

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

MATTIE YOUNG,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	NO: 02-3610
CECILLIA A. TRAPPIER,	:	
Defendant.	:	

GREEN, S.J.

AUGUST ____, 2002

MEMORANDUM/ORDER

Presently before the Court are Defendant’s Motion to Dismiss, and Plaintiff’s Response. For the following reasons, Defendant’s motion will be granted.

I. Factual and Procedural Background

Plaintiff Mattie Young (“Plaintiff”) alleges that, on November 17, 2000, she was a passenger in an automobile owned and operated by Defendant Cecillia A. Trapper (“Defendant”), in Durham, North Carolina, when Defendant negligently drove through a red light and caused an accident with a passenger van, resulting in immediate injuries to Plaintiff, from which she still suffers.

In June, 2002, Plaintiff filed the instant action, citing this Court’s diversity jurisdiction under 28 U.S.C. § 1332, alleging that Plaintiff is a resident of Pennsylvania and that Defendant is a resident of North Carolina. Plaintiff also alleged that the “matter in controversy exceeds, exclusive of interest and costs, is less than \$50,000.00.” (See **Pltf.’s Compl.** ¶ 1.) Defendant filed the instant motion to dismiss, arguing that Plaintiff’s Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b), because it failed to claim an amount in controversy over \$75,000.00, as mandated by 28 U.S.C. § 1332. In the alternative, Defendant

argued that this Court lacks *in personam* jurisdiction over Defendant, because Defendant is not a resident of Pennsylvania, does not conduct business in Pennsylvania, and has no connections to this state. Finally, Defendant argues that the Eastern District of Pennsylvania is not a convenient forum for this action, as the accident at issue took place in North Carolina.

In response to this motion, Plaintiff filed an Amended Complaint, and a “Motion in Opposition to Defendant’s Motion to Dismiss,” which will be read as Plaintiff’s Response to Defendant’s motion. In the Amended Complaint, Plaintiff alleges that the amount in controversy does exceed \$75,000.00, exclusive of costs and interest, satisfying the only remaining requirement under 28 U.S.C. § 1332 necessary to establish this Court’s subject matter jurisdiction.¹

II. Legal Standard

Federal Rule of Civil Procedure 4(e) is the starting point in determining whether personal jurisdiction can be asserted over a nonresident defendant. See Pennzoil Products Co. v. Colelli & Associates., Inc., 149 F.3d 197, 200 (3d Cir. 1998). “This rule authorizes personal jurisdiction over non-resident defendants to the extent permissible under the law of the state where the district court sits.” See id. (citation and internal quotations omitted). In the matter *sub judice*, the forum state is Pennsylvania. Pennsylvania’s long arm statute, codified at 42 Pa. Const. Stat. § 5322, “permits Pennsylvania courts to exercise personal jurisdiction over nonresident defendants to the constitutional limits of the Due Process Clause of the Fourteenth Amendment.”

¹ Notwithstanding the fact that Plaintiff twice stated in her original Complaint that the amount in controversy did not exceed \$75,000.00, the Court will accept Plaintiff’s present averment stated in her Amended Complaint, that the amount in controversy does, in fact, exceed the jurisdictional requirement.

See id. (citation and internal quotations omitted). “A district court’s exercise of personal jurisdiction pursuant to Pennsylvania’s long-arm statute is therefore valid as long as it is constitutional.” See id.

A defendant can be subject to either general or specific jurisdiction. “When a state has general jurisdiction over a party, that party can be haled into court in that state regardless of whether the subject matter of the cause of action has any connection to the forum.” See id. (citation and internal quotations omitted). “A nonresident’s contacts with the forum must be “continuous and substantial” to establish general jurisdiction.” See id. (citation and internal quotations omitted).

“Specific jurisdiction exists when the plaintiff’s claim is related to or arises out of the defendant’s contacts with the forum.” See id. at 201 (citation and internal quotations omitted). Generally, a two step analysis is used to determine whether a finding of specific jurisdiction is proper: 1) “whether the defendant had the minimum contacts with the forum necessary for the defendant to have reasonably anticipated being haled into court there;” and, 2) “assuming minimum contacts have been established, a court may inquire whether the assertion of personal jurisdiction would comport with fair play and substantial justice.” See id. (citing World-Wide Volkswagen Corporation v. Woodson, 444 U.S. 286, 297 (1980) and Burger King Corporation v. Rudzewicz, 471 U.S. 462, 476 (1985)).

III. Discussion

In the instant matter, there is no evidence that Defendant has such “continuous and substantial” contacts with Pennsylvania to establish general jurisdiction. The closest Plaintiff comes to stating a case for general jurisdiction is her statement that the “parties are close

relatives and have made visits to each other's home state for over thirty years." (See Pltf.'s Resp. ¶ 5.) This statement, alone, is insufficient to establish general jurisdiction over the Defendant. Plaintiff has not averred or provided evidence that Defendant has had either continuous *or* substantial, let alone continuous *and* substantial, contacts with Pennsylvania. Without specific allegations of such continuous and substantial contact, I conclude the Defendant is not subject to the general jurisdiction of a Pennsylvania court, and, therefore, not subject to general jurisdiction in this Court.

As for specific jurisdiction, the result is the same. Plaintiff's claims in the instant matter are in no way related to, nor do they arise out of, Defendant's contacts with Pennsylvania. The accident occurred in North Carolina, and the alleged injuries sustained by Plaintiff were allegedly sustained in North Carolina. Plaintiff's claims have nothing to do with contact Defendant had with Pennsylvania, and, therefore, cannot be the basis for specific jurisdiction over the Defendant.

IV. Conclusion

I conclude that personal jurisdiction over this Defendant is not permissible under Pennsylvania law. Therefore, Defendant is not subject to the jurisdiction of this Court, and the matter must be dismissed. An appropriate order follows.

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Defendant.	:	

ORDER

AND NOW, this _____ day of August, 2002, upon consideration of Defendant's Motion to Dismiss, and Plaintiff's Response thereto, **IT IS HEREBY ORDERED** that Defendant's motion is **GRANTED**, and Plaintiff's claims are **DISMISSED, without prejudice** to Plaintiff refiling her claims in any court in which she can obtain jurisdiction over the Defendant.

BY THE COURT:

CLIFFORD SCOTT GREEN, S.J.