APPENDIX:

1 Oral Argument and Oral Decision (January 21, 2022)
Richard Roche v. LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Superior Court of New Jersey, Law Division: Morris County, Docket No.: MRS-L-2020-21
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2 Order Dismissing Defendants Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N (January 21, 2022)
Richard Roche v. LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Superior Court of New Jersey, Law Division: Morris County
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3 Order Dismissing Defendants Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians Primary Care), Jeanne A. Abdou, APRN (January 21, 2022)

Richard Roche v. LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Superior Court of New Jersey, Law Division: Morris County
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6 Order Dismissing Defendant Roger O'Halloran (February 18, 2022)
LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Superior Court of New Jersey, Law Division: Morris County Docket No.: MRS-L-2020-21 .....App. 108

7 Order Denying Richard A. Roche's Motion To Amend The Complaint (February 18, 2022)
LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded

Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Superior Court of New Jersey, Law Division: Morris County Docket No.: MRS-L-2020-21 .....App. 113

8 Opinion
(November 14, 2023)
LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly

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8 Order Denying Richard Roche Leave To File A Supplemental Brief
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LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Supreme Court of New Jersey M-309 September Term 2023
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9 Order Denying Richard Roche' Petition for Certification
(November 14, 2023)
LARC, INC. (a/k/a Lee Association of Remarkable Citizens, Inc. and a/k/a Lee Association of Retarded Citizens, Inc.), Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care of Southwest Florida, P.L. (d/b/a Physicians' Primary Care), Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, R.N. Supreme Court of New Jersey C-768 September Term 2023
.....App. 159

10 Sophie Nieto-Munoz, "N.J.Senate Confirms 11 New Superior Court Judges, Chipping Away At Vacancies," NEW JERSEY MONITOR, December 11, 2023, 5:02 pm, tps://newjerseymonitor.com/briefs/n-j-senate-confirms-11-new-superior-court-judges-chipping-away-at-vacancies/
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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1941-21
RICHARD ROCHE,
Plaintiff-Appellant,
v.

LARC, INC., a/k/a LEE ASSOCIATION OF REMARKABLE CITIZENS, INC., and a/k/a LEE ASSOCIATIONS OF RETARDED CITIZENS, INC., KEVIN LEWIS, VICKIE CHAPMAN, JANE MARSHALL, DANIELLE JACOBS, PHYSICIANS' PRIMARY CARE OF SOUTHWEST FLORIDA, P.L., d/b/a PHYSICIANS' PRIMARY CARE, JEANNE A. ABDOU, APRN,

ROGER O'HALLORAN, ESQ.,

GULF COAST MEDICAL CENTER,

LEE MEMORIAL HEALTH

SYSTEM, and CARLY HALLER, R.N.,

Defendants-Respondents.

Submitted November 16, 2022 - Decided March 31, 2023 Before Judges Accurso and Vernoia.

On appeal from the Superior Court of New Jersey, Law Division, Morris County, Docket No. L-2020-21.

Richard Roche, appellant pro se.

Becker & Poliakoff, LLP, attorneys for respondent

Roger O'Halloran, Esq. (Vincenzo M. Mogavero, of

counsel and on the brief; Sarah Klein, on the brief).

Connell Foley, LLP, attorneys for respondents Gulf Coast Medical Center, Lee Memorial Health System, and Carly Haller, RN (Thomas D. Forrester, Jr., of counsel and on the brief).

Rosenberg Jacobs Heller & Fleming, PC, attorneys for

respondents Physicians' Primary Care of Southwest

Florida, LLC, and Jeanne A. Abdou, APRN (Scott T.

Heller, of counsel; Douglas F. Ciolek, on the brief).

Vigorito, Barker, Patterson, Nichols & Porter, LLP,

attorneys for respondents Larc, Inc., Kevin Lewis,

Danielle Jacobs, Jane Marshall, and Vickie Chapman

(Nicole Salerno, Angela Bonica, and Gary Patterson, on

the brief).

