
1
2 THE COURT: Doscher versus Holding. Good morning.

3 MR. DOSCHER: Good morning, Your Honor.

4 MR. [REDACTED] Good morning.

5 THE COURT: Give me just a minute to move what I
6 have. All right. Good morning.

7 MR. [REDACTED] Good morning, Your Honor.

8 MR. DOSCHER: Good morning.

9 THE COURT: This is set on today cross-motions for
10 summary judgment, and my preference is to address the
11 defense motion first because it's dispositive potentially,
12 and then we'll take it from there.

13 Okay. So Mr. [REDACTED], go ahead, please.

14 MR. [REDACTED] Thank you, Your Honor. For the record,
15 [REDACTED] on behalf of the defendant James Patrick
16 Holding who has brought a motion asking this court to
17 dismiss this action for lack of personal jurisdiction.
18 There can be no argument that there is general jurisdiction
19 based upon my client's residency or extensive contacts with
20 the state. If jurisdiction is appropriate, it's based upon
21 the contact -- the analysis under the doctrine of specific
22 personal jurisdiction.

23 THE COURT: Can I just interrupt you because I think
24 I heard you say the opposite of what you meant to say.

25 MR. [REDACTED] Yes.

[REDACTED]

1 THE COURT: You're arguing that there is or is not
2 general jurisdiction?

3 MR. [REDACTED] There is not.

4 THE COURT: I don't think that's what you said.

5 MR. [REDACTED] That the -- in that -- in essence
6 there's no question concerning that element of
7 jurisdiction. If jurisdiction is appropriately held, it's
8 because my client has committed some act or directed some
9 personal contact toward this state where he could
10 reasonably have foreseen that he could be haled into court
11 in this state.

12 I know this court has read thoroughly the material and
13 the briefs submitted by both parties, and I will attempt to
14 very briefly summarize our arguments. I know that likely
15 there's nothing I can say today that would change the
16 court's impressions based upon the thorough review that I
17 know the court has already conducted.

18 THE COURT: You've got your argument time, and I
19 like to think I keep an open mind. So go ahead.

20 MR. [REDACTED] Your Honor, this action is for
21 defamation based upon communications published on two
22 different websites, one a religious forum in which various
23 people come and make comments and have what might be called
24 string conversations concerning various topics, and two, my
25 client's own religious website which promotes his own

[REDACTED]

1 ministry. In the latter, my client posted a communication
 2 that was in essence passive. In the former, there was
 3 communication that was a string cite where many people
 4 commented, and in that latter comment the plaintiff's name
 5 and location were never mentioned.

6 As this court is interpreting rights conveyed under the
 7 Fourteenth Amendment to the US Constitution, the United
 8 States Supreme Court cases concerning the subject are
 9 binding and lower federal court cases should be afforded
 10 great weight. It is also useful, although certainly not
 11 binding, to view other state's interpretations of the same
 12 issue under the Fourteenth Amendment.

13 [REDACTED] long-arm statute is designed to be
 14 coextensive with the Fourteenth Amendment rights and
 15 requires three factors to exist for jurisdiction to apply,
 16 number one, some purposeful act or transaction in
 17 [REDACTED] by the defendant with the cause of action
 18 arising from that act, and three, under circumstances that
 19 do not offend fair play and substantial justice, that
 20 language being taken straight out of the *International Shoe*
 21 case. Physical contact is certainly not necessary, but it
 22 must be said that the defendant's alleged tortious acts are
 23 expressly aimed at [REDACTED].

24 In the non-defamation context, this concept has been
 25 applied to individuals who have purposefully conducted

1 business in a certain state. They may have just transacted
2 that business with e-mails or faxes, but the fact remains
3 that they have availed themselves of the privileges of
4 doing business in this state, whether they actually
5 physically set foot in the state or not. They've done some
6 act, and that act has created another act in [REDACTED]
7 which led them to reasonably believe that they could be
8 haled into court in this state.

9 In the defamation context, this same concept has been
10 applied, but in a slightly different manner. It's not
11 whether the defendant has specific e-mail contacts with
12 this state or whether has faxed the state; it's whether the
13 defendant has expressly aimed the communication or directed
14 the communication at a state-specific audience. Originally
15 defamation and personal jurisdiction was analyzed by the US
16 Supreme Court in *Calder*. This was a traditional print
17 case, but the lessons in that case are absolutely
18 applicable. In that case jurisdiction was appropriate
19 because the authors of that publication specifically
20 directed the public -- the communication towards California
21 audience. They had a large publication distribution in
22 California. The subject matter concerned
23 California-specific matters, and they were specifically
24 directing their communications toward a California
25 audience. That premise and that understanding of

[REDACTED]

1 defamation law applies as well to the concepts that have
2 evolved since.

