

NOT TO BE PUBLISHED WITHOUT THE APPROVAL
OF THE COMMITTEE ON OPINIONS

BARRY KNISPEL and ISABEL
KNISPEL,

Plaintiffs,

vs.

GALLERY 63 ANTIQUES, LAWRENCE
SEPENUK, THE ESTATE OF
ROCHELLE SEPENUK, CASPER FINE
ARTS & APPRAISALS, INC. and THE
ESTATE OF LAURENCE CASPER,

Defendants.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

BERGEN COUNTY

DOCKET No. BER-L-20743-14

CIVIL ACTION

OPINION

Argued: May 29, 2015

Decided: June 19, 2015

Honorable Robert C. Wilson, J.S.C.

Philip W. Danziger, Esq., appearing for the Plaintiffs, Barry Knispel and Isabel Knispel. (Cole Schotz, P.C.; Donald A. Ottaunick, Esq., of counsel and on the brief; Philip W. Danziger, Esq., on the brief).

Kelly A. Zampino, Esq., appearing for the Defendants, Casper Fine Arts & Appraisals, Inc. and the Estate of Laurence Casper (Hartmann Doherty Rosa Berman & Bulbulia, LLC; Mark A. Berman, Esq. and Kelly A. Zampino, Esq., on the brief).

Emily Reisbaum, Esq. and Aaron Crowell, Esq., admitted pro hac vice and appearing for the Defendants, Casper Fine Arts & Appraisals, Inc. and the Estate of Laurence Casper (Clarick Gueron Reisbaum LLP).

Scott D. Jacobson, Esq., appearing for the Defendants, Gallery 63 Antiques, Lawrence Sepenuk, and the Estate of Rochelle Sepenuk (Ferro, Labella, & Zucker LLC).

FACTUAL BACKGROUND

THIS MATTER arises out of Barry Knispel and Isabel Knispel's (hereinafter collectively referred to as the "Knispels" or "plaintiffs") October 1994 purchase of a purported Norman

Rockwell painting entitled “Mending His Ways” (the “Painting”) from Gallery 63 Antiques (“Gallery 63”). Plaintiffs have recently discovered that the Painting is not, in fact, an authentic Norman Rockwell painting. In connection with the sale of the Painting, Gallery 63 advised the Knispels that it would have the Painting appraised by an expert in the field, to ensure the Painting’s authenticity and value and to support Gallery 63’s full guarantee of the originality of the Painting. In connection with this promise, Gallery 63 retained the services of Casper Fine Arts & Appraisals, Inc. and/or Laurence Casper (“Casper”), who, having passed away since the sale of the Painting, was named in this matter through his estate. Casper’s appraisal was attached to and incorporated into the bill of sale for the Painting provided by Gallery 63 to the Knispels. Casper held himself out as a “Certified Appraiser by the Appraisers Association of America” and as “an Art Historian by academic training at the graduate school of New York University ... [and] a specialist in American painting of the 19th and 20th century.” Plaintiffs’ Complaint, ¶ 14.

Casper’s written appraisal provides, in pertinent part:

[A]s requested ... I have examined the [P]ainting in detail and find the brush strokes, the painting texture and the draftsmanship consistent with Rockwell’s technique. The type of faces and expressions are typical of his characters in other paintings as well.

The [P]ainting is not recorded and I believe the [P]ainting was commissioned for an advertisement and never used. In my opinion, [the Painting] is an original by Norman Rockwell with all the humor and artistic quality that Rockwell created in all his works.

Compl. ¶ 15 (quoting the “Casper Appraisal”).

Laurence Casper was born in New York City in 1922 and, except for his service in the Army and his studies at Kent State University, lived and worked in New York City continuously until his death in June of 2014. (Affidavit of Leslie Brett Casper, dated April 20, 2015 (“Casper Aff.”) ¶ 2.) Pertinently, Mr. Casper never lived or worked in New Jersey. Mr. Casper incorporated

Casper Fine Arts & Appraisals in New York on October 4, 1978 (Affidavit of Ariel Islam (“Islam Aff.”) Ex. 1.). He also served as President, Chairman of the Membership Committee, and member of the Board of the Appraisers Association of America in New York City. (Casper Aff. ¶ 5.) Mr. Casper provided expert testimony in state and federal court in New York and in Connecticut. (Islam Aff. ¶ 4, Ex. 3.) Casper never was registered to do business in New Jersey, never had a registered agent in New Jersey, and had no offices, telephone listings, bank accounts, or employees in New Jersey. Of Casper’s 105 listed clients, 2 resided in the state of New Jersey. Casper did not own and does not own real property in New Jersey, and did not advertise in New Jersey or elsewhere.

