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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0556-22**

**LOU ANNE HILES and
RODNEY HILES,
her husband,**

Plaintiffs-Appellants,

v.

**PROSPECT MEDICAL
HOLDINGS, INC., PROSPECT
CCMC, L.L.C., d/b/a CROZER-
CHESTER MEDICAL CENTER,
KAREN GREENBERG, D.O.,
KIRANKUMAR PATEL, D.O.,
KATHLEEN DEEGAN, R.N.,
MICHELE LEWIS, KAREN
MURPHY, R.N., MELANIE
TAYLOR, R.N.,**

Defendants-Respondents,

and

PAULA PATTON, M.D.,

Defendant.

Argued February 6, 2023 – Decided February 10, 2023

Before Judges Haas and Mitterhoff.

On appeal from an interlocutory order of the Superior Court of New Jersey, Law Division, Essex County, Docket No. L-6209-21.

Emily A. McDonough argued the cause for appellants (The McDonough Law Office, attorneys; Emily A. McDonough, on the briefs).

Joseph L. Garbarino, III, argued the cause for respondents (Gerolamo, McNulty, Divis & Lewbart, attorneys; Joseph L. Garbarino, III, on the brief).

PER CURIAM

By leave granted, plaintiffs Lou Anne and her husband Rodney Hiles¹ appeal from the Law Division's April 1, 2022 order granting defendants' motion to dismiss plaintiffs' complaint on jurisdictional grounds, and the court's May 27, 2022 order denying plaintiffs' motion for reconsideration. We reverse and remand for further proceedings.

Plaintiffs are residents of Pilesgrove, New Jersey. On August 14, 2019, Lou Anne appeared at the emergency department of defendant Crozer Chester Medical Center (Crozer) in Upland, Pennsylvania. Lou Anne complained of numbness in her arms and legs that had worsened over a period of weeks. Crozer

¹ Because plaintiffs share the same surname, we refer to them by their first names to avoid confusion. In doing so, we intend no disrespect.

medical staff examined Lou Anne and admitted her to the center, where she remained for three days. She was then transferred to a different hospital. The staff at the second hospital found that Lou Anne had a "foul smelling" decubitus ulcer of the sacral region, and diagnosed her with acute encephalopathy and acute renal failure.

On August 11, 2021, Lou Anne filed a medical malpractice complaint against defendants, which included Crozer, a number of doctors and nurses, and Prospect Medical Holdings, L.L.C. (Prospect), which she alleged "owned, operated, maintained, and controlled" Crozer. Lou Anne alleged she suffered permanent debilitating and disabling injuries as the result of defendants' misdiagnosis and failure to properly treat those ailments. Rodney asserted a derivative per quod claim as Lou Anne's spouse and sought compensation for loss of consortium.

Plaintiffs filed their complaint in Essex County, New Jersey. Plaintiffs alleged that that Prospect, Crozer's parent company, owned and operated a hospital in that county.

Defendants² did not file an answer to the complaint. Instead, they filed a motion to dismiss and alleged that the court lacked jurisdiction over plaintiffs' claims.

Defendants alleged that Crozer is a Pennsylvania-based limited liability company that does not do business in New Jersey. They also claimed that Crozer holds no property in New Jersey and does not solicit business from this state. Defendants argued that even if Prospect operated a hospital in Essex County, its "parent-subsiidiary relationship" with Crozer was not sufficient to establish general jurisdiction. Finally, defendants asserted New Jersey had no specific jurisdiction over them because all of Lou Anne's care was rendered in Pennsylvania by healthcare provides that were practicing in that state. Defendants also claimed that Lou Anne entered Crozer by mere chance because she was in that area when she needed emergency medical care.

Plaintiffs sharply disputed the alleged jurisdictional facts posited by defendants. They stated that in addition to operating a hospital in Essex County, there were five other Crozer affiliates and Prospect subsidiaries operating in New Jersey. Plaintiffs alleged that physicians in these facilities had admitting

² One of the defendants, Paula Patton, M.D., did not respond to plaintiffs' complaint. Plaintiffs case against her is still pending in the trial court.

privileges from the New Jersey locations to the Upland, Pennsylvania medical center. Plaintiffs asserted that one of the defendants, Dr. Karen Greenberg, was a New Jersey resident, who was licensed to practice medicine in this state. Two of the nurses named as defendants, Michele Lewis and Karen Murphy, were also licensed to practice in New Jersey.

Plaintiffs argued that Crozer advertised its services in New Jersey and Lou Anne chose to go to that medical center because of those advertisements. Plaintiffs also stated that Lou Anne's appearance at Crozer was not an "emergency," but rather was planned in advance because of Crozer's alleged expertise in treating the chronic conditions she was then suffering. Plaintiffs asked for a short period of jurisdictional discovery to enable them to fully establish that New Jersey had jurisdiction.

