

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
NORTH CAROLINA, CHARLOTTE DIVISION

Xiaohong Sun v. Theresia Moser, et al.

Civil Action No. 3:25-CV-00586-KDB-DCK · No. 3:25-CV-00586-KDB-DCK · Decided December 17, 2025

SUMMARY

The court denied Xiaohong Sun’s motion for reconsideration and reaffirmed dismissal of her amended claims arising from an employment-related investigation. The court held that it lacked personal jurisdiction over one defendant and that the claims against the remaining defendants were not plausibly supported by a contractual or attorney-client relationship or by facts establishing a legal duty.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Western District of North Carolina, Charlotte Division                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Kenneth D. Bell                                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | United States District Court for the Western District of North Carolina, Charlotte Division                                                                                                                                                                                                                                                |
| DECIDED               | December 17, 2025                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 3:25-CV-00586-KDB-DCK                                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | Plaintiff moved for reconsideration of the court's prior decision denying her motions to amend after dismissal of her complaint. The court reconsidered the dismissal and again denied relief, dismissing the claims against the remaining defendants and retaining the matter as closed.                                                  |
| STANDARD OF REVIEW    | Because Plaintiff proceeded in forma pauperis, the court reviewed the complaint under 28 U.S.C. § 1915(e)(2) to determine whether it was frivolous, malicious, or failed to state a claim. The court applied the plausibility standard to the amended pleading and the constitutional minimum-contacts framework to personal jurisdiction. |
| PRECEDENTIAL VALUE    | unpublished district court memorandum and order; persuasive rather than binding precedent                                                                                                                                                                                                                                                  |
|                       |                                                                                                                                                                                                                                                                                                                                            |

## PARTIES

Xiaohong Sun v. Theresia Moser, Moser Law Co., Brooke Bathras, et al.

## TOPICS

motion for reconsideration personal jurisdiction subject matter jurisdiction pleadings civil procedure

## PRACTICE AREAS

civil procedure personal jurisdiction diversity jurisdiction pleading contracts torts  
employment law

## QUESTIONS PRESENTED

1. Whether reconsideration should be granted after Plaintiff attempted to eliminate North Carolina defendants and establish diversity jurisdiction.
2. Whether the court had personal jurisdiction over Bathras based on her supervision from Delaware of an investigation involving a North Carolina employee.
3. Whether the court had personal jurisdiction over the Moser Defendants based on their alleged engagement to conduct an employment investigation substantially in North Carolina.
4. Whether Plaintiff plausibly alleged a contractual or attorney-client relationship, or facts establishing a legal duty, sufficient to support her claims against the Moser Defendants.

## HOLDINGS

1. The court lacked personal jurisdiction over Bathras, a Delaware resident sued individually, because the allegations did not show that she deliberately engaged in sufficient activities in North Carolina or had contacts making it constitutionally reasonable to require her to defend the action there.
2. The court declined to dismiss the claims against the Moser Defendants for lack of personal jurisdiction because the allegations plausibly showed that they accepted an engagement involving an investigation in North Carolina, conducted substantial parts of that investigation there, and communicated with Plaintiff there.
3. The claims against the Moser Defendants were dismissed because Plaintiff did not allege sufficient facts to support a plausible contractual or attorney-client relationship underlying her contract, negligence, legal-malpractice, and conspiracy claims.
4. The motion for reconsideration was denied, and the prior dismissal was affirmed.

## KEY QUOTATIONS

*“In other words, the exercise of jurisdiction should not ‘make litigation ‘so gravely difficult and inconvenient’ that a party is unfairly at a ‘severe disadvantage’ in comparison to his opponent.’”*

*“In the absence of allegations that Bathras deliberately engaged in significant activities within North Carolina sufficient to support the conclusion that it would be constitutionally reasonable to require Bathras to*

*defend herself in this Court, the Court cannot properly exercise personal jurisdiction over Bathras and the claims against her must be dismissed.”*

*“Therefore, the Court will not dismiss Plaintiff’s claims against them for lack of personal jurisdiction.”*

## FACTUAL BACKGROUND

Plaintiff alleged that individuals associated with Bank of America defamed her, causing her to lose an employment opportunity and become blacklisted. She asserted state-law claims arising from a 2022 investigation, including breach of contract or implied contract, negligence, gross negligence, legal malpractice, and conspiracy. Bathras, a Delaware resident and Bank of America in-house attorney, allegedly supervised the investigation from Delaware and engaged a Georgia lawyer and law firm; the Moser Defendants allegedly conducted substantial portions of the investigation in North Carolina and communicated with Plaintiff there.

## PROCEDURAL HISTORY

The court previously dismissed Plaintiff's complaint and denied her motions to amend. Plaintiff then filed a motion for reconsideration and an amended complaint purporting to eliminate North Carolina defendants to establish diversity jurisdiction. The court concluded that personal jurisdiction was lacking over Bathras and that the claims against the Moser Defendants were not plausibly pleaded, denied reconsideration, and directed the Clerk to retain the matter as closed.

## DISPOSITION

dismissed

## CASES CITED

- Neitzke v. Williams, 490 U.S. 319, 327-28 (1989)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Weller v. Dep't of Soc. Servs., 901 F.2d 387 (4th Cir. 1990)
- Renfinity, Inc. v. Jones, No. 320CV00422KDBDSC, 2022 WL 332782, at \*1-3 (W.D.N.C. Feb. 3, 2022)
- ESAB Grp., Inc. v. Centricut, Inc., 126 F.3d 617, 623 (4th Cir. 1997)
- Carefirst of Md., Inc. v. Carefirst Pregnancy Ctrs., Inc., 334 F.3d 390, 396-97 (4th Cir. 2003)
- International Shoe Co. v. State of Washington, Int'l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291-92 (1980)
- Wallace v. Yamaha Motors Corp., U.S.A., No. 19-2459, 2022 WL 61430, at \*2-3 (4th Cir. Jan. 6, 2022)
- Bristol-Myers Squibb Co. v. Superior Ct. of Cal., S.F. Cnty., 582 U.S. 255, 262 (2017)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475-78 (1985)
- Keeton v. Hustler Mag., Inc., 465 U.S. 770, 774, 781 (1984)
- Travelers Health Ass'n v. Virginia ex rel. State Corp. Comm'n, 339 U.S. 643, 648 (1950)
- Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 417 (1984)
- Christian Sci. Bd. of Dirs. of First Church of Christ, Scientist v. Nolan, 259 F.3d 209, 217 (4th Cir. 2001)

- United States v. Aramony, 88 F.3d 1369, 1391 (4th Cir. 1996)

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