Casper did not have direct contact with the Knispels in connection with their purchase of the Painting. No contract is alleged to have existed between Casper and the plaintiffs, nor do Casper’s business records reflect a client relationship with the Knispels. No contact or discussions between the Knispels and Casper is alleged, beyond Casper’s written appraisal. There is no evidence that Casper had any discussion with Gallery 63 regarding the plaintiffs, nor is there evidence that Casper participated in any meetings in New Jersey with regard to plaintiffs. The geographic scope of Casper’s conduct in this matter is confined to New York City – Casper, from his home office on East 79th Street, sent a letter 24 blocks south to Gallery 63 at Second Avenue and 55th Street in New York City.

Plaintiffs first learned that the Painting was not authentic when their insurance carrier requested that the Painting be appraised. Upon appraisal in early 2013, it was discovered that the Painting was a “fake” and not an authentic Norman Rockwell. Following this revelation, the Knispels filed the instant suit for damages on December 23, 2014.

Defendants Casper Fine Arts & Appraisals, Inc. and the Estate of Laurence Casper move the Court to dismiss the complaint for lack of personal jurisdiction, and failure to state a claim upon which relief can be granted pursuant to the applicable statute(s) of limitations. Gallery 63 did not file a companion motion.

RULES OF LAW

I. Personal Jurisdiction

The Due Process Clause of the Constitution of the United States protects defendants from the reach of state courts when those defendants do not have at least certain minimum contacts with the state. See, e.g., Waste Management, Inc. v. Admiral Ins. Co., 138 N.J. 106, 122 (1994). The required minimum contacts “must be of a nature and extent ‘such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.’” Baanyan Software Services, Inc. v. Kuncha, 433 N.J. Super. 466, 473-74 (App. Div. 2013) (quoting International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)). “[T]he quality and nature of the [defendant’s] activity in relation to the fair and orderly administration of the laws’ must be examined on a case-by-case basis to determine if the minimum contacts standard is satisfied.” Charles Gendler & Co. v. Telecom Equipment Corp., 102 N.J. 460, 470 (1986) (citing Lebel v. Everglades Marina, Inc., 115 N.J. 317 (1989)). Thus, a defendant who lives or operates primarily outside of a forum jurisdiction has a due process right to be free from the judgments of that foreign forum. See Patel v. Karnavati America, LLC, 437 N.J. Super. 415, 423 (App. Div. 2014).

Pursuant to the Constitution of the United States, this Court’s authority to exercise jurisdiction over a named defendant is limited by the Due Process Clause, and interpretive case law. “[D]ue process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it

such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” Lebel v. Everglades Marina, Inc., 115 N.J. 317, 322 (1989) (quoting International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945) (internal quotations omitted)). “The purpose of the minimum-contacts test is to insure the fairness and reasonableness of requiring a non-resident to defend a lawsuit in the forum state.” Id. at 317.

A court’s personal jurisdiction may arise over a defendant in one of two ways, referred to as specific jurisdiction and general jurisdiction. A court has specific jurisdiction “[w]hen a controversy is related to or ‘arises out of’ a defendant’s contacts with the forum.” Helicopteros Nacionales de Colombia v. Hall, 466 U.S. 408, 414 (1984) (internal citations omitted). That “relationship among the defendant, the forum, and the litigation is the essential foundation of in personam jurisdiction.” Id. However, “[e]ven when the cause of action does not arise out of or relate to the foreign corporation’s activities in the forum State, due process is not offended by a State’s subjecting the [defendant] to its in personam jurisdiction when there are sufficient contacts between the State and the [defendant]. Id. (citing Perkins v. Benguet Consolidated Mining Co., 342 U.S. 437 (1952)). Those sufficient contacts create general jurisdiction if they are “so continuous and substantial as to justify subjecting the defendant to the forum’s jurisdiction.” Mische v. Bracey’s Supermarket, 420 N.J. Super. 487, 491-92 (App. Div. 2011).

