

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RICHARD SNYDER,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 02-124-GMS
)	
RENEE PINAL,)	
)	
Defendant.)	
)	

MEMORANDUM AND ORDER

On February 12, 2002, the plaintiff, Richard Snyder, filed a complaint suing the defendant, Renee Pinal, for damages resulting from the defendant’s alleged failure to refund rent. The leasehold in question is located in Mexico. (D.I. 1 at ¶ 3.) The complaint states that the defendant “is believed to be a citizen of both Mexico and the United States.” (*Id.* at ¶ 1.) The plaintiff further alleges that the defendant “maintains residences in California and possibly elsewhere in the United States as well as Mexico.” (*Id.* at ¶ 2.) The complaint contains no further statements regarding the defendant’s residence or domicile. Snyder is a Delaware resident.

Upon reviewing the complaint and the applicable law, the court finds that it lacks personal jurisdiction over the defendant. The court will, therefore, dismiss this action sua sponte for lack of jurisdiction.¹

¹ The court has the obligation to review issues of personal jurisdiction independently and can dismiss cases sua sponte where it finds jurisdiction lacking. *See, e.g., Meritcare, Inc. v. St. Paul Mercury Ins. Co.*, 106 F.3d 214, 217 (3d Cir. 1999) (citing cases).

I. DISCUSSION

A. Standard of Review

In determining the presence of personal jurisdiction, courts engage in a two step analysis. First, the court must decide whether the long arm statute of the state in which the court sits authorizes jurisdiction. Second, the court must determine whether exercising jurisdiction comports with the requirements of the Due Process Clause of the Fourteenth Amendment. *See, e.g., Compaq Computer Corp. v. Packard Bell Elec., Inc.*, 948 F. Supp 338, 342 (D. Del. 1996) (citation omitted). For Snyder to satisfy the second prong of this analysis, the court must find the existence of “minimum contacts” by Pinal. *See Transportes Aeros de Angola v. Ronair, Inc.*, 544 F. Supp. 868, 865 (D. Del. 1982)(citing *International Shoe Co. v. Washington*, 326 U.S. 310 (1945)). Specifically, Snyder must show that Pinal “purposefully avail[ed] . . . [himself] of the privileges of conducting activities within [the state].” *See Asahi Metal Industry Co. v. Superior Court*, 480 U.S. 102, 108-09 (1987); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985). Unless the contacts are continuous, systematic, and substantial, they must be related to Snyder’s cause of action. *See Helicopteros Nacionales de Columbia, S.A. v. Hall*, 466 U.S. 408, 4111 (1984). In determining the jurisdictional question, the court must accept the allegations in the complaint as true. *See Altech Industries, Inc. v. Al Tech Specialty Steel Corp.*, 542 F.Supp. 53, 55 (D. Del. 1982).

B. Compliance with the Delaware Long Arm Statute

According to the Delaware long arm statute, a non-resident is deemed to submit to the jurisdiction of the Delaware courts by committing any one of a series of acts. *See DEL. CODE ANN. § 3104(b)*. A person can submit himself to Delaware jurisdiction by: (1) transacting any business

or performing any character of work within the state; (2) contracting to supply services or things in Delaware; (3) causing tortious injury in Delaware through an act committed in Delaware; (4) causing tortious injury in Delaware through an act committed outside Delaware if the person solicits business in Delaware, engages in regular conduct in Delaware or derives substantial revenue from Delaware contacts; (5) having an interest in, using, or possessing real property in Delaware; or (6) contracting to act as a surety for a contract or other such obligation located, executed, or to be performed within Delaware at the time the contract is made. *See id.* § 3104(c)(1)-(6).

The facts contained in the complaint do not provide a basis for subjecting Pinal to the jurisdiction of the courts of Delaware through its long arm statute. First, the complaint does not allege that Pinal is currently or has ever transacted business in Delaware. Second, there are no allegations that Pinal contracts to supply services in Delaware. Third, even if the alleged injury could be construed as an action for tort damages, it occurred in Mexico, which is outside of this state (and this country). Fourth, although the purported injury occurred outside of Delaware, the complaint does not assert that Pinal derives substantial revenue (or any revenue) from conduct in Delaware, solicits business in Delaware, or engages in regular (or any) conduct in Delaware. Fifth, the complaint fails to adduce facts that would permit the court to find that Pinal has any real property interest in this state. Finally, there is no allegation that Pinal has signed a contract to act as a surety for an obligation that was located, executed, or performed in Delaware. The court therefore finds that personal jurisdiction cannot be obtained over Pinal through the Delaware long arm statute.

C. The Due Process Analysis ²

As previously stated, to satisfy the constitutional requirements of due process, the court must determine whether Pinal has “minimum contacts” with the state of Delaware. Minimum contacts are not determined according to a fixed formula. *See Transportes Aeros*, 544 F. Supp. at 865. Nevertheless, as previously stated, minimum contacts are usually found where the defendant has purposefully availed himself of the privileges of conducting activities within the state.

The leasehold at issue is located in Mexico, not Delaware. The defendant is alleged to have homes in Mexico and California, but not in Delaware. As previously discussed, the complaint does not allege that the defendant has any significant connections to the state. Indeed, if the allegations of the complaint are accepted as true, it is quite possible that the defendant has never even set foot in Delaware. Thus, the complaint fails to allege that the defendant has any connection to the state of Delaware. Given this lack of connection to the state, Pinal lacks minimum contacts with the state of Delaware. The court therefore finds that the due process guarantee of fair notice would be violated if this suit were allowed to proceed in this forum. *See HMG/Courtland Properties v. Gray*, 729 A.2d 300, 306 (Del. Ch. 1999) (“I have difficulty conceptualizing how [defendants] can be thought to have fair notice that they can be haled into court in Delaware because of . . . their participation in out-of-state conduct.”).

² The Delaware long arm statute has been interpreted to be co-extensive with the Due Process Clause. *See, e.g., Transportes Aeros*, 544 F. Supp. at 864-65 (stating that “[f]ederal courts in this district . . . have given an expansive interpretation to the long arm statute, ruling that [the Delaware statute] must be construed as conferring jurisdiction to the maximum perimeters of the due process clause.”) (citing cases). Therefore, any finding that there is no personal jurisdiction from a constitutional perspective obviates the need for the court to consider whether there is personal jurisdiction under the statute, and assumedly, vice versa. Nevertheless, the court will briefly discuss the implications of the due process clause in this case.

II. CONCLUSION

For all of the foregoing reasons, the court finds that it lacks personal jurisdiction over the defendant Pinal. The court therefore has no power to hear this case. Thus, it will dismiss the action.³

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The court dismisses the plaintiff's complaint for lack of personal jurisdiction.
2. The plaintiff's complaint is DISMISSED WITH PREJUDICE.
3. The clerk shall close this case.

Dated: April 18, 2002

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE

³ The court's ruling should in no way be construed as an opinion on the merits of this case or the appropriateness of jurisdiction in another forum.