with a copy of both Complaints herein at its offices in Fort Lauderdale, Florida. (Randi Decl.) JREF owns no real or personal property in Minnesota and maintain no bank accounts here. (Randi Decl.) Likewise, JREF does not advertise or maintain an office in Minnesota, nor is it licensed to do business in Minnesota.

JREF has had no contacts with plaintiff, Roller, in the State of Minnesota.

Roller claims that he has evidence that magician, David Copperfield, has “godly powers.” (Complaint.) Roller in 2005 sued Copperfield for “using my [Roller’s] godly powers to perform his magic. (Exh. A to Randi Affidavit.) Roller claimed this was a labor dispute under Minnesota Statute § 179.06. (Id.) That case, of course, was dismissed by the Court. (Id.) Roller’ website also asserts he is running for President of the United States in 2008 with Bill Gates, claims Roller is Jesus Christ, claims Roller is God and that Roller has killed all of his enemies. (Exh. B to Randi Affidavit).

Roller also admits that he has had no contacts with JREF and that he has declined to even participate in the process by which he asserts a right of recovery from JREF. (Complaint.)

B. Complaint in No. 07-1296 JRT/FLN.

On February 23, 2007 plaintiff filed yet another suit in this district against defendant. Like the original suit, it is devoid of substantive merit and, dispositively, there is likewise no jurisdiction in this district over defendant for the second case. (Randi Decl.)

By e-mail dated March 19, 2007, plaintiff threatened yet an additional litigation against Magistrate Judge Noel and defense counsel. (Declaration of Richard Ostlund.)

Clearly, plaintiff's actions have now revealed themselves as a consistent abuse of process justifying monetary sanctions and injunctive relief. Specifically, it is requested that plaintiff's lawsuits be dismissed under Rule 12 and that a sanction award of \$25,000 be issued under Rule 11 against plaintiff, with imposition of the sanction suspended provided plaintiff honor an order of this Court to discontinue all litigation, threats, and contacts with defendant and defense counsel.

II. ARGUMENT

As the plaintiff in these actions, Mr. Roller bears the burden of establishing that this Court has personal jurisdiction over a nonresident defendant such as JREF.

Dismissal is appropriate if the plaintiff fails to make a prima facie showing of personal jurisdiction over the defendant. Plaintiff has not made such requisite allegations and his Complaints should be dismissed.

A. CONSOLIDATION SHOULD BE GRANTED.

Defendant requests that both above-captioned cases be consolidated for hearing on the defense motion to dismiss. An Order of Reference was made on March 8, 2007 to

Magistrate Judge Noel on the preexisting motion to dismiss (No. 06-4702). We ask that the reference be extended to include the motion to dismiss No. 07-1296. The interests of judicial economy support this action.

B. THE COURT LACKS PERSONAL JURISDICTION OVER THESE DEFENDANTS.

A court sitting in Minnesota may exercise jurisdiction over a non-resident defendant only if (1) the requirements of Minnesota's long-arm statute are met and (2) the exercise of personal jurisdiction does not offend constitutional due process. Burlington Industries, Inc. v. Maples Industries, Inc., 97 F.3d 1100 (8th Cir. 1996); Digital Tel Holdings, Inc. v. Proteq Telecommunications, Ltd., 89 F.3d 519, 522 (1996). Minnesota's long-arm statute, Minn. Stat. §543.19, "permits courts to assert jurisdiction over defendants to the extent that federal constitutional requirements of due process will allow." Domtar, Inc. v. Niagara Fire Ins. Co., 533 N.W.2d 25, 29 (Minn. 1994); see also Minnesota Mining & Mfg. v. Nippon Carbide Inds. Co., 63 F.3d 694, 697 (8th Cir. 1995). Thus, the only question a court in this state need answer is whether the assertion of jurisdiction over defendants satisfies the Due Process Clause. Northwest Airlines, Inc. v. Astraea Aviation Services, Inc., 111 F.3d 1386, 1390 (8th Cir. 1997); Guinness Import Co. v. Mark VII Distributors, Inc., 971 F.Supp. 401 (D. Minn. 1997), aff'd, 163 F.3d 607 (8th Cir. 1998).