In the instant matter, where a “defendant challenges an action for lack of personal jurisdiction, the plaintiff bears the burden of demonstrating that the defendant’s contacts with the forum state are sufficient to confer personal jurisdiction on the court.” Jacobs v. Walt Disney World, Co., 309 N.J. Super. 443, 454 (App. Div. 1998) (citing Giangola v. Walt Disney World Co., 753 F. Supp. 148, 154 (D.N.J. 1990)). “Once ... defendants have shown that they have no territorial presence in this state, the burden shifts, as it were, to ... plaintiff, who must then

demonstrate their amenability, nonetheless, to an exercise of in personam jurisdiction based on minimum contacts.” Citibank, N.A. v. Estate of Simpson, 290 N.J. Super. 519 (App. Div. 1996). “[I]t is the party asserting the adequacy of defendant’s contacts to support specific jurisdiction who bears the burden of persuasion on that issue.” Id. “The question of in personam jurisdiction ... if timely raised, must be resolved before the matter may proceed.” Id. at 532.

The assertion of personal jurisdiction by a New Jersey Court over a party must be “...consistent with [] due process of law.” Bayway Ref. Co. v. State Utils., Inc., 333 N.J. Super. 420, 428 (App. Div.), certif. denied, 165 N.J. 605 (2000). A New Jersey court may exercise personal jurisdiction over a non-resident defendant to the “outermost limits permitted by the United States Constitution.” Avdel Corp. v. Mecure, 58 N.J. 264, 268 (1971); R. 4:4-4(b)(1). The United States Constitution permits a state to exercise jurisdiction over an out-of-state defendant only where “...the defendant purposefully 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, 474 (1985).

While the controlling principles [of personal jurisdiction] can be articulated with disarming ease, the difficulty is in their application to concrete disputes. Creative Business Decisions, Inc. v. Magnum Communications, Ltd., 267 N.J. Super. 569, 567 (App. Div. 1993). Plaintiff needs only to make a prima facie demonstration of personal jurisdiction. Jacobs v. Walt Disney World, Co., 309 N.J. Super. 443, 454 (App. Div. 1998). However, as previously stated, when a defendant asserts lack of personal jurisdiction, “the plaintiff bears the burden of demonstrating that the defendant’s contacts with the forum state are sufficient to confer personal jurisdiction on the court.” Ibid.

The plaintiff must establish defendant’s contacts with the jurisdiction through the use of

“sworn affidavits, certifications, or testimony.” Catalano v. Lease & Rental Management Corp., 252 N.J. Super. 545, 547-48 (Law Div. 1991) (citations omitted). When a jurisdictional defense is raised, it is the plaintiff who bears the burden of demonstrating that the defendant’s contacts are sufficient for purposes of recognizing a court’s personal jurisdiction. Citibank v. Estate of Simpson, 290 N.J. Super. 519, 533 (App. Div. 1996).

II. Rule 4:6-2(e): Dismissal for Failure to State a Claim

On a motion to dismiss pursuant to R. 4:6-2(e), the Court must treat all factual allegations as true and must carefully examine those allegations “to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim. . . .” Printing Mart-Morristown v. Sharp Elec. Corp., 116 N.J. 739, 746 (1989). After a thorough examination, should the Court determine that such allegations fail to state a claim upon which relief can be granted, the Court must dismiss the claim. Id.

Under the New Jersey Court Rules, a Complaint may only be dismissed for failure to state a claim if, after an in-depth and liberal search of its allegations, a cause of action cannot be gleaned from even an obscure statement in the Complaint, particularly if additional discovery is permitted. R. 4:6-2(e); see Pressler, Current N.J. Court Rules, Comment 4.1.1. to Rule 4:6-2(e), at 1348 (2010) (citing Printing Mart, 116 N.J. at 746). Thus, a Court must give the non-moving party every inference in evaluating whether to dismiss a Complaint. See NCP Litigation Trust v. KPMG, LLP, 187 N.J. 353, 365 (2006); Banco Popular No. America v. Gandi, 184 N.J. 161, 165-66 (2005); Fazilat v. Feldstein, 180 N.J. 74, 78 (2004). The “test for determining the adequacy of a pleading [is] whether a cause of action is suggested by the facts.” Printing Mart, 116 N.J. at 746. However, “a court must dismiss the plaintiff’s complaint if it has failed to articulate a legal basis entitling plaintiff to relief.” Sickles v. Carbot Corp., 379 N.J. Super. 100, 106 (App. Div. 2005).