PER CURIAM

Plaintiff Richard Roche, a resident of New Jersey, appeals from orders

dismissing his complaint against the various defendants, all of whom are either

located or reside exclusively in the State of Florida, for lack of personal

jurisdiction. Plaintiff also appeals from orders denying his motions to compel

the production of documents, for substituted service, and for leave to amend his

complaint to add aiding and abetting and conspiracy claims. The judge denied

each motion for substantially the same reason: New Jersey lacks personal jurisdiction over defendants.

For the reasons we explain, we affirm the judge's dismissal of plaintiff's

complaint for lack of personal jurisdiction. Because plaintiff demonstrated no

basis for the assertion of personal jurisdiction over defendants in New Jersey,

we also affirm the court's denial of plaintiff's motions to compel the production

of documents, for substituted service, and for leave to amend the complaint.

I.

Plaintiff is "an attorney on retired status" and is a resident of the "Township of Chatham, County of Morris, State of New Jersey[.]" In the 143-

paragraph complaint, plaintiff asserts putative claims of fraud, tortious interference, undue influence and

alienation of affection, breach of contract, intentional infliction of emotional harm, invasion of privacy, and stalking. Although the claims primarily arise out of defendants' involvement in the care of plaintiff's developmentally disabled sister, who resided exclusively in Florida commencing in 1981 through her death on October 17, 2019, plaintiff asserts only claims on his own behalf.

Defendant LARC is a not-for-profit corporation organized in Florida and

located in Fort Myers, Florida. LARC operates group homes for its

developmentally disabled adult clients, including in "Cape Coral, Florida[.]"

Plaintiff's sister resided for many years in LARC's group home in Cape Coral,

Florida.

in "Cape Coral, Florida" from defendant Physicians' Primary Care (PPC).

Defendant Nurse Jeanne Abdou is a resident of Fort Myers, Florida, is affiliated with PPC, and, according to the complaint, provided various medical services to plaintiff's sister at various times in Florida.

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Plaintiff's sister additionally received medical care from, and at, defendant

Gulf Coast Medical Center (GCMC) toward the end of her life. Plaintiff alleges

GCMC is in "Fort Myers, Florida" and is affiliated with defendant Lee Memorial

Health System (LMHS), which plaintiff's complaint asserts is in "Fort Myers,

Florida[.]" LMHS employs defendant Nurse Carly Haller at GCMC's Fort

Myers facility. Plaintiff alleges Haller cared for his sister at GCMC on

September 30, 2012, October 1, 2019, October 2, 2019, and October 3, 2019.

According to the complaint, defendant Roger O'Halloran is a member of the Florida Bar. Plaintiff does not allege O'Halloran provided medical care to his sister. Instead, the complaint alleges plaintiff's sister met with O'Halloran at his law office in Fort Myers, Florida in November 2009 to prepare her last will and testament. Plaintiff alleges defendant Marshall and other LARC staff transported his sister to O'Halloran's Fort Myers office to execute her will. The will names defendant Marshall as executrix. In addition, the complaint alleges the will remained in Florida in the custody of

defendants Marshall and/or LARC after plaintiff's sister executed the document.

Following the filing of the complaint, defendants LMHS, GCMC, and

Haller moved to dismiss plaintiff's complaint, in part for lack of personal

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jurisdiction.1 Defendants LARC, Lewis, Jacobs, Marshall, and Chapman

separately moved to dismiss plaintiff's complaint for lack of personal

jurisdiction. Defendants PPC and Abdou also moved to dismiss plaintiff's

complaint with prejudice for lack of personal jurisdiction. Defendant

O'Halloran later moved to dismiss plaintiff's complaint with prejudice for lack

of personal jurisdiction, or, in the alternative, forum non conveniens.

In opposition to defendants' various motions to dismiss the complaint,

plaintiff filed a certification and cross-motions for the production of documents,

substituted service on Lewis, and leave to amend the complaint. In his

certification, plaintiff identified alleged contacts with defendants he claimed

supported a finding of personal jurisdiction over them in New Jersey. The

alleged contacts identified by plaintiff are limited and can be briefly summarized

as follows.

