

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Metnick & Levy, P.A. v. Seuling

123 So. 3d 639 (Fla. Dist. Ct. App. 2013) · Decided October 2, 2013

SUMMARY

The Florida Fourth District Court of Appeal considered personal jurisdiction over a New York client and attorney in a Florida law firm’s action involving breach of contract and tortious interference. The court held that Florida had long-arm and constitutionally sufficient jurisdiction over the client, but that the complaint did not establish long-arm jurisdiction over the attorney, reversing in part and affirming in part.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Per Curiam; May; Forst; Gross
JURISDICTION	Florida
DECIDED	October 2, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The law firm appealed the circuit court's dismissal of its claims for lack of jurisdiction, improper venue, and failure to state a cause of action. The appellate court treated the circuit court's venue ruling primarily as a ruling on personal jurisdiction, reversed the dismissal as to Seuling, and affirmed the dismissal as to Pirrotti.
STANDARD OF REVIEW	De novo review of the dismissal based on personal jurisdiction and the application of Florida's long-arm statute.
PRECEDENTIAL VALUE	Published Florida Fourth District Court of Appeal opinion; precedential under applicable Florida law.
PARTIES	Metnick & Levy, P.A. v. Barbara Seuling, Anthony J. Pirrotti

TOPICS

- personal jurisdiction
- venue
- appellate jurisdiction
- breach of contract
- intentional interference with contract

PRACTICE AREAS

- civil procedure
- contracts
- torts
- appellate procedure

QUESTIONS PRESENTED

1. Whether Florida courts had personal jurisdiction over Seuling under Florida's long-arm statute and constitutional minimum-contacts principles in the law firm's breach-of-contract action.
2. Whether Florida courts had personal jurisdiction over Pirrotti in the law firm's tortious-interference action when the alleged interference occurred in New York.
3. Whether venue in Palm Beach County was proper if personal jurisdiction existed over the nonresident defendants.
4. Whether the appellate court had jurisdiction over the appeal filed after the dismissal but within thirty days of the denial of rehearing.

HOLDINGS

1. Florida courts had personal jurisdiction over Seuling. The complaint alleged facts bringing the claim within Florida's long-arm statute, and Seuling had sufficient minimum contacts with Florida because she voluntarily retained a Florida law firm to perform substantial legal services on her behalf.
2. Florida courts lacked personal jurisdiction over Pirrotti because the complaint did not allege that he committed a tortious act in Florida within the meaning of Florida's long-arm statute.
3. Venue was proper in Palm Beach County if Florida had personal jurisdiction over the nonresident defendants.
4. The appeal was timely and the appellate court had jurisdiction because the dismissal order could be characterized as a final order authorizing rehearing, making the appeal timely when filed within thirty days after denial of rehearing.

KEY QUOTATIONS

"A court must first determine whether sufficient facts have been alleged to bring the action within the ambit of Florida's long-arm statute. If the statute applies, the court must then determine whether there are sufficient 'minimum contacts' on the part of the defendant to satisfy due process requirements." (643)

"Applying Tallmadge, Offer, and Stomar, Seuling had sufficient minimum contacts with Florida because she voluntarily contracted with a law firm in this state to perform services on her behalf." (644-645)

"That such action resulted in the breach of a Florida contract, and the loss of income to a Florida firm, is immaterial for the purpose of determining jurisdiction." (646)

FACTUAL BACKGROUND

Barbara Seuling, a New York resident, retained the Florida law firm Metnick & Levy to represent her in connection with an automobile accident in Vermont. After communicating by telephone, Seuling signed and returned a retainer agreement to the firm's Florida office; the firm negotiated a \$100,000 settlement with Liberty Mutual. Seuling later retained New York attorney Anthony J. Pirrotti, who told the firm it had been discharged and was entitled to quantum meruit, and Seuling settled the claim while promising to hold Liberty Mutual harmless for fees owed to the firm.

PROCEDURAL HISTORY

Metnick & Levy sued Seuling for breach of contract and Pirrotti for tortious interference with contract in Florida. The defendants moved to dismiss for lack of subject matter jurisdiction, lack of personal jurisdiction, improper venue, and failure to state a cause of action. The circuit court dismissed the case in an order labeled as based on improper venue. The Fourth District reversed the dismissal as to Seuling, affirmed it as to Pirrotti, and remanded for further proceedings concerning Seuling.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further proceedings on the law firm's breach-of-contract claim against Seuling. The dismissal of the claim against Pirrotti was affirmed.

CASES CITED

- Ringling Bros.-Barnum & Bailey Combined Shows, Inc. v. State, 295 So. 2d 314, 315 (Fla. 1st DCA 1974)
- Holton v. Prosperity Bank of St. Augustine, 602 So. 2d 659, 662 n. 2 (Fla. 5th DCA 1992)
- Venetian Salami Company v. Parthenais, Venetian Salami Co. v. Parthenais, 554 So. 2d 499, 502 (Fla. 1989)
- Caiazzo v. Am. Royal Arts Corp., 73 So. 3d 245, 250 (Fla. 4th DCA 2011)
- Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 414 (1984)
- International Shoe Co. v. State of Washington, Int'l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)
- Corporacion Aero Angeles, S.A. v. Fernandez, 69 So. 3d 295, 299 (Fla. 4th DCA 2011)
- Hartcourt Cos. v. Hogue, 817 So. 2d 1067, 1070 (Fla. 5th DCA 2002)
- Global Satellite Commc'n Co. v. Sudline, 849 So. 2d 466, 468 (Fla. 4th DCA 2003)
- Sunshine Yacht Sales, Inc. v. Bob Anslow Yacht Sales, Inc., 669 So. 2d 342, 344 (Fla. 3d DCA 1996)
- Ryan v. Mobile Commc'ns Enters., Inc., 594 So. 2d 845, 846 (Fla. 2d DCA 1992)
- Armaly v. Practice Mgmt. Assocs., Inc., 533 So. 2d 920, 921 (Fla. 2d DCA 1988)
- Michael Schiffrin & Assocs., P.