The burden of establishing a prima facie case of jurisdiction rests on the party seeking to invoke it. Burlington, 97 F.3d at 1102; Guinness, 971 F.Supp. at 406. Plaintiffs must state sufficient facts in their Complaint to support a reasonable interference that

defendants are subject to personal jurisdiction within Minnesota. Institutional Food Mrktg. Assoc., Ltd. v. Golden State Strawberries, Inc., 747 F.2d 448, 453 (8th Cir. 1984). When personal jurisdiction is asserted with respect to an out-of-state defendant, due process under the Fourteenth Amendment requires a showing that the defendant has “sufficient minimum contacts with the forum so that traditional notions of fair play and substantial justice are not offended.” Northwest Airlines, 111 F.3d at 1390 (citing International Shoe Co. v. State of Washington, 326 U.S. 310, 316 (1945)). “The defendant’s conduct and connection with the forum state must be such that the defendant should ‘reasonably anticipate being haled into court there.’” Burlington, 97 F.3d at 1102 (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980)). To satisfy this standard, “there must be some act by which the defendant purposely avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.” Burger King Corp. v. Rudzewicz, 471 U.S. 462, 275 (1985) (internal quotation omitted).

A court may exercise either general jurisdiction, when the defendant’s contacts with the forum are systematic and continuous, of specific jurisdiction, when the defendant’s in-state contacts are related to the particular cause(s) of action. Neither basis for jurisdiction exists in these cases.

1. JREF Has No Sufficient Contacts With Minnesota To Confer General Jurisdiction.

General jurisdiction refers to the power of a state to adjudicate any cause of action; it exists only if the nonresident defendant’s contacts with the forum are “systematic and

continuous.” Burlington Ind., Inc. v. Maples, Ind., Inc., 97 F.3d 1103 (8th Cir. 1996); see also Zumbro, Inc. v. California Natural Products, 861 F.Supp. 773, 788 (D. Minn. 1994).

As discussed above, JREF has no contacts of any kind with Minnesota. Therefore, it is not subject to the general jurisdiction of the courts of this state.

2. JREF Does Not Have “Continuous and Systematic” Or “Substantial” Contacts With Minnesota.

A court may constitutionally exercise general jurisdiction over a nonresident party as a nonresident defendant on a cause of action unrelated to the defendant’s contacts with the forum only if the nonresident’s contacts are “substantial” or “continuous and systematic.” JREF has no such contacts with Minnesota. (Randi Decl.) Its contacts are neither “substantial” nor “continuous and systematic” such that it would be reasonable to require JREF to defend a lawsuit in Minnesota based upon conduct unrelated to its contacts here.

3. JREF Does Not Have Minimum Contacts With Minnesota By Which It Has Purposefully Availed Itself Of Forum Privileges And Which Give Rise To Or Relate To The Subject Matter Of The Litigation.

Where a nonresident defendant’s contacts with the forum are not so pervasive as to subject it to general jurisdiction, personal jurisdiction must turn on the nature and quality of the contacts with the forum in relation to the cause of action and issues in this case. The Eight Circuit has developed a three-pronged test for evaluating whether the exercise of specific personal jurisdiction is appropriate:

- (i) The nonresident defendant must do some act or consummate some transaction within the forum or perform some act by which he

purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protection of its laws;

- (ii) The claim must be one that arises out of or results from the defendant's forum-related activity; and
- (iii) The exercise of jurisdiction must be reasonable.

None of these conditions are met here.

CONCLUSION

There is simply no connection between plaintiff's claims and a Minnesota forum that could justify the exercise of personal jurisdiction over JREF. Plaintiff has now demonstrated pattern of misusing the federal court docket to pursue a personal agenda (Randi Decl., Exhs. A and B; Ostlund Declaration) that, while apparently impossible to prevent today in cyberspace, has no place in this courtroom. The additional meritless lawsuit, and threats against both defense counsel and the court, strongly support the issuance of a suspended sanction and use of the injunctive powers of this Court to cause this harassing misuse of the judicial process to cease. Defendant respectfully requests the immediate dismissal of both cases and the imposition of sanctions and injunctive relief as requested in the enclosed Order.

DATE: March 20, 2007

ANTHONY OSTLUND & BAER, P.A.

By: *s/Richard T. Ostlund*

Richard T. Ostlund (#144277)

3600 Wells Fargo Center

90 South 7th Street

Minneapolis, MN 55402

Telephone: 612-349-6969

Fax: 612-349-6996

**ATTORNEYS FOR DEFENDANT
THE JAMES RANDI EDUCATIONAL
FOUNDATION, INC.**