Plaintiff vaguely asserted that in 2015, Marshall informed him a medical

procedure planned for his sister had to be delayed three days because his sister

was taking Coumadin, a blood thinner, and the delay was required to ensure the

1 Defendants LMHS, GCMC, and Haller also sought dismissal of the complaint

based on insufficiency of process, R. 4:6-2(c), and insufficiency of service of

process, R. 4:6-2(d). The motion court did not address those claims because it

otherwise dismissed the complaint due to lack of personal jurisdiction under

Rule 4:6-2(b).

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drug cleared from her system before the procedure was performed. Plaintiff's certification states the information was conveyed to him during a telephone call with Marshall while he was in New Jersey, but plaintiff does not indicate whether Marshall called him or whether, if she did

call him, she was aware he was in New Jersey.

Plaintiff's certification next details what he describes as "several" telephone calls with Marshall during the period between September 18, 2019, and September 30, 2019. Plaintiff asserts the calls took place while he was in New Jersey and Marshall was in Florida, but he does not state that Marshall either called him or called him knowing he was in New Jersey. Moreover, plaintiff explains the telephone calls related to a medical procedure, a transesophageal echocardiogram (TEE), which he claims Marshall endeavored to have performed on his sister. Other evidence in the motion record shows, however, the TEE procedure never took place.

The next purported contacts with New Jersey upon which plaintiff sought

to support to his claim New Jersey had personal jurisdiction over defendants

were with Chapman. According to plaintiff's certification, on October 1, 2019,

and October 2, 2019, he spoke with Chapman "by telephone in Florida." The certification does not indicate where defendant was located when the calls

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occurred, whether he telephoned Chapman in Florida, or whether she telephoned him in New Jersey. Additionally, plaintiff does not describe the purpose of the calls or what was discussed. Instead, he avers only that during the calls Chapman did not mention the efforts to arrange the TEE

procedure which, as noted, was never performed on plaintiff's sister.

Plaintiff further sought to support his claim of personal jurisdiction over

defendants by citing an October 2, 2019 text message he received from

Chapman. Plaintiff does not assert the text was sent by Chapman to him in New Jersey or offer any other facts supporting a finding the text message created some contact in New Jersey. Further, the text message constitutes little more than a request that plaintiff identify individuals for whom he denied permission to visit his sister.

Plaintiff also generally described "several" telephone communications he

had with GCMC, including one telephone call with Haller, between September

30, 2019, and October 4, 2019. According to plaintiff, he initiated the calls from

Georgia, New York, or New Jersey to GCMC, and Haller, in Florida. Again,

plaintiff does not describe any of his communications during the calls and instead generally alleges that, during the calls, he was not provided any

information concerning the proposed TEE procedure for his sister that was never performed.

The final contact detailed in plaintiff's certification is an October 3, 2019 text message he received from Jacobs. Plaintiff asserts the text message was sent to him in New Jersey. In the text, Jacobs requests that plaintiff grant her

permission to visit plaintiff's sister "to . . . see her one last time" and "hold her hand and say goodbye if need be." Plaintiff's sister passed away two weeks later.

The court heard argument on defendants' motions to dismiss and plaintiff's cross-motions. In an opinion from the bench, the court determined plaintiff failed to present sufficient evidence establishing any defendant had sufficient contacts with New Jersey to support plaintiff's claim the court had specific personal jurisdiction over them. For that reason, the court granted defendants' respective motions to dismiss.

The court further denied plaintiff's cross-motions to compel the production of documents, for substituted service on Lewis, and to amend the complaint. The court reasoned the motions were moot because plaintiff failed to present any evidence supporting a finding of specific personal jurisdiction over any defendant.

The court entered memorializing orders. This appeal followed.

II.