DECISION

I. Casper Does Not Have Sufficient Contacts With New Jersey to Warrant the Application of Personal Jurisdiction.

Plaintiffs have failed to allege or demonstrate sufficient minimum contacts between Laurence Casper and/or Casper Fine Arts & Appraisals, Inc. and New Jersey so as to allow this Court to exercise jurisdiction over those defendants. In their Complaint, Plaintiffs allege that Casper offered an appraisal of the Painting which is the subject of this litigation to co-defendant, Gallery 63 Antiques, in connection with Gallery 63's sale to the Knispels. No relationship between Casper and/or the Knispels is alleged in the Complaint.

Plaintiffs argue that Casper's jurisdictional argument is based on affidavits and certifications which are not based on personal knowledge, due to the extraordinary age of this claim. Ultimately, this misses the point – whereas Casper has presented facts indicating why personal jurisdiction should *not* be exercised, the burden lies on Plaintiff to demonstrate facts as to why personal jurisdiction can be exercised in the first place. In attempting to satisfy this burden, Plaintiff argues that Casper, over the course of his career, had two clients who resided in New Jersey, and that he has conducted business across the United States – but not, apparently, in New Jersey. This is wholly insufficient, as neither of those contacts has any relationship to the instant litigation.

There is only one fact pointing to Mr. Casper's potential liability in this matter, which is a letter from Casper Fine Arts, signed by Mr. Casper, and sent from Mr. Casper's office on 79th Street and York Avenue in Manhattan to 55th Street and 2nd Avenue, also in Manhattan. Casper is not alleged to have engaged in any other relevant conduct. No allegation is made that Casper purposefully took any action directed toward New Jersey.

Therefore, considering the relationship between Mr. Casper, the forum of New Jersey, and the instant cause of action, there is simply no connection whatsoever. Plaintiffs argue that discovery may in fact reveal these connections, but that is not enough for this Court to exercise jurisdiction over Casper in the first place to compel him to conduct discovery. Moreover, even if Casper knew or should have known that his appraisal of the Painting was to be used to consummate a sale to New Jersey residents, such an action is insufficient to create personal jurisdiction. “[T]he single sale of a product to an independent corporation [out of state], even if accompanied by the knowledge that the product will be delivered to a user in New Jersey, is insufficient to allow the application of long-arm jurisdiction.” Patel, 437 N.J. Super. at 426. Lastly, the Court notes that the mere fact that the Painting ended up in New Jersey, and that the Casper Defendants knew such a result might occur, is insufficient to establish minimum contacts for personal jurisdiction. At no time is there any allegation that the Casper Defendants performed any act which would “reveal an intent to invoke or benefit from the protection of [New Jersey’s] laws.” J. McIntyre Mach., Ltd. v. Nicastro, 131 S. Ct. 2780, 2791 (2011). In Nicastro, the United States Supreme Court overturned the New Jersey Supreme Court’s finding of personal jurisdiction under a stream of commerce theory, and noted that the facts therein “may reveal an intent to serve the U.S. market,” but that “they do not show that [defendant] purposefully availed itself of the New Jersey market.” Id. at 2790.

This Court does not have jurisdiction over Mr. Casper, and cannot adjudicate the claims pending against him, or compel his counsel to engage in discovery in this matter.

II. Plaintiff’s Claims Against Casper Are Barred By the Statute of Limitations, and Must Be Dismissed.

Even if this Court had personal jurisdiction over Casper, it would be barred from adjudicating Plaintiff’s claims because they are untimely. The only relevant events to Plaintiffs’

cause of action occurred over twenty years ago, wherein Casper delivered the appraisal at issue on October 8, 1994, shortly before Plaintiffs purchased the Painting.