3 In this particular case jurisdiction is not appropriate
4 for two reasons: One, the subject here is not
5 intrinsically tied to the state of [REDACTED] and two,
6 there was no effort to expressly aim or direct the
7 communications toward a [REDACTED]-specific audience.
8 There are essentially two arguments which the plaintiff
9 could make, and legitimately make, neither of which are
10 sufficient: One, that the communication does mention
11 [REDACTED] in the sense that the communication says that
12 the plaintiff is a serial filer of nuisance lawsuits in his
13 home state of [REDACTED]

14 But to hold personal jurisdiction based on this is to
15 misapply the concept of fair play and substantial justice
16 as evidenced by several cases, one, the Eighth Circuit case
17 of *Johnson v. Arden*. In that case the individual
18 specifically cites to negative acts occurring in Missouri,
19 specifically mentions Missouri, but the focus of the
20 article was the negative acts, not Missouri, and the author
21 did nothing to direct the communication toward a
22 Missouri-specific audience.

23 Likewise, in the Massachusetts case of *BroadVoice Inc.*,
24 an individual in Texas was criticizing vehemently the
25 actions of a Massachusetts company but was voicing those

[REDACTED]

1 communications to the world at large, not to a
2 Massachusetts-specific audience. That's the situation we
3 have here. If anything, defendant has cited to negative
4 acts committed by the plaintiff in [REDACTED] but has not
5 directed his communications toward a [REDACTED]-specific
6 audience intently.

7 Number two, the plaintiff could point out this was in
8 one essence not just a passive communication, but an
9 interaction between he and the defendant. This also fails
10 because it's not the nature of the relationship between the
11 defendant and plaintiff; it's the relationship between the
12 defendant and the contact and the forum that is to be
13 analyzed in deciding whether personal jurisdiction is
14 appropriate.

15 In this particular case both parties went onto a neutral
16 website, engaged in a back-and-forth interaction. The fact
17 that they did so in this neutral forum does not gain
18 jurisdiction just because defendant engaged plaintiff, a
19 [REDACTED] resident, in this neutral forum. The concepts
20 still very much apply. For those reasons, the fact that
21 there was no direct or express aiming of the communication
22 toward [REDACTED] and the fact that defendant has no
23 connections whatsoever other than very attenuated contacts
24 with [REDACTED] jurisdiction is not appropriate.

25 Plaintiff cites to several e-mails that were conducted

[REDACTED]

1 between he and defendant before the complaint was filed and
2 cites that these should make jurisdiction appropriate.
3 That's not appropriate for several reasons, one being that
4 in all cases the defendant was responding to e-mails from
5 the plaintiff.

6 I'd like to point out that in the exhibits provided by
defendant of those e-mail exchanges, the times on the
e-mails appear to be indicating that my client, the
defendant, issued the first communication. In actuality,
that's a trick of time zone because my client was three
hours ahead. In actuality, the e-mails presented by the
plaintiff demonstrate that in all cases the plaintiff
initiated the e-mail communication. It would certainly be
unfair for the defendant to e-mail directly defendant,
defendant respond, and then claim that you've now created
personal jurisdiction where there was no evidence to --
that those e-mails were forwarded to third parties, and
that is because the cause of action must arise from the
contacts with the forum state. There can be no cause of
action for defamation where communications are solely
between two parties and not published elsewhere.

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22 For all those reasons the defendant respectfully asks
23 this court to hold that this court cannot exercise personal
24 jurisdiction over the defendant and find dismissal
25 appropriate accordingly. Thank you.

I noted this issue of
the times to my
attorney a few days
before the hearing.

1 THE COURT: Thank you, Mr. [REDACTED]

2 Mr. Doscher, go ahead, please.

3 MR. DOSCHER: I'm not the most attentive person in
4 the world, but I didn't hear any citation by him to
5 [REDACTED] State case law which is my biggest beef with
6 him. He's trying to make this all about federal law when
7 [REDACTED] says plenty about website postings and how they
8 create personal jurisdiction. There's a reason why he
9 doesn't cite to [REDACTED] case law. If he had, he
10 probably wouldn't have had much to say.