The issue of personal jurisdiction "is a question of law[,]" Rippon v. Smigel, 449 N.J. Super. 344, 358 (App. Div. 2017), that we review de novo, YA Glob. Invs., LP v. Cliff, 419 N.J. Super. 1, 8 (App. Div. 2011). Appellate review of "any factual determinations [the] trial court may have made in connection with the question of jurisdiction focuses on whether those factual determinations are supported by

substantial, credible evidence in the record." Id.

"[T]hose who live or operate primarily outside a State have a due process

right not to be subjected to judgment in its courts . . . ." Patel v. Karnavati Am.,

LLC, 437 N.J. Super. 415, 423 (App. Div. 2014) (quoting J. McIntyre

Machinery, Ltd. v. Nicastro, 564 U.S. 873, 881 (2011)). The Fourteenth

Amendment's Due Process Clause requires state courts to obtain personal

jurisdiction over defendants before subjecting them to suit. Int'l Shoe Co. v.

State of Wash., Off. of Unemployment Comp. & Placement, 326 U.S. 310, 315-

16 (1945). Our court rules accordingly require "jurisdiction over the person"

before proceeding in an action against a defendant. R. 4:6-2(b). Thus, "a

nonresident defendant must have certain minimum contacts with the forum state,

such that the maintenance of the suit does not offend traditional notions of fair

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play and substantial justice." Jardim v. Overley, 461 N.J. Super. 367, 375 (App. Div. 2019) (internal quotations omitted) (quoting Int'l Shoe Co., 326 U.S. at 316-17).

The United States Supreme Court has recognized "'general' (sometimes called 'all-purpose') jurisdiction and 'specific' (sometimes called 'case-linked') jurisdiction." Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 582 U.S. 255, 262 (2017) (quoting Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915,

918 (2011)). Here, plaintiff argued before the motion court, and argues again on appeal, that New Jersey's courts have specific jurisdiction over defendants in this case. We therefore focus on the principles applicable to specific jurisdiction to assess plaintiff's arguments on appeal.

"If a cause of action arises directly out of a defendant's contacts with the

forum state, the court's jurisdiction is 'specific.'" Waste Mgmt. v. Admiral Ins.

Co., 138 N.J. 106, 119 (1994) (quoting Lebel v. Everglades Marina Inc., 115

N.J. 317, 322 (1989)). "The test for specific jurisdiction examines the nature of

a defendant's contacts with the forum." Dutch Run-Mays Draft, LLC v. Wolf

Block, LLP, Super. 450 N.J. 590, 599 (App. Div. 2017). For specific

jurisdiction, the minimum contacts requirement is satisfied "so long as the

contacts expressly resulted from the defendant's purposeful conduct and not the

unilateral activities of the plaintiff." Lebel, 115 N.J. at 323 (quoting World-

Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297-98 (1980)).

"[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 [themself] of the

privilege of conducting activities within [New Jersey], 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., 138 N.J. at 120). "In

determining whether the defendant's contacts are purposeful, a court must

examine the defendant's 'conduct and connection' with the forum state and

determine whether the defendant should 'reasonably anticipate being haled into

court [in the forum state].'" Bayway Ref. Co. v. State Utils., Inc., 333 N.J.

Super. 420, 429 (App. Div. 2000) (quoting World-Wide Volkswagen, 444 U.S. at 297).

Our courts may obtain specific jurisdiction over a defendant based on a

theory of alleged intentional conduct committed in a foreign state only if the

alleged conduct is "expressly aimed at" the litigant in New Jersey. Lebel, 115

N.J. at 323 (quoting Calder v. Jones, 465 U.S. 783, 789 (1984)). For example,

the Court has observed an out-of-state defendant purposely creates contacts

expressly aimed at New Jersey where the defendant "knowingly sends into [the]

[S]tate a false statement, intending that it should then be relied upon to the injury

of a resident of th[e] [S]tate . . . ." Id. at 326 (quoting Vishay Intertechnology,

Inc. v. Delta Int'l Corp., 696 F.2d 1062, 1066 (4th Cir. 1982)). Additionally, when "a non-resident defendant purposely directs its activities to the forum, and the litigation results from alleged injuries that arise out of or relate to those activities, the forum may assert personal jurisdiction over the defendant." Id. (quoting Hughes v. Balemaster, Inc., 652 F. Supp. 1350, 1351-52 (E.D.Mo. 1987)). Thus, to establish specific jurisdiction under an intentional conduct theory of minimum contacts, the court "must determine whether defendant purposely created contacts with New Jersey." Id. at 324.

