

SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

Janet Thorpe, as Personal Representative of the Estate of Jennifer Palmer v. Memorial Sloan-Kettering Cancer Center, Sam Sunghyun Yoon, M.D., and Sinchun Hwang, M.D.

Thorpe · No. 6D2023-3493 · Decided April 17, 2025

SUMMARY

The Florida Sixth District Court of Appeal affirmed dismissal of a medical-malpractice action for lack of personal jurisdiction over Memorial Sloan-Kettering Cancer Center and two New York physicians. The court held that the alleged out-of-state medical acts causing injury in Florida did not establish jurisdiction under sections 48.193(1)(a)2. or 48.193(1)(a)6. of Florida's long-arm statute. The court certified conflict with Dean v. Johns regarding whether an out-of-state physician's preparation of a written medical report constitutes processing, servicing, or manufacturing a thing under section 48.193(1)(a)6.b.

CASE DETAILS

COURT	Sixth District Court of Appeal of Florida
WRITING FOR THE COURT	Mize, J.; McFee, S.H., Associate Judge; Brownlee, J.
JURISDICTION	Florida Sixth District Court of Appeal
DECIDED	April 17, 2025
DOCKET	6D2023-3493
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order dismissing the appellant's second amended medical-malpractice complaint for lack of personal jurisdiction over the appellees.
STANDARD OF REVIEW	Personal jurisdiction is a pure question of law reviewed de novo.
PRECEDENTIAL VALUE	published
PARTIES	Janet Thorpe, as Personal Representative of the Estate of Jennifer Palmer v. Memorial Sloan-Kettering Cancer Center, Sam Sunghyun Yoon, M.D., Sinchun Hwang, M.D.

TOPICS

personal jurisdiction

motions to dismiss

statutory interpretation

medical malpractice

appellate procedure

PRACTICE AREAS

civil procedure

personal jurisdiction

medical malpractice

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the second amended complaint alleged sufficient facts to establish long-arm jurisdiction over Dr. Yoon and Dr. Hwang under Florida Statutes section 48.193(1)(a)6.a.
2. Whether the second amended complaint alleged sufficient facts to establish long-arm jurisdiction under Florida Statutes section 48.193(1)(a)6.b.
3. Whether out-of-state medical acts causing injury felt in Florida constitute committing a tortious act within Florida under Florida Statutes section 48.193(1)(a)2.
4. Whether communications allegedly directed into Florida established personal jurisdiction under section 48.193(1)(a)2.
5. Whether the doctors' alleged jurisdictional contacts could establish personal jurisdiction over Memorial Sloan-Kettering through agency principles.
6. Whether the court needed to reach the constitutional minimum-contacts inquiry after the complaint failed to satisfy the statutory long-arm-jurisdiction prong.

HOLDINGS

1. The complaint did not establish jurisdiction under section 48.193(1)(a)6.a. because the alleged medical services, testing, and report writing occurred in New York; later use of the records or payment of bills in Florida did not transform those New York activities into service activities within Florida. The complaint also failed to allege the statute's required temporal connection between the Florida service activity and the injury.
2. The complaint did not establish jurisdiction under section 48.193(1)(a)6.b. because it failed to allege the required temporal connection between the use in Florida and the injury, and writing a medical report does not constitute processing, servicing, or manufacturing the report within the ordinary meaning of those terms.
3. Mere injury in Florida resulting from a defendant's tortious act committed wholly outside Florida is insufficient to confer personal jurisdiction under section 48.193(1)(a)2. The statute requires the commission of the tortious act itself within Florida.
4. The complaint did not establish jurisdiction based on communications into Florida because it did not allege that the written reports were sent or directed into Florida, did not specify the nature or location of Dr. Yoon's alleged contact with Florida providers, and did not allege that the communications themselves constituted the tortious acts giving rise to the cause of action.
5. Because the appellant failed to plead a basis for jurisdiction under Florida's long-arm statute, the court did not need to consider affidavits or reach the constitutional minimum-contacts prong.