11 I'd just like to ask the court real quick: I heard the
12 court say there are cross-motions for summary judgment.
13 Would I be safe to assume you agree the standard of review
14 here is summary judgment?

15 THE COURT: Thank you for clarifying that. There's
16 a motion by defense for dismissal, and there's a motion by
17 plaintiff for partial summary judgment.

18 MR. DOSCHER: Okay. So just from [REDACTED] case
19 law, 2015 case *State v. LG Electronics*, when the trial
20 court considers matters outside pleadings on a motion to
21 dismiss for lack of personal jurisdiction, we review the
22 trial court's ruling under the *de novo* standard of review
23 for summary judgment. And of course, I'm sure the court
24 knows when he filed his motion, which is for summary
25 judgment, his attached affidavit did exactly what this case

[REDACTED]

1 law says; it pleaded to numerous things that are never
2 mentioned in the pleadings such as he took a vacation to
3 Washington in the year 2000 and things like this so that
4 the summary judgment standard is appropriate.

5 So the defendant did not meet his initial burden. I'm
6 sure as everybody in the courtroom knows, you cannot move
7 for summary judgment and then get the ruling in your favor
8 by engaging in damage control. In my complaint at
9 paragraph 92 I quote in full one of the internet posts made
10 by defendant wherein he directly addresses me using my

screen name, using second person singulars "you" and "your"
seven times and threatens to call my local [REDACTED] Police if
I didn't cease committing the crime of identity theft which
he was falsely accusing me of in that post. And in my
opposition brief I show he actually did notify the [REDACTED]
Police and -- with an intent to have me arrested for this
falsely alleged crime. I can't think of express aiming --
if we're going to say his communication with me is not
enough to express himself toward the state, how about him
expressing himself toward my local police department?
Would that qualify?

22 Defendant's motion doesn't meet his summary judgment
23 standard because he never discusses that internet post
24 which could not have been more expressly aimed at me, as I
25 explained, and aimed at [REDACTED]. He ignored the

Doscher's burden was to show that the libel was expressly aimed at the forum state. As it is, out of the long roster of things he claimed were libellous, this was the ONLY thing from those documents he even argued were expressly aimed -- and he said it was aimed at HIM, which doesn't help in a libel suit, where the aim has to be at third parties.

1 strongest evidence in the complaint which was that internet
2 post that I quoted which is out of which my cause of action
3 arises. And I showed in my opposition brief that the
4 defendant lied to the court when he said he only had two
5 contacts with [REDACTED] state. That was a lie. He failed
6 to mention five of his pre-litigation contacts with this
7 state, and then he tried within his reply brief to seek
8 summary judgment on those other e-mail contacts, and I
9 preempted that in my opposition brief. I quote [REDACTED]
10 [REDACTED] [REDACTED], and I have the quotation here
11 that I'll put in the record. "It is incumbent upon the
12 moving party to" --

13 THE COURT: Mr. Doscher, I'm sorry to interrupt, but
14 I'm going to ask that you slow down a little bit so that
15 the court reporter and I can both keep up with you. Thank
16 you.

17 MR. DOSCHER: So in [REDACTED]
18 Center, any evidentiary material that the moving party
19 leaves out cannot be -- have summary judgment entered on
20 it. It's their burden, and it's fatal if they don't
21 mention it.

22 Now, we would turn that case into mincemeat if we said
23 well, wait a minute. He's allowed to contradict my
24 evidence in his reply brief so maybe he could sneak in
25 summary judgment on those five other contacts by just

[REDACTED]

1 saying he's -- he's refuting. Well, no, he's actually
2 asking for summary judgment, and his standard is to prove
3 as a matter of law there are no issues of material fact,
4 whereas I raise in these four other pre-litigation e-mails,
5 these contacts with [REDACTED] all sorts of contested
6 facts, and therefore he didn't properly meet his burden.
7 So there's -- the problem is not whether I can make a *prima*
8 *facie* case; the problem is what does it mean if he doesn't
9 meet his own burden? And I made clear in my opposition
10 brief he didn't meet his burden.

11 Going on to the US Supreme Court specifically asserted
12 in the *Walden* case, which is the SCOTUS's latest screed on
13 personal jurisdiction, that the matter of internet contacts
14 pose very different jurisdiction questions which they were
15 leaving for another day. That's footnote nine in *Walden*
16 *versus Fiore*. Therefore, this court should ignore that
17 ruling and concern itself with [REDACTED] case law, none of
18 which was cited by the defendant with good reason.