Plaintiffs argue that all of their claims against Casper are entitled to the benefit of the “discovery rule” which provides that a cause of action does not begin to accrue until the injured party discovers, or should have discovered, the basis for an actionable claim. See Southern Cross Overseas Agencies, Inc. v. Wah Kwong Shipping Group Ltd., 181 F.3d 410, 413 (3d Cir. 1999) (applying New Jersey law). The discovery rule “provides that in an appropriate case a cause of action will be held not to accrue until the injured party discovers, or by an exercise of reasonable diligence and intelligence should have discovered that he may have a basis for an actionable claim.” Lopez v. Swyer, 62 N.J. 267, 272 (1973). The Court in Lopez prescribed a preliminary hearing in certain cases to determine the date of accrual of the cause of action and to determine other factual predicates to application of the discovery rule. Id. at 275. However, Lopez hearings are not mandated in every instance where there is a dispute about application of the discovery rule. “A Lopez hearing is only required when the facts concerning the date of the discovery are in dispute.” Henry v. New Jersey Dep’t of Human Servs., 204 N.J. 320, 337, n.6 (2010); Dunn v. Borough of Mountainside, 301 N.J. Super. 262, 274 (App. Div. 1997). Absent a factual dispute, there is no need to convene a Lopez hearing.

The burden of proof on the application of the discovery rule “rest[s] upon the party claiming the indulgence of the rule.” Lopez, 62 N.J. at 276. Thus, Plaintiffs must demonstrate that equity demands the application of the discovery rule. Plaintiffs have indicated that the earliest they discovered Casper’s fraud was February of 2013, when the painting was examined by NYFAA and determined to be a forgery. However, Plaintiffs were in possession of the Painting for nearly

20 years at that point. Plaintiffs contend that they “did not know, and could not know that” they had been defrauded until the Painting had been appraised for a second time.

Plaintiffs purchased the Painting for \$350,000 over two decades ago. They heedlessly failed to get their own appraisal at the time, or until very recently. A purchaser of investment-grade artwork has some obligation to verify their speculative purchases. The mere fact that ample time has passed and a potential tort has gone unnoticed does not suffice to apply the discovery rule. Indeed, where the facts of the potential tort’s discovery are undisputed, Plaintiff’s insistence on a Lopez hearing would serve only to delay the inevitable. The Court has ample facts to determine whether equity should permit a relaxation of the statute of limitations, and finds that it does not.

Plaintiffs possessed the Painting for over twenty years prior to initiating this action. They claim that they had no reason to suspect that the Painting was not an authentic Norman Rockwell, and only discovered its inauthenticity when they had it appraised in order to obtain insurance coverage. The Court certainly understands Plaintiffs’ consternation with their learning of the Paintings’ falsity; however, such consternation does not vacate the purchasers’ obligation to exercise due diligence. There is no evidence supporting Plaintiffs’ belated attempt to institute this action some 20 years after the fact, regarding a Painting which has been in their possession and presumably in plain sight for that entire time.

Defendants would be unduly and unjustly prejudiced by the continuation of this action. Laurence Casper has perished since the subject sale, as has the principal of Gallery 63. Moreover, the widow of Mr. Casper has certified to turning over all records within her possession from Mr. Casper and from Casper Fine Arts & Appraisals to their New York counsel. New York counsel certifies having found absolutely nothing related to the Plaintiffs, the Painting, or the appraisal at issue in these records. Moreover, Plaintiffs themselves had absolutely no interaction with the

Casper Defendants, and therefore cannot have personal knowledge which is relevant to their claims. It will be impossible for the Casper Defendants to defend themselves from the allegations herein, insofar as there is no documentary evidence, and no testimonial evidence, available to them.

Plaintiffs' claims is vastly outweighed by the equitable interests of the Casper Defendants. The passage of time has made it wholly improper to continue this action, and the policies underlying our statutes of limitation are abundantly present in this scenario. There are no factual disputes between the parties regarding these equitable considerations, and indeed, the Plaintiffs only rejoinder seems to be that certain pretrial discovery is necessary prior to the Court's determination. However, Plaintiffs have not even suggested what discovery would be necessary or even remotely likely to yield probative evidence into their claims, and which might change the equitable considerations herein.

