

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Soma Medical International v. Standard Chartered Bank

196 F.3d 1292 (10th Cir. 1999) · No. No. 98-4138 · Decided December 1, 1999

SUMMARY

The Tenth Circuit affirmed dismissal of Soma Medical International’s diversity action against Standard Chartered Bank for lack of personal jurisdiction. The court held that the bank’s contacts with Utah, including correspondence concerning a Hong Kong account and a passive website, did not establish general or specific jurisdiction. The court also affirmed denial of Soma’s motion to compel jurisdictional discovery.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Anderson, Circuit Judge; McKay, Circuit Judge; Henry, Circuit Judge
JURISDICTION	Federal
DECIDED	December 1, 1999
DOCKET	No. 98-4138
DISPOSITION	affirmed
PROCEDURAL POSTURE	Soma appealed the dismissal of its diversity action against Standard Chartered Bank for lack of personal jurisdiction and the denial of its motion to compel jurisdictional discovery.
STANDARD OF REVIEW	The dismissal for lack of personal jurisdiction was reviewed de novo. The denial of the motion to compel discovery was reviewed for abuse of discretion. Because the district court dismissed without an evidentiary hearing, Soma had to make a prima facie showing of personal jurisdiction.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the Tenth Circuit.
PARTIES	Soma Medical International v. Standard Chartered Bank, Leonard D. Fong

TOPICS

- personal jurisdiction
- discovery dispute
- appellate procedure
- civil procedure
- contracts

PRACTICE AREAS

civil procedure

constitutional law

appellate procedure

contracts

commercial litigation

QUESTIONS PRESENTED

1. Whether the Utah federal court could exercise general personal jurisdiction over Standard Chartered Bank based on its Utah-related filings, prior Utah litigation, website, and other activities.
2. Whether the Utah federal court could exercise specific personal jurisdiction over Standard Chartered Bank based on the bank's communications and account-related contacts with Soma in Utah.
3. Whether the magistrate judge abused his discretion by denying Soma's motion to compel jurisdictional discovery.

HOLDINGS

1. Standard Chartered Bank's Utah-related filings, prior Utah lawsuits, and passive informational website did not constitute the substantial and continuous local activity necessary for general personal jurisdiction.
2. Standard Chartered Bank's account-related communications, records, and transfers were insufficient to establish minimum contacts or purposeful availment supporting specific personal jurisdiction in Utah.
3. The magistrate judge did not abuse his discretion by denying Soma's motion to compel jurisdictional discovery.

KEY QUOTATIONS

“To obtain personal jurisdiction over a nonresident defendant in a diversity action, a plaintiff must show that jurisdiction is legitimate under the laws of the forum state and that the exercise of jurisdiction does not offend the due process clause of the Fourteenth Amendment.” (196 F.3d at 1294)

“The website appears to be a “passive Web site that does little more than make information available to those who are interested” and one in which SCB “has simply posted information on an Internet Web site which is accessible to users in foreign jurisdictions.”” (196 F.3d at 1298)

“The fact that Soma happened to be a resident of Utah was of no consequence to Standard Chartered.” (196 F.3d at 1299)

“We therefore affirm the district court's dismissal of all claims against SCB for lack of personal jurisdiction.” (196 F.3d at 1300)

FACTUAL BACKGROUND

Soma Medical International, a Delaware corporation with its principal place of business in Utah, opened an account with Standard Chartered Bank's Hong Kong branch to support a proposed Chinese joint venture. Leonard D. Fong allegedly created a fraudulent signature card authorizing himself to withdraw funds and later directed Standard Chartered Bank to transfer approximately \$250,000 from Soma's account to Fong's account in Nevada. Soma sued in Utah, relying on Standard Chartered Bank's communications with Utah, account-related records, website, Utah filings, and prior Utah lawsuits to establish personal jurisdiction.

PROCEDURAL HISTORY

Soma filed a diversity action in the United States District Court for the District of Utah alleging breach of contract, negligence, breach of implied covenant, and civil conspiracy. The district court permitted limited jurisdictional discovery, denied Soma's motion to compel, and dismissed the claims against Standard Chartered Bank for lack of general and specific personal jurisdiction. The Tenth Circuit affirmed both rulings.

DISPOSITION

affirmed

CASES CITED

- Far West Capital, Inc. v. Towne, 46 F.3d 1071 (10th Cir. 1995)
- OMI Holdings, Inc. v. Royal Ins. Co. of Canada, 149 F.3d 1086 (10th Cir. 1998)
- Rambo v. American Southern Ins. Co., 839 F.2d 1415 (10th Cir. 1988)
- Trierweiler v. Croxton & Trench Holding Corp., 90 F.3d 1523 (10th Cir. 1996)
- Arguello v. Woodworking Mach. Co., 838 P.2d 1120 (Utah 1992)
- Harnischfeger Eng'rs, Inc. v. Uniflo Conveyor, Inc., 883 F. Supp. 608 (D. Utah 1995)
- Buddensick v. Stateline Hotel, Inc., 972 P.2d 928 (Utah Ct. App. 1998)
- Beck v. D'Amour S.A., 923 F. Supp. 196 (D. Utah 1996)
- Frontier Fed. Savings & Loan Ass'n v. National Hotel Corp., 675 F. Supp. 1293 (D. Utah 1987)
- Patriot Systems, Inc. v. C-Cubed Corp., 21 F. Supp. 2d 1318 (D. Utah 1998)
- Zippo Manufacturing Co. v. Zippo Dot Com, Inc., 952 F. Supp. 1119 (W.D. Pa. 1997)
- Mink v. AAAA Development LLC, 190 F.3d 333 (5th Cir. 1999)
- Cybersell, Inc. v. Cybersell, Inc., 130 F.3d 414 (9th Cir. 1997)
- SF Hotel Co. v. Energy Investments, Inc., 985 F. Supp. 1032 (D. Kan. 1997)
- Purco Fleet Services, Inc. v. Towers, 38 F. Supp. 2d 1320 (D. Utah 1999)
- National Petroleum Marketing, Inc. v. Phoenix Fuel Co., 902 F. Supp. 1459 (D. Utah 1995)
- Starways, Inc. v. Curry, 980 P.2d 204 (Utah 1999)
- Synergetics v. Marathon Ranching Co., 701 P.2d 1106 (Utah 1985)
- SII Megadiamond, Inc. v. American Superabrasives Corp., 969 P.2d 430 (Utah 1998)
- SII Management, Inc., 969 P.2d 430 (Utah 1998)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985)
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310 (1945)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)
- Asahi Metal Industry Co. v. Superior Court of California, 480 U.S. 102 (1987)
- Cunico v. Pueblo School District No. 60, 917 F.2d 431 (10th Cir. 1990)
- Pippinger v. Rubin, 129 F.3d 519 (10th Cir. 1997)
- GWN Petroleum Corp. v. OK-TEX Oil & Gas, Inc., 998 F.2d 853 (10th Cir. 1993)

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