Even where a court determines there are sufficient contacts with the forum state supporting specific jurisdiction, it must also determine "whether it would offend traditional notions of fair play and substantial justice to entertain the suit." Id. at 327. That determination requires the court to consider factors such as "the burden on the defendant, the interests of the forum State, . . . the plaintiff's interest in obtaining relief[,] . . . the interstate judicial system's interest in obtaining the most efficient resolution of controversies[,] and the shared interest of the several States in furthering fundamental substantive social policies." Id. at 328 (internal quotations and citations omitted).

The plaintiff bears the initial burden "of pleading sufficient facts to

establish jurisdiction." Dutch Run-May Draft, 450 N.J. Super. at 598. Where,

as here, a defendant challenges a complaint for lack of personal jurisdiction and

in doing so demonstrates they have had no territorial presence in the forum state,

the burden of proving sufficient minimum contacts to establish personal

jurisdiction "shifts" back to the plaintiff. Blakey v. Cont'l Airlines Inc., 164 N.J.

38, 71 (2000). The plaintiff must then establish a defendant's contacts with the

forum state through either "sworn affidavits, certification, or testimony." Jacobs

v. Walt Disney World, Co., 309 N.J. Super. 443, 454 (App. Div. 1998) (citation omitted). We apply these standards here.

Plaintiff does not dispute the corporate defendants are organized under the laws of the State of Florida, are located in Florida, and have no physical presence in New Jersey. Similarly, plaintiff concedes each of the individual defendants has at all pertinent times resided and worked exclusively in Florida and has had no physical presence in New Jersey. Plaintiff's claim our courts have personal jurisdiction over defendants is founded on the contention defendants engaged in intentionally tortious acts directed against him in New Jersey. See Lebel, 115 N.J. at 325-26. Plaintiff's argument is unsupported by the evidence.

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Plaintiff's certification in opposition to defendants' motions to suppress is the only competent evidence presented in accordance with Rule 1:6-6 supporting the claim the court could properly exercise specific jurisdiction over defendants.2 Plaintiff's certification, however, says little. For example, the certification does not state O'Halloran directed any intentionally tortious conduct at defendant in New Jersey. O'Halloran is not mentioned in the certification. Similarly, the certification does not mention Lewis or assert Lewis has ever had any contacts with New Jersey, never mind contacts that constitute totortious conduct directed at plaintiff in New Jersey.

Plaintiff's certification describes only two isolated phone calls with

Marshall: one in 2015, and one in 2019. As described in plaintiff's certification,

neither phone call included any tortious conduct directed at plaintiff in New

Jersey. Plaintiff's description of the 2015 phone call does not reflect who made

the call or plaintiff's location when the call occurred, and the description of the

call does not include any allegation of tortious conduct. Plaintiff described the

call simply as one during which he "questioned" Marshall as to why his sister

2 We observe plaintiff's complaint may not be properly considered as evidence

supporting plaintiff's claim the court had personal jurisdiction over defendants.

The complaint, which is not verified, is untethered to an affidavit supporting the facts asserted and, for that reason, could not be considered by the motion court in its determination of the jurisdictional issue presented. R. 1:6-6.

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was "still on Coumadin" to which Marshall responded that the drug was given because plaintiff's sister "was at risk for stroke."

As we have noted, the certification also states plaintiff spoke with

Marshall "several" times in 2019, but the certification does not describe what

was said by either party during the calls. The certification also does not assert

Marshall engaged in any conduct during the calls "expressly aimed at" plaintiff

in New Jersey, Lebel, 115 N.J. at 323, or that Marshall knowingly made any

false statements intending they be relied on by plaintiff to his detriment, id. at

326. To the contrary, without describing in any manner what was actually said

during the calls, plaintiff asserts only that Marshall failed to inform him there

had been an endeavor to have plaintiff's sister undergo the TEE procedure.