19 Even if the court believes defendant fulfilled his own
20 burden, [REDACTED] case law makes it clear that the
21 properly supported motion for summary judgment against
22 personal jurisdiction can still be defeated if the
23 non-moving party, that would be me, makes a *prima facie*
24 case. And I make that *prima facie* case very clear in my
25 opposition brief page five. [REDACTED] case law says in

[REDACTED]

1 the [REDACTED] i case from 2015, which is published, an
2 out-of-state party's intentional actions were expressly
3 aimed at the forum state and caused harm in the forum
4 state. The first criteria, out-of-state party, nobody
5 disagrees he's an out-of-state party. Intentional actions,
6 I quote a federal case for a point that I probably didn't
7 have to quote it for. Posting information on a website
8 constitutes an intentional act. We would have known that
9 even without that case law.

10 As I show in my first amended complaint, paragraph 92,
11 he uses -- he calls -- well, I'll just put it here. He
12 says in the website post out of which my cause of action
13 arises, quote, "He's also denying he signed me up for all
14 those porn newsletters and stuff. Forget it, Bud. One of
15 them came in as having been registered from that Nashville
16 ISP you use, the same one you use to start your fake
17 accounts here. The staff here has it all down so don't
18 deny it. You outsmarted yourself with that crap. Now, I
19 know you read this, since you have no life to speak of, so
20 pay attention. Keep this up and your local police will be
21 getting a call."

22 That's nothing if it's not expressly aimed at a
23 [REDACTED] resident. He could not have expressly aimed his
24 libelous conduct there at [REDACTED] more than what he did.

25 The next criteria that was mentioned is expressly aimed

[REDACTED]

1 at the forum state, and I believe I just proved that.

2 The cause of action arises out of the tort. Of course
3 it does. He engaged in libel per se in that website post.

4 THE COURT: And how does he do that when there's no
5 communication except between you and he?

6 MR. DOSCHER: How did he engage in libel per se?

7 THE COURT: Right.

8 MR. DOSCHER: Yeah. I didn't think it was a point I
9 had to prove. All case law agrees when you publish on the
10 internet, you publish to third parties. This is not a
11 private chat. This is a publicly available forum whereas
12 the defendant counsel just admitted in his opening speech a
13 whole bunch of people interacted. It's called a string
14 forum.

15 THE COURT: Go ahead.

16 MR. DOSCHER: So my cause of action arises out of
17 that act. That's why I quoted it in the first amended
18 complaint. It's libel per se, and I'm seeking emotional
19 distress damages and others which I have specifically
20 articulated in the complaint.

21 And the final criteria is caused harm in the forum
22 state. That's a good reason for the court to ignore *Walden*
23 *versus Fiore*. [REDACTED] does ask whether the conduct at
24 issue caused harm in the forum state. *Walden versus Fiore*
25 said where the plaintiff was harmed is not the issue. So I

[REDACTED]

1 personally just think the court should pay more attention
2 in the state case to [REDACTED] State law and quit worrying
3 about US Supreme Court law. This is a state case, and I
4 can prove that the [REDACTED] State Supreme Court has
5 disagreed with the US Supreme Court on plenty of issues.
6 The defendant should have tried to argue his case from
7 [REDACTED] State case law. So I made a *prima facie* case so
8 that even if his motion for summary judgment was properly
9 supported, I still defeated it.

10 There's two -- a couple of more points. There's a
11 [REDACTED] State case from 1999 which held website postings
12 can be sufficient to justify exercise of personal
13 jurisdiction. It's the [REDACTED] case. So
14 [REDACTED] State authority, to which this court is bound,
15 whether the Federal Courts say different now or not,
16 [REDACTED] State authority to which this court is bound
17 says website postings that are directly aimed at this state
18 and at the plaintiff are sufficient and traditional methods
19 of jurisdiction analysis suffice. They do not raise new
20 questions and leave everything up in the air. And I argue
21 that point in my brief.