KEY QUOTATIONS

“For these reasons, we hold that mere injury in Florida resulting from a defendant’s tortious act committed wholly outside of the state is insufficient to confer personal jurisdiction under Section 48.193(1)(a)2. Rather, Section 48.193(1)(a)2. requires the commission of a tortious act within the State of Florida, just as the statute says.” (16)

“Because Appellant failed to meet her initial burden to plead a basis for long-arm jurisdiction over the Appellees, we need not consider the affidavits filed by either party or reach the constitutional minimum contacts prong of the Venetian Salami two-step process.” (20)

FACTUAL BACKGROUND

Jennifer Palmer lived in Florida, temporarily lived in New York, and received cancer diagnosis, surgery, follow-up testing, and radiological services from Memorial Sloan-Kettering and Drs. Yoon and Hwang in New York. The complaint alleged that the defendants failed to timely recognize and treat the spread of Palmer's cancer and that the resulting injuries continued after Palmer returned to Florida. Dr. Yoon later referred Palmer to an Orlando cancer treatment center, where her treatment continued until her death.

PROCEDURAL HISTORY

The plaintiff initially sued the appellees and other defendants for medical malpractice. The trial court granted the appellees' first motion to dismiss for lack of personal jurisdiction with leave to amend. After the plaintiff amended twice, and after the appellees filed supporting affidavits and the plaintiff filed an affidavit executed by Palmer, the trial court dismissed the second amended complaint for lack of personal jurisdiction. The Sixth District Court of Appeal affirmed and certified direct conflict with *Dean v. Johns* concerning section 48.193(1)(a)6.b.

DISPOSITION

affirmed

CASES CITED

- *Consol. Energy Inc. v. Strumor*, 920 So. 2d 829, 831 (Fla. 4th DCA 2006)
- *Execu-Tech Bus. Sys., Inc. v. New Oji Paper Co.*, 752 So. 2d 582, 584 (Fla. 2000), cert. denied, 531 U.S. 818 (2000)
- *Venetian Salami Company v. Parthenais*, *Venetian Salami Co. v. Parthenais*, 554 So. 2d 499, 502 (Fla. 1989)
- *Robinson Helicopter Co., Inc. v. Gangapersaud*, 346 So. 3d 134, 138-39 (Fla. 2d DCA 2022)
- *Rautenberg v. Falz*, 193 So. 3d 924, 928-30 (Fla. 2d DCA 2016)
- *Arch Aluminum & Glass Co., Inc. v. Haney*, 964 So. 2d 228, 232 (Fla. 4th DCA 2007)
- *Am. Fin. Trading Corp. v. Bauer*, 828 So. 2d 1071, 1074 (Fla. 4th DCA 2002)
- *Homeway Furniture Co. of Mount Airy, Inc. v. Horne*, 822 So. 2d 533, 536, 539 (Fla. 2d DCA 2002)
- *PK Computs., Inc. v. Indep. Travel Agencies of Am., Inc.*, 656 So. 2d 254, 255 (Fla. 4th DCA 1995)

- Law Offices of Sybil Shainwald v. Barro, 817 So. 2d 873, 876 (Fla. 5th DCA 2002)
- Wendt v. Horowitz, 822 So. 2d 1252, 1253, 1260 (Fla. 2002)
- Nunes v. Herschman, 310 So. 3d 79, 82 (Fla. 4th DCA 2021)
- Sch. Bd. of Palm Beach Cnty. v. Survivors Charter Sch., Inc., 3 So. 3d 1220, 1233 (Fla. 2009)
- Dean v. Johns, 789 So. 2d 1072, 1077 (Fla. 1st DCA 2001)
- Metnick & Levy, P.A. v. Seuling, 123 So. 3d 639, 645 (Fla. 4th DCA 2013)
- Thomas Jefferson Univ. v. Romer, 710 So. 2d 67, 71 (Fla. 4th DCA 1998) (Farmer, J., concurring)
- Bedwell v. Rucks, 127 So. 3d 533, 535 (Fla. 4th DCA 2012)
- Ernie Passeos, Inc. v. O'Halloran, 855 So. 2d 106, 109 (Fla. 2d DCA 2003)
- Casita, L.P. v. Maplewood Equity Partners L.P., 960 So. 2d 854, 855-56 (Fla. 3d DCA 2007)
- Korman v. Kent, 821 So. 2d 408, 410 (Fla. 4th DCA 2002)
- Thompson v. Doe, 596 So. 2d 1178, 1180-81 (Fla. 5th DCA 1992), approved on other grounds, 620 So. 2d 1004 (Fla. 1993)
- Samsung SDI Co., Ltd. v. Fields, 346 So. 3d 102, 107 (Fla. 1st DCA 2022)
- Mulligan v. Frank Found. Child Assistance Int'l, 584 F. Supp. 2d 1332, 1334-35 (M.D. Fla. 2008)