

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

EMANUEL DUNAGAN, et al.,

Plaintiffs,

v.

ILLINOIS INSTITUTE OF ART-CHICAGO,
LLC, et al.,

Defendants.

Case No. 19-cv-809

Honorable Charles R. Norgle

**DEFENDANT BRENT RICHARDSON'S AND DEFENDANT
CHRIS RICHARDSON'S MOTION TO DISMISS FOR
LACK OF PERSONAL JURISDICTION**

Pursuant to Fed. R. Civ. P. 12(b)(2), specially appearing Defendants Brent Richardson and Chris Richardson (collectively "Richardsons") move to dismiss Plaintiffs' Third Amended Class Action Complaint against Richardsons in its entirety. The facts show that this Court lacks personal jurisdiction over Richardsons, two individuals residing in Arizona with insufficient contacts to Illinois to be subjected to suit here. In fact, despite the Court permitting jurisdictional discovery on Defendants, Plaintiffs still failed to establish sufficient facts required by the Court in its April 19, 2021 Order ("Order") to exercise personal jurisdiction over Richardsons.

I. BACKGROUND

The Court stated in its Order that Plaintiffs' Complaint alleged a prima facie case for personal jurisdiction over the Richardsons. However, the Court required the Plaintiffs perform jurisdictional discovery to ascertain whether there were jurisdictional facts to support Plaintiffs' allegations against the Richardsons. After Plaintiff performed

jurisdictional discovery, we know there is not. Despite the Court granting Plaintiffs this opportunity to depose the Richardsons to ascertain jurisdictional facts, the Plaintiffs failed to establish sufficient facts that would support this Court's jurisdiction over the Richardsons. In sum, there are no facts to support that the Richardsons committed fraud or intentional misconduct directed at Illinois. Instead, Plaintiffs correctly allege that Richardsons are both residents of Arizona. (Third Amd. Compl. At ¶¶ 28, 29) which is supported by the facts uncovered in jurisdictional discovery.

At all times relevant to this action, Richardsons were and are maintaining their residences in the state of Arizona. *See Declaration of Brent Richardson* at ¶3; *Declaration of Chris Richardson* at ¶3. (attached hereto as Exhibits A and B). Richardsons do not own property in Illinois, nor do they do personal business in Illinois. *B. Richardson Decl.* ¶¶4, 5; *C. Richardson Decl.* ¶¶4, 5. Although given the opportunity in jurisdictional discovery, Plaintiffs did uncover facts to support a claim for fraud or intentional misconduct as required by the Court's Order. Consequently, this Court lacks jurisdiction, and Plaintiffs' claims against Richardsons should be dismissed.

II. ARGUMENT

THE COURT LACKS PERSONAL JURISDICTION OVER RICHARDSONS BECAUSE PLAINTIFFS FAILED TO MEET THEIR BURDEN

Plaintiffs bear the burden of demonstrating the existence of personal jurisdiction. *Kipp v. Ski Enter. Corp. of Wis.*, 783 F.3d 695, 697 (7th Cir. 2015). The Defendants in this case were corporate officers of the Dream Center and are generally protected by the fiduciary shield doctrine. *See Order*, p. 2. However, this protection does not extend to cover individual fraud or intentional misconduct. *Id.* The Court's Order is clear that Plaintiffs

must establish facts to support their claims for individual fraud or intentional misconduct. To satisfy that burden, the Court allowed Plaintiffs to take jurisdictional discovery including to depose the Richardsons to discover any facts that would support personal jurisdiction such as fraud or intentional misconduct directed at Illinois. However, the Richardsons' depositions did not establish personal jurisdiction. Plaintiffs have not met, and cannot meet, their burden.

As confirmed in the Richardsons' depositions, at all times relevant to Plaintiffs' allegations, Richardsons were residents of the state of Arizona. *See Declaration of Brent Richardson* at ¶3; *Declaration of Chris Richardson* at ¶3. At no time relevant to Plaintiffs' allegations did Richardsons even reside temporarily in Illinois or own real property in Illinois. *Id.* Furthermore, at no time relevant did Richardsons do personal business in Illinois. *B. Richardson Decl.* ¶¶4, 5; *C. Richardson Decl.* ¶¶4, 5.

In this case, the Court permitted the Plaintiffs limited discovery to ascertain the jurisdictional facts necessary for the exercising of personal jurisdiction including fraud or intentional misconduct directed at the state of Illinois. Discovery demonstrated that the Richardsons do not have contacts (let alone substantial suit-related contacts) with the state of Illinois. Moreover, Plaintiffs did not uncover the necessary facts to support their prima facie case of fraud or intentional misconduct by the Richardsons.

III. CONCLUSION

Maintenance of this suit against Richardsons in Illinois would offend traditional notions of fair play and substantial justice. Despite given the chance in jurisdictional

discovery, Plaintiffs failed to establish facts sufficient—such as fraud or intentional misconduct—that supports the Court’s personal jurisdiction over Richardsons, and Richardsons have presented evidence in the form of affidavits that they have no contacts with Illinois. Plaintiffs have therefore failed to meet their burden of demonstrating the existence of personal jurisdiction. *See GCIU-Employer Retirement Fund v. Goldfard Corp.*, 565F.3d 1018, 1023 (7th Cir. 2009); *Monster Energy*, 136 F. Supp. 3d at 902.

Since this Court lacks both general and specific personal jurisdiction over Richardsons and Plaintiffs failed to establish any fraud or intentional misconduct in jurisdictional discovery as required by the Order, the Richardsons respectfully request that they be dismissed from this action pursuant to Rule 12(b)(2).

DATED July 12, 2021.

By: s/ Michael A. Schern
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CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2021, I caused the forgoing document to be electronically filed using the Court's CM/ECF system, notification of which will be sent all to counsel of record.

By: s/ Michael A. Schern

Exhibit A

DECLARATION OF BRENT RICHARDSON

I, Brent Richardson, hereby declare and state as follows:

1. I submit this declaration in support of the Motion to Dismiss Plaintiffs' Third Amended Class Action Complaint.

2. The following information is based upon my own personal knowledge or based upon information and belief. If called as a witness to testify, I could and would testify as follows:

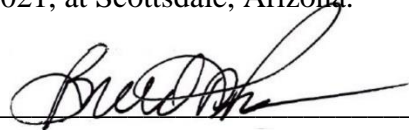
3. My personal residence is located in Scottsdale, Arizona county of Maricopa, and at no time during the last two decades have I resided in any state other than Arizona.

4. I do not own property in Illinois or maintain any assets in Illinois.

5. I do not (a) advertise or solicit business in Illinois, (b) maintain business contracts in Illinois, (c) regularly and knowingly purchase products in Illinois to my knowledge, or (d) maintain any bank accounts in Illinois.

I certify under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of March, 2021, at Scottsdale, Arizona.



By: Brent Richardson