22 The court's obligation to draw all inferences in my
23 favor as the nonmovant is what really kills the defendant's
24 argument. As we all know, at summary judgment the court
25 must construe all facts in a light most favorable to the

[REDACTED]

1 nonmovant and draw all inferences in favor of the nonmoving
2 party. Even if it could be argued that maybe this website
3 post that was expressly aimed at me could be argued to
4 maybe not be enough, the court must construe that in a
5 light most favorable to me. It cannot construe it in a
6 light most favorable to clearing the calendar or doing a
7 favor for the defendant. And as I said before, he could
8 not possibly have expressly aimed his libel per se at me
9 any more powerfully than he did. And so once again that
10 website was publicly available, many people commented on
11 it, and he published it to third parties even if he didn't
12 publish other things.

13 [REDACTED] courts also have said for the last ten years
14 in agreement with the US Supreme Court even a single
15 contact with the forum state can be enough. And I quote
16 that on page 15 of my opposition brief from [REDACTED]
17 [REDACTED], third division 1988. "As long as there is
18 a substantial connection with the forum, even a single act
19 can support jurisdiction."

20 Well, of course we're not talking about just a single
21 act. There are two acts that were mentioned in the
22 complaint that defendant did not even mention in his motion
23 for summary judgment, and in addition to that, there's four
24 other pre-litigation contacts.

25 And I quoted well-established authority to show when

[REDACTED]

1 this court considers personal jurisdiction, it is not true
2 that it must be limited to just those contacts that involve
3 wrongful conduct. The [REDACTED] Circuit quoted three supreme
4 court rulings for the proposition all of the defendant's
5 contacts with the State must be evaluated, not just those
6 that involve wrongful conduct. And so even if the court
7 were to say these other pre-litigation contacts are not
8 something my cause of action arises out of, they are still
9 legally relevant to whether the defendant was expressly
10 aiming his tortious conduct into this state.

11 Also very important point: Defendant failed to properly
12 support his motion for summary judgment by failing to show
13 fulfillment of most of [REDACTED]'s criteria for fair play
14 and substantial justice. So I decided to do defendant's
15 job for him and show what an honest fulfilment of those
16 criteria would be and I made it very clear that on balance
17 this defendant who was a published author and makes more
18 than 30,000 a year would find it far less inconvenient for
19 him to litigate here in [REDACTED] than it would be for
20 myself to have to litigate in Florida since I subsist on
21 nothing but monthly disability and food stamps. Also
22 [REDACTED] law affords defendant greater protections from
23 certain types of damages, such as if he decides to correct
24 and clarify, then if we go to trial, I can't get presumed
25 and reputation damages. Florida has no such protections.

[REDACTED]

1 In [REDACTED] it's an uphill climb for me to get punitive
2 damages, but in Florida if we have to litigate there,
3 there's no protection, and they hate libel there more than
4 we hate it here and I get all the punitive damages. I can
5 even sue solely for punitive damages in Florida. So that's
6 another reason. Finally I quote case law the fact -- for
7 the proposition the fact that he hired [REDACTED] State
8 counsel is also another reason under the fair play criteria
9 to keep this case here.

10 Finally, the last point I'll make is just to make sure
11 the court doesn't overlook this. If the court decides to
12 exercise personal jurisdiction, I have a pending motion for
13 -- for punitive damages, and defendant has gotten away with
14 not answering any of my nonjurisdiction-related discovery
15 in these eight months he's taken to file this motion. If
16 the court decides to allow personal jurisdiction, then
17 there's a whole lot of discovery that he needs to answer
18 that's not related to jurisdiction. That's it.

19 THE COURT: Thank you, Mr. Doscher.

20 Mr. [REDACTED].

21 MR. [REDACTED] Briefly, Your Honor. As this court
22 knows, my client is not asking the court for a favor. It's
23 asking the court to construe his rights under the
24 Fourteenth Amendment. Defendant's proposition that
25 [REDACTED] case law somehow compels a different result is

[REDACTED]

1 unfounded and not true. It just so happens that the
2 majority of cases that are truly analogous to this issue
3 where this issue was examined thoroughly happen to be
4 federal cases or cases from other states. [REDACTED] case
5 law compels the same results. It's just that the cases
6 that are truly instructive are not [REDACTED] cases.

7 Defendant confuses communications specifically
8 addressing him, a [REDACTED] n resident, with communications
9 that are expressly aimed at a [REDACTED] audience.

10 Finally, the criteria that he gets into, a weighing of
11 the hardships, is something this court might address if all
12 other factors compelled jurisdiction, but we don't even --
13 we don't have to get to that point, but regardless, even if
14 we do, this court can take into account that as submitted
15 by defendant my client makes as a marital household
16 approximately \$30,000 per year. The court can take
17 judicial notice of where that puts my client in terms of
18 his ability to defend in another state.

