

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CAPTAIN SHERIFF SAUDI, : CIVIL ACTION  
Plaintiff, :  
 :  
v. :  
 :  
ACOMARIT MARITIMES SERVICES, :  
S.A.D., :  
Defendant. : NO. 01-4301

**MEMORANDUM ORDER**

**J.M. KELLY, J.**

**JUNE , 2002**

Presently before the Court are the Exceptions and Objections to Magistrate's Order<sup>1</sup> (Doc. No. 19) of Plaintiff, Captain Sheriff Saudi ("Saudi"). Saudi seeks to recover for injuries he alleges he received during an intervessel transfer.

**BACKGROUND**

Saudi initially filed an action based upon his injury in the United States District Court for the Southern District of Texas. The District Court in Texas ruled that there was no personal jurisdiction over Defendant, Acomarit Maritimes Services, S.A.D. ("Acomarit"), in Texas and Acomarit was not subject to national service of process pursuant to Federal Rule of Civil Procedure 4(k)(2). After Acomarit was dismissed from the Texas case, this action was filed in the Philadelphia Court of Common Pleas.

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<sup>1</sup>The Motion is actually a motion for reconsideration. 28  
U.S.C. § 663(b)(1)(A) (1994).

Acomarit removed this case to the district court based upon admiralty and diversity jurisdiction. This Court denied Acomarit's Motion to Dismiss for lack of personal jurisdiction as it appeared that Saudi has made a reasonable showing that Acomarit may have had an agent for service of process located in Pennsylvania. The parties were allowed to engage in discovery, until July 30, 2002, related solely to this Court's personal jurisdiction over Acomarit in the Eastern District of Pennsylvania and whether service of process was properly effectuated. Discovery disputes arose and Saudi filed a Motion to Compel, which the Court referred to Magistrate Judge Thomas Rueter for a decision, pursuant to 28 U.S.C. § 636(b)(1)(A). Magistrate Judge Rueter granted in part and denied in part the Motion to Compel, effectively limiting the requested discovery to the year prior to the accident and to Acomarit's presence in Pennsylvania.

#### **DISCUSSION**

Federal Rule of Civil Procedure 72 governs objections to magistrate judges' orders, both dispositive and non-dispositive. A discovery order is considered non-dispositive because it does not dispose of a party's claim or defense. Haines v. Liggett Group, Inc., 975 F.2d 81, 92 (3d Cir. 1992). District courts will modify or set aside any non-dispositive magistrate judge order if it is "found to be clearly erroneous or contrary to

law." Fed. R. Civ. P. 72(a).

Saudi appears to be intent upon reopening the issue of national jurisdiction previously resolved in the Texas litigation. See Fed. R. Civ. P. 4(k)(2) (granting national jurisdiction, consistent with the Constitution, where defendant is not subject to jurisdiction in any state). An essential prerequisite to applying Rule 4(k)(2) is that a defendant is not subject to jurisdiction in any state. Base Metal Trading, Ltd. v. OJSC, 283 F.3d 208, 215 (4th Cir. 2002). Saudi, however, now asserts that Acomarit is subject to personal jurisdiction and service in Pennsylvania. The Court ordered discovery to determine whether that contention was correct. If Saudi is correct, he can not satisfy an essential element of national jurisdiction and Magistrate Judge Rueter properly limited discovery to Acomarit's Pennsylvania contacts.

Saudi also objects to time limits that Magistrate Judge Rueter placed upon discovery. Specifically, Magistrate Judge Rueter limited discovery to after January 1, 1998. It is clear that Saudi intends to prove that Tom Garrett's<sup>2</sup> presence in Pennsylvania will subject Acomarit to general jurisdiction in Pennsylvania. General jurisdiction is appropriate where a defendant maintains continuous and substantial contacts with a

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<sup>2</sup> Saudi contends that Tom Garrett was an Acomarit employee located in Pennsylvania.

forum, whether or not those contacts are related to the cause of action. Reliance Steel Prod. Co. v. Watson, Ess, Marshall & Enggas, 675 F.2d 587, 588 (3d Cir. 1982). Therefore, the relevant contacts would be those in temporal proximity to Saudi's accident. Contacts that existed well before the accident would not be relevant to demonstrate general jurisdiction at the time of the accident. Therefore, Magistrate Judge Rueter's Order limiting the time of discovery was not clearly erroneous.

Accordingly, upon consideration of the Exceptions and Objections to Magistrate's Order of Saudi, the Response of Acomarit, the Reply of Saudi and the Sur-reply thereto of Acomarit, it is ORDERED that the Motion is DENIED.

BY THE COURT:

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JAMES MCGIRR KELLY, J.