Following oral argument, the trial court rendered a written decision granting defendants' motion to dismiss the complaint. The court did not address plaintiffs' request for jurisdictional discovery. Instead, in a two-paragraph-long "analysis" section, the court merely stated its conclusion that Crozer did not do business or solicit business in New Jersey. It also stated that Prospect's relationship with Crozer was "not sufficient for the exercise of general jurisdiction." While the court noted that New Jersey might have jurisdiction

over Dr. Greenberg, who was "a resident of New Jersey," it found it was "not in the interests of justice to dismiss all [d]efendants, except [d]efendant Dr. Greenberg, for lack of personal jurisdiction." The trial court did not identify what proofs it examined in reaching these terse conclusions or explain why it rejected plaintiffs' competing contentions on the contested jurisdictional issue without granting the opportunity for discovery on this topic.

This appeal followed. On appeal, plaintiffs primarily argue that the trial court mistakenly exercised its discretion by not permitting jurisdictional discovery before dismissing their complaint. We agree.

"Appellate review of a ruling on jurisdiction is plenary because the question of jurisdiction is a question of law." Rippon v. Smigel, 449 N.J. Super. 344, 358 (App. Div. 2017) (citing Mastondrea v. Occidental Hotels Mgmt., S.A., 391 N.J. Super. 261, 268 (App. Div. 2007)). "A defendant may move to dismiss a complaint on the ground of 'lack of jurisdiction over the person[.]'" Id. at 358 (alteration in original) (quoting R. 4:6-2(b)). The question of in personam jurisdiction "is 'a mixed question of law and fact' that must be resolved at the outset, 'before the matter may proceed'" Id. at 359 (quoting Citibank, N.A. v. Est. of Simpson, 290 N.J. Super. 519, 532 (App. Div. 1996)).

"When a defendant has maintained continuous and systematic activities in the forum state, the defendant is subject to the state's 'general' jurisdiction on any matter, irrespective of its relation to the state." Id. at 358-59 (quoting Lebel v. Everglades Marina, Inc., 115 N.J. 317, 323 (1989)). For general jurisdiction to apply, a defendant's activities must be "so 'continuous and systematic' as to render [it] essentially at home in the forum State." FDASmart, Inc. v. Dishman Pharms. and Chems. Ltd., 448 N.J. Super. 195, 202 (App. Div. 2016) (alteration in original) (quoting Daimler AG v. Bauman, 571 U.S. 117, 128 (2014)).

"However, when the cause of action arises directly out of a defendant's contacts with the forum state, the state may exercise 'specific' jurisdiction over a defendant who has 'minimum contacts' with the state." Rippon, 449 N.J. Super. at 359 (quoting Lebel, 115 N.J. at 323). "The plaintiff 'bears the burden of proof on the question of the adequacy of the . . . defendants' contacts to sustain an exercise of specific jurisdiction.'" Id. at 360 (quoting Citibank, 290 N.J. Super. at 533). "A conclusion of specific jurisdiction requires that the 'purposeful acts by the [defendant] directed toward this State' be of a kind that 'make[s] it reasonable for the [defendant] to anticipate being haled into court here.'" Id. at 360-61 (alterations in original) (quoting Mastondrea, 391 N.J. Super. at 268).

Pertinent to this appeal, when "[p]resented with a motion to dismiss on the basis of lack of jurisdiction, a trial court must make findings of the 'jurisdictional facts,' because disputed 'jurisdictional allegations cannot be accepted on their face" Id. at 359 (quoting Citibank, 290 N.J. Super. at 532). "If the pleadings and certifications submitted to the trial court do not permit resolution of the jurisdictional question, the trial court must conduct a 'preliminary evidential hearing after affording the parties an appropriate opportunity for discovery.'" Ibid. (quoting Citibank, 290 N.J. Super. at 532). "Generally, the record must support the existence of disputed or conflicting facts to warrant jurisdictional discovery." Ibid. (citing Reliance Nat'l Ins. Co. In Liquidation v. Dana Transp. Inc., 376 N.J. Super. 537, 551 (App. Div. 2005)).

Applying these principles, we are convinced that the record was not sufficiently developed for the trial court to conclude, as it did, that defendants were not subject to New Jersey's general or specific jurisdiction. The court seems to have accepted defendants' blanket denial that Crozer had no relationship whatsoever with New Jersey and had never solicited business from this state. However, plaintiffs argued otherwise and stated that Lou Anne's decision to go to Crozer was the result of its enticements. She alleged she needed the opportunity for discovery from defendants to demonstrate this point.

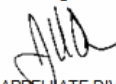
Plaintiffs also wanted to explore what connections, if any, the individual doctors and nurses had to New Jersey. As the trial court acknowledged, at least one of the doctors seemed to have sufficient contacts with New Jersey to support a claim of jurisdiction. However, the court denied plaintiffs the opportunity to seek information concerning the other defendants.

Plaintiffs were also not privy to the nature of the corporate relationship between Crozer, Prospect, and any facilities Prospect operated in New Jersey. It could not obtain that information without a limited period of jurisdictional discovery.

Under these circumstances, we are satisfied that the matter was not ripe for determination at the time defendants filed their motion to dismiss. Rather, the trial court should have granted plaintiffs' request for jurisdictional discovery to explore defendants' activities in, and connections to, New Jersey. Although such discovery may ultimately result in a determination that New Jersey does not have jurisdiction over some or all of the defendants, plaintiffs should not have been prevented from attempting to establish a sufficient basis to proceed at this early juncture of the proceedings.

Reversed and remanded. We do not retain jurisdiction.

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



CLERK OF THE APPELLATE DIVISION