III. The New Jersey Consumer Fraud Act Cannot Apply to the Instant Action.

For significantly the same reasons addressed in point I, above, Plaintiffs action against the Casper Defendants cannot be sustained under the New Jersey Consumer Fraud Act, insofar as this action has no connection to New Jersey. Indeed, the Court finds that New York law should be applied to the instant action.¹

New Jersey law illustrates "Procedurally, the first step is to determine whether an actual conflict exists. That is done by examining the substance of the potentially applicable laws to determine whether there is a distinction between them. . . . If not, there is no choice-of-law issue to be resolved." P.V. ex rel. T.V. v. Camp Jaycee, 197 N.J. 132, 143 (2008). Here, where the parties' briefing indicates sharp distinctions between the statutes of limitation of New York and New

¹ This Court analyzed the issue of the statute of limitations and the discovery rule under New Jersey law in Point II, above. The Court notes that the undisputed authorities cited by movant indicate that New Jersey law is significantly more indulgent in both the length of its statutes of limitation and in its application of the discovery rule, and afforded Plaintiffs every inference in adjudicating this motion.

Jersey, and particularly between those scenarios where application of the discovery rule is proper, a conflict of law is readily apparent.

New Jersey's choice-of-law approach employs the "most significant relationship" test. Camp Jaycee, 197 N.J. 132, 136. Where a "[p]laintiff's claims ... sound in fraud and misrepresentation the court looks to the factors set forth in § 148 of the Restatement (Second) of Conflict of Laws" to determine which state has "the most significant relationship to the occurrence and the parties" and should have its law applied. Maniscalco v. Brother Int'l (USA) Corp., 709 F.3d 202, 207 (3d Cir. 2013). The Restatement (Second) of Conflict of Laws provides:

(1) When the plaintiff has suffered pecuniary harm on account of his reliance on the defendant's false representations and when the plaintiff's action in reliance took place in the state where the false representations were made and received, the local law of this state determines the rights and liabilities of the parties unless, with respect to the particular issue, some other state has a more significant relationship under the principles stated in § 6 to the occurrence and the parties, in which event the local law of the other state will be applied.

(2) When the plaintiff's action in reliance took place in whole or in part in a state other than that where the false representations were made, the forum will consider such of the following contacts, among others, as may be present in the particular case in determining the state which, with respect to the particular issue, has the most significant relationship to the occurrence and the parties:

- (a) the place, or places, where the plaintiff acted in reliance upon the defendant's representations,
- (b) the place where the plaintiff received the representations,
- (c) the place where the defendant made the representations,
- (d) the domicil, residence, nationality, place of incorporation and place of business of the parties,
- (e) the place where a tangible thing which is the subject of the transaction between the parties was situated at the time, and

(f) the place where the plaintiff is to render performance under a contract which he has been induced to enter by the false representations of the defendant.

Restat. 2d of Conflict of Laws, § 148.

Commentary on § 148 by the drafters further illustrate the point. "If any two of the [148(2)] contacts, apart from the defendant's domicile, state of incorporation or place of business, are located wholly in a single state, this will usually be the state of the applicable law with respect to most issues." Restatement (Second) of Conflicts of Law § 148, cmt j.

As stated at length by the Court above, all relevant events to this matter occurred in the State of New York. Plaintiffs resided in New Jersey at the time of the purchase, but none of the other parties to the transaction had any relationship to New Jersey. As such, the law of New York should apply to the transaction in dispute. The transaction took place in New York; Casper was located in New York whereupon he made the representations at issue; and the Painting was located with Gallery 63, in New York, prior to the purchase. No relevant facts or circumstances occurred in New Jersey, and the application of New Jersey law to this dispute would be arbitrary.

Any claim arising under the New Jersey Consumer Fraud Act must be dismissed where the case is governed by the law of another state. See, e.g., Maniscalco v. Brother Int'l (USA) Corp., 709 F.3d 202, 208 (3d Cir. 2013) (dismissing NJ Consumer Fraud Act claim where South Carolina law applied); see also, Montich v. Miele USA, Inc., 849 F. Supp.2d 439, 448 (D.N.J. 2012) (same where "New Jersey law does not apply to Plaintiff's consumer fraud claim," the claim was dismissed with prejudice).

Because Plaintiffs' claims do not arise under New Jersey law, and have no connection to New Jersey whatsoever, the New Jersey Consumer Fraud Act cannot be the basis of relief.

For the aforementioned reasons, Defendant the Estate of Laurence Casper and Casper Fine Arts & Appraisals' Motion to Dismiss the Complaint is **GRANTED**, and the Complaint is **DISMISSED WITH PREJUDICE** as to those Defendants.

It is so ordered.