19 For all those reasons we respectfully ask this court to
20 find that this court does not have jurisdiction over
21 defendant. Defendant is not a resident and has not
22 committed any act directing -- directed at this state, and
23 as such, entertaining plaintiff's pending motion would also
24 be inappropriate. Thank you.

25 THE COURT: Mr. [REDACTED], I'm going to ask that you

[REDACTED]

1 address on the record some of the arguments that
2 Mr. Doscher just made in addition to the federal law issue.
3 I mean, he's indicating and arguing that you didn't meet
4 your burden, that you are using an inappropriate way
5 basically to ask for relief.

6 MR. [REDACTED] Your Honor, as stated in our brief,
7 this court is bound by Supreme Court cases construing the
8 Fourteenth Amendment. The *Walden* case is absolutely
9 binding in this particular set of facts. And as stated in
10 our brief, federal cases are to be accorded great weight,
11 and it does not matter which jurisdiction those cases arise
12 out of, which circuit. The interpretations given to
13 federal language at issue in a [REDACTED] State case are to
14 be entitled great weight, and the great majority of federal
15 cases looking at issues extremely analogous to the issues
16 here have found that even though there may be comments
17 posted with knowledge that a person resided in that state
18 and knowledge that if defamatory the harm might be found in
19 that state, there has to be some conduct expressly aiming
20 that communication toward a [REDACTED]-specific audience.

21 There is no evidence in this case that either of the two
22 internet forums addressed themselves to a
23 [REDACTED]-specific audience. Plaintiff chose to
24 affirmatively engage defendant in a neutral internet forum.
25 Those interactions, without any express intent to aim them

[REDACTED]

1 at [REDACTED], do not suddenly -- just because there was an
2 interaction doesn't suddenly give rise to jurisdiction in
3 [REDACTED]. It is very clear that plaintiff has the
4 burden of demonstrating a *prima facie* showing of lack of
5 jurisdiction. However, where there are no facts in
6 dispute, that question --

7 THE COURT: I'm just going to interrupt you again
8 because I think you mixed up the parties. It's your
9 client's burden, not Mr. Doscher's burden.

10 MR. [REDACTED] That's correct. I'm sorry. That's
11 right. I'm sorry. My client's burden to demonstrate to
12 this court a *prima facie* showing for lack of jurisdiction.
13 However, where there are no facts in dispute, that issue
14 becomes a question of law to be construed by this court.
15 There are no facts in dispute. My client has not denied
16 any of the subsequent contacts pointed out by Mr. Doscher
17 in support of his argument. Mr. Doscher has not in essence
18 contradicted any of the facts alleged by my client.
19 Therefore, this court as a matter of law can examine the
20 record in its entirety to decide that there are not
21 contacts sufficient to establish jurisdiction over my
22 client.

23 THE COURT: Thank you.

24 MR. [REDACTED] I'll close by saying that [REDACTED]
25 case law absolutely directs this court to arrive at the

[REDACTED]

1 result that we are arguing for. It just so happens that
2 there's no [REDACTED]-specific case that directly analyzes
3 an issue that is directly on point.

4 THE COURT: Thank you.

5 All right. I had an opportunity to review the briefing
6 filed by both parties. I reviewed the applicable long-arm
7 statute. I reviewed the cases cited. The statute at issue
8 here is the long-arm statute as it's referred to. It's
9 found at [REDACTED]. Subsection (1)(b) is the applicable
10 section of the statute. It says that "Any person, whether
11 or not a citizen or resident of this state, who in person
12 or through an agent does any of the acts in this section
13 enumerated, thereby submits said person . . . to the
14 jurisdiction of the courts of this state as to any cause of
15 action arising from the doing of any of said acts." And
16 Subsection (b) is "The commission of a tortious act within
17 this state."

18 I think it's accurate that there is no dispute that
19 there is no general jurisdiction in this case. There's
20 been very limited, attenuated contacts by Mr. Holding to
21 the state, and the case really does revolve around the
22 issue of specific jurisdiction.