Again, the record otherwise shows the procedure was never performed.

Plaintiff's certification makes an almost identical allegation of contact

with Chapman, asserting he spoke to her twice in October 2019, while he was

in New Jersey and she was in Florida. Plaintiff did not identify who initiated

the calls, did not describe what was said during the calls, and did not identify

any tortious conduct directed toward him. He avers only that, during the calls,

Chapman did not advise plaintiff there was an attempt to schedule a TEE

procedure for his sister. But, again, the TEE procedure was never performed.

The only remaining contacts set forth in plaintiff's certification consisted of text messages. One is from Chapman asking plaintiff to identify individuals he wanted barred from visiting his sister. The other is from Jacobs, asking for plaintiff's permission to visit his sister and "hold her hand" before she passed away. There is no evidence those contacts were directed at plaintiff in New Jersey, the contacts included any false information upon which plaintiff relied to his injury, or the contacts otherwise constituted tortious conduct directed by either Chapman or Jacobs at plaintiff in New Jersey.

Absent from plaintiff's sparse allegations concerning his contacts with

those defendants is any evidence the individuals purposely conducted activities

within New Jersey, "thus invoking the benefit and protection of its laws,"

Baanyan Software Servs., 433 N.J. Super. at 475, engaged in conduct connected

to New Jersey such that they should have "reasonably anticipate[d] being haled

into court" here, Bayway Ref. Co., 333 N.J. Super. at 429 (quoting World-Wide

Volkswagen, 444 U.S. at 297), or "expressly aimed" intentional tortious conduct

at plaintiff in New Jersey, Lebel, 115 N.J. at 323. The purported contacts with

New Jersey upon which plaintiff relies constitute nothing more than the type of

"telephonic and electronic communications with" an individual located in New

Jersey that we have previously deemed "are insufficient minimum contacts to

establish personal jurisdiction over a defendant." Baanyan Software Servs., 433

N.J. Super. at 477.

Thus, plaintiff failed to present competent evidence demonstrating the

minimum contacts necessary to establish our courts have specific jurisdiction

over any defendants. Blakey, 164 N.J. at 71. To establish specific jurisdiction

over a defendant based on phone contact, plaintiff was required to establish

defendants "expressly aimed" intentional conduct at the forum state. Lebel, 115

N.J. at 323. Plaintiff failed to present competent evidence in accordance with Rule 1:6-6 establishing that was the case. Lebel, 115 N.J. at 324. We therefore affirm the court's orders dismissing the complaint based on a lack of personal jurisdiction over defendants.3

We also reject plaintiff's arguments defendants owed him a fiduciary duty,

and therefore protection under the Americans With Disabilities Act (ADA), 42

U.S.C. §§ 12101 to 12213, and the New Jersey Law Against Discrimination

(NJLAD), N.J.S.A. 10:5-1 to -50, because they were responsible for the care of

his sister, and the alleged violation of his rights under those statutes supports a

3 Based on our affirmance of the court's orders dismissing the complaint based

on a lack of specific jurisdiction due to defendants' lack of sufficient minimum

contacts with New Jersey, it is unnecessary to determine whether the court

should have also decided an exercise of jurisdiction "would offend traditional

notions of fair play and substantial justice . . ." Lebel, 115 N.J. at 327.

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finding of special jurisdiction over defendants. We reject the arguments because neither his original nor amended complaint includes putative causes of action under the ADA or NJLAD, and plaintiff failed to present any evidence or

argument establishing that recasting his allegations against defendants under either the ADA or NJLAD would alter the court's otherwise correct determination it lacked personal jurisdiction over defendants.

