

IN THE
SUPREME COURT OF THE UNITED STATES OF AMERICA

KAREN C. HAN,
Petitioner,
v.

YANGRAI CHO
Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

RESPONSE TO PETITION FOR WRIT OF CERTIORARI

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INTRODUCTION

This case is a related case to Case No. 20-170, *Karen Chongag Han v. Hankook Tire Co., LTD*, for which this Court denied Certiorari on October 19, 2020. This case is the last case in a series of cases spanning nearly twenty years related to claims for certain financial services provided in Malaysia in 1998 between foreign corporations. Petitioner now seeks to hold Respondent individually liable where all her claims against the corporation have failed. Petitioner's request should be denied.

OBJECTIONS TO FACTUAL STATEMENTS

Respondent objects to Petitioner's statement that "[c]urrently, South Korea's governmental agency (equivalent to United States' SEC) and the Prosecutors' Office of South Korea, are probing into said unlawful activities of Cho and Hankook Tire" as there is no evidence in the record to support such allegations. Pet. for Cert. 12.

ARGUMENT

A. No Compelling Reason for Writ to be Granted

Rule 10 of this Court provides the considerations governing review of certiorari and provides it is not a matter of right, but of judicial discretion. Compelling reasons must be advanced for a petition for writ of certiorari to be granted. Petitioner fails to advance any compelling reason. Petitioner disagrees with the finding of a lack of general personal jurisdiction over Respondent and asserts that the opinion was written in an insincere manner which could undermine the credibility of the judicial

system of the United States, nevertheless, Petitioner's personal dissatisfaction with the result and the way the opinion was written is not sufficient grounds for certiorari to be granted.

B. The Court Properly Found No General Jurisdiction over Respondent

Petitioner's complaint is that the 9th Circuit Court of Appeals affirmed the District Court's finding that there was no general personal jurisdiction over Respondent, when Petitioner admits he is an individual who resides in the Republic of Korea (South Korea). Pet. for Cert. at 9-10. Petitioner asserts that her jurisdictional allegations must be taken as true. Pet. for Cert at 10. To establish general jurisdiction over an out-of-state defendant, a plaintiff must show that the defendant's "contacts with the forum are 'continuous and systematic,' ... such that due process is not offended by allowing a United States court to hale the defendant into the forum 'over any matter involving the defendant.' " *Allen v. Russian Fed'n*, 522 F.Supp.2d 167, 192–93 (D.D.C.2007) (quoting *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 415–16, 104 S.Ct. 1868, 80 L.Ed.2d 404 (1984); *Doe I v. State of Israel*, 400 F.Supp.2d 86, 108 (D.D.C.2005)); see *S.K. Innovation, Inc. v. Finpol*, 854 F.Supp.2d 99, 118 (D.D.C.2012). Petitioner asserts that jurisdiction was established on the basis of the following allegations:

This Court has personal jurisdiction over Defendant because Defendant has engaged in continuous and systematic general business or other contacts that approximate physical presence in Hawaii. On information and belief, having decided to live a retired life in Hawaii, Defendant purchased in his own name as well as names of his family members and has continuously maintained his residence in various places in Hawaii since 1990—including but not limited to a house

located at 5611 Kalanianaole Highway, Honolulu, a condominium located at 64 Ironwood Lane, Lahaina, and a condominium located at 1108 Auahi Street 3 7-A, Honolulu—which, on information and belief is valued in total at over \$15 million. Thus, Defendant made himself at home in this forum; and Defendant's physical presence in this forum has been substantial enough for an assertion by this Court of general jurisdiction over Defendant.

App.027a.