23 I read some of the cases. I haven't read all of them,
24 but I've read the ones that I believe are most applicable
25 here, and in addition to the case cited by Mr. Doscher,

1 which was the [REDACTED] case, I also reviewed
2 some state cases on the issue of long-arm jurisdiction, in
3 particular the [REDACTED] case
4 which was a [REDACTED] case from 2014. It had a good
5 explanation of general and specific jurisdiction. In that
6 case the court outlined that a nonresident defendant may
7 also purposefully act in [REDACTED] even though the
8 defendant didn't initiate contact in [REDACTED] if a
9 business relationship subsequently arises. That case had
10 to do with an out-of-state business soliciting business in
11 the state of [REDACTED], and the court there found that
12 there were sufficient contacts.


13 The court went on to discuss specific personal
14 jurisdiction and the requirements that must be shown and
15 went on to say that [REDACTED] courts "may exercise
16 specific personal jurisdiction over a foreign entity solely
17 when, in addition to the requisites of the long-arm
18 statute, the following elements are satisfied: (1) the
19 nonresident defendant must purposely do some act or
20 consummate some transaction in the forum state; (2) the
21 cause of action must arise from, or be connected with, such
22 act or transaction; and (3) the assumption of jurisdiction
23 by the forum state must not offend traditional notions of
24 fair play and substantial justice, consideration being
25 given to the quality, nature, and extent of the activity in


[REDACTED]

1 the forum state, the relative convenience of the parties,
2 the benefits and protection of the laws of the forum state
3 afforded the . . . parties, and the basic equities of the
4 situation.'" "

5 The court went on to say that it's not necessarily the
6 number of contacts that are significant, but basically that
7 the requirement is in place to ensure "'that a defendant
8 will not be haled into a jurisdiction solely as a result of
9 "random," "fortuitous" or "attenuated" contacts.'" "

10 In this case really the issue is one of the specific
11 context of the contacts here, and I'm going to note that
12 from the record, even assuming all of the contacts that are
13 alleged took place, that they were minimal. There were six
14 contacts. I'll indicate as well that from my review of the
15 record the contacts were all initiated by the plaintiff.
16 The defendant was responding to posts, repeated posts and
17 comments by the plaintiff that frankly to the court were
18 taunting and encouraging the defendant to reply.

19 The case law that's cited by both parties in this case
20 includes a great deal of federal case law from different
21 districts in addition to a newer case from the United
22 States Supreme Court which is the *Walden* case which is
23 binding on the court. In addition, all federal cases are
24 given great weight, and that is in addition to the
25  State cases. The court finds all of them



1 helpful.

2 What's significant to the court in this case is that as
3 defense says, the issue is not where the plaintiff,
4 Mr. Doscher, was injured, but rather the focus should be
5 and must be on whether the defendant's conduct somehow
6 connects him to [REDACTED] in a meaningful way. And that
7 gets to the purposeful availment prong of the statute, and
8 the question is whether the defendant did purposefully
9 commit some act or consummated some transaction in the
10 forum state in [REDACTED]. The court finds that the
11 content of the material alleged to be defamatory wasn't
12 focussed on or related to [REDACTED] and again, even if
13 all of the contacts are considered by the court, I don't
14 believe that's sufficient to invoke jurisdiction.

15 I'll just note that Mr. Doscher is walking away. I'm
16 not sure if he wishes to stay in the courtroom to hear the
17 rest of the court's ruling, but I'm going to continue
18 whether or not you're here, Mr. Doscher.

19 Secondly, Mr. Doscher doesn't submit any evidence, and
20 there is none in the record, that any of the allegedly
21 defamatory statements were published or forwarded to any
22 third parties, and without that, the defamation claim could
23 not be successful.

24 The issue of whether the court in [REDACTED] assuming
25 jurisdiction, of whether that would violate notions of fair

[REDACTED]

1 play and substantial justice I think is significant in this
2 case. Again, it appears to the court that Mr. Doscher's
3 actions basically in enticing Mr. Holding to have contact
4 with [REDACTED] were intended to create a claim of
5 jurisdiction in this state. Under the facts of this case
6 [REDACTED] does not have jurisdiction. There are
7 insufficient contacts by the defendant with the forum state
8 to establish personal jurisdiction. I'm going to grant the
9 motion to dismiss.

10 MR. [REDACTED] If I may approach, Your Honor.

11 THE COURT: Yes.

12 Did you list everything, Mr. [REDACTED] on here, that's
13 been filed with respect to the motion you filed?

14 MR. [REDACTED] I believe we did, Your Honor.

15 THE COURT: Including Mr. Doscher's? I think you
16 did. Thank you.

17 MR. [REDACTED] Thank you, Your Honor.

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