We also affirm the court's orders denying plaintiff's motions to amend the

complaint to add claims for "[a]iding [a]nd [a]betting [a] [f]raud" and "[c]ivil

[c]onspiracy." The court correctly determined the proposed amended complaint

simply constituted an effort to add causes of action against defendants over

whom the court lacked personal jurisdiction. The court therefore did not abuse

its discretion, see Kernan v. One Washington Park Urban Renewal Assocs., 154

N.J. 437, 456-57 (1998) (stating "the granting of a motion to file an amended complaint always rests in the court's sound

discretion"), by failing to grant plaintiff leave to amend the complaint to add claims that were clearly futile, Notte v. Merchants Mut. Ins. Co., 185 N.J. 490, 495 (2006).

The court also did not abuse its discretion by denying plaintiff's motion to

compel the production of documents. See Brugaletta v. Garcia, 234 N.J. 225,

240 (2018) (reviewing a trial court's disposition of a discovery dispute for "an

abuse of discretion"); Carbis Sales, Inc. v. Eisenberg, 397 N.J. Super. 64, 81 (App. Div. 2007) (reviewing denial of motion to compel discovery for an "abuse of the trial judge's broad discretion"). Before the motion court, plaintiff represented in his supporting certification he was entitled to

the documents — records from LARC and GCMC concerning their care of plaintiff's deceased sister — by virtue of his status as the representative of his deceased sister's estate. The court correctly denied the motion, finding the request for documents was moot because the complaint against all defendants had been dismissed due to lack of personal jurisdiction.

For the first time on appeal, plaintiff argues the requested documents constituted necessary "jurisdictional discovery" to which he was entitled prior to dismissal of the complaint based on a lack of personal jurisdiction. We reject the argument for two reasons. First, it was not raised before the motion court. See Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973). Second, and more importantly, plaintiff made and makes no showing the documents sought — records solely pertaining to the care of his sister at LARC and GCMC — might lead to the discovery of information relevant to whether any defendant purposely directed tortious conduct at him such that New Jersey has

personal jurisdiction over his plaintiff's claims against defendants.

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To the extent we have not expressly addressed any of plaintiff's arguments, they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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

/s/Joseph Orlando
CLERK OF THE APPELLATE DIVISION

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SUPREME COURT OF NEW JERSEY
M-309 September Term 2023
088169

Richard Roche,
Plaintiff-Movant,

v.

LARC, INC., a/k/a Lee Association Of Remarkable Citizens, Inc., and a/k/a Lee Associations Of Retarded Citizens, Inc., Kevin Lewis, Vickie Chapman, Jane Marshall, Danielle Jacobs, Physicians' Primary Care Of Southwest Florida, P.L., D/B/A Physicians' Primary Care, Jeanne A. Abdou, APRN, Roger O'Halloran, Esq., Gulf Coast Medical Center, Lee Memorial Health System, And Carly Haller, R.N.,
Defendants-Respondents.

ORDER

It is ORDERED that the motion for leave to file a supplemental brief in support of the petition for certification is denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 14th day of November, 2023.

/s/Heather J. Baker
CLERK OF THE SUPREME COURT

SUPREME COURT OF NEW JERSEY
C-768 September Term 2023
088169

Richard Roche,
Plaintiff-Movant,

v.

LARC, INC., a/k/a Lee Association Of Remarkable

Citizens, Inc., and a/k/a Lee
Associations Of Retarded
Citizens, Inc., Kevin Lewis,
Vickie Chapman, Jane
Marshall, Danielle Jacobs,
Physicians' Primary Care
Of Southwest Florida, P.L.,
D/B/A Physicians' Primary
Care, Jeanne A. Abdou, APRN,
Roger O'Halloran, Esq.,
Gulf Coast Medical Center,
Lee Memorial Health
System, And Carly Haller, R.N.,
Defendants-Respondents.

ORDER

A petition for certification of the judgement in A-001941-21 having been

submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied, with costs.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 14th day of November, 2023.

/s/Heather J. Baker
CLERK OF THE SUPREME COURT

Additional material from this filing is available in the Clerk's Office.