“[A] court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). The factual allegations based on “information and belief” made without further facts, do not survive a motion to dismiss. *See, e.g., Vivendi SA v. T-Mobile USA Inc.*, 586 F.3d 689, 694 (9th Cir. 2009). An allegation made on information and belief is one that is “based on secondhand information that the declarant believes to be true.” Black's Law Dictionary 783 (7th ed.1999). Within the context of a complaint, this means that factual allegations that are not based on the plaintiffs' personal knowledge are allegations that are made on information and belief. Thus, for example, if the plaintiffs' sole basis for an allegation is a statement from a non-plaintiff witness, that allegation is made on information and belief, and the plaintiffs must plead all facts on which they base that belief.

In this case, the statements that “Defendant has engaged in continuous and systematic general business or other contacts that approximate physical presence in Hawaii and Defendant has made himself at home in this forum; and Defendant's physical presence in this forum has been substantial enough for an assertion by this

Court of general jurisdiction over Defendant" are conclusory and not entitled to assumption of the truth. Petitioner attempts to support those conclusory statements with the factual allegations that Respondent owns various properties in Hawaii; however, ownership of property is not sufficient to establish jurisdiction over a person for an unrelated cause of action. *See Rush v. Savchuk*, 444 U.S. 320, 328 (1980). Hawaii's long arm statute provides that any person, whether or not a citizen or resident of the state, submits to the jurisdiction of Hawaii if the cause of action arises from the transaction of any business in the state, commission of a tortious act within the state, ownership, use, or possession of real estate, or contract to insure a person, property, or risk located in the state at the time of contracting. HRS ¶634-35(a). HRS s 634-35(c) requires that the cause of action relate to the defendant's contacts in Hawaii. *Commercial Insurance Company of Newark, New Jersey v. Pacific-Peru Construction Corporation*, 558 F.2d 948, 955 (9th Cir. 1977); *Hawaii Credit Card Corp. v. Continental Credit Card Corp.*, 290 F.Supp. 848, 851 (D.Hawaii 1968). Petitioner does not allege any specific contacts with Hawaii outside of Respondent's property ownership. Petitioner makes no factual allegations that her causes of action arise from the transaction of business in Hawaii or relate to the ownership of real estate in Hawaii. Petitioner admits that Respondent is a citizen of South Korea. App.025a at ¶7. Moreover, Petitioner did not attempt to serve Respondent in Hawaii where Petitioner alleges Respondent resides, but rather in the Republic of Korea. App.016a. Despite Petitioner's claim

that the decision is so far departed from the accepted and usual course of judicial proceedings that this Court’s supervisory power is required, a review of the filings and case law show that the Court properly analyzed the Petition and found Petitioner did not provide evidence to support its claims that were based upon information and belief. The District Court and the Ninth Circuit Court of Appeals properly found there was no general personal jurisdiction over Respondent and the Petition should be denied.

C. An Opinion’s Form is not Ground for Certiorari

Petitioner’s second ground for her Petition for Certiorari is that the opinion “was written in the most insincere manner could undermine the credibility of the world-renowned, efficient and sophisticated judicial system of the United States.” Pet for Cert. 12-13. There is no case law to support Petitioner’s claim that Certiorari should be granted due to the way the opinion was written. The Ninth’s Circuit’s Opinion provided the basis for why it affirmed the District Court and provided citations to the applicable case law. It should not be surprising that a Minute Order was entered on the Motion to Reconsider in the District Court as it was (1) untimely (2) contained no new evidence, and (3) contained unfounded allegations of ex parte communications simply because one of the attorneys for Respondent worked at the firm where the Magistrate Judge previously worked. The District Court of Hawaii is not the first Court to find Han’s filings to be frivolous. The Northern District of Ohio has previously found Han to be playing fast and loose with the Court. *Han v.*

Hankook Tire Co., Ltd., 5:17-CV-2046, 2018 WL 4104198, at *3 (N.D. Ohio Aug. 28, 2018), aff'd, 799 Fed. Appx. 347 (6th Cir. 2020). The Court should deny Certiorari on this ground as well.

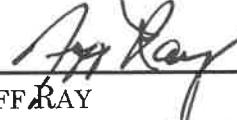
CONCLUSION

For all of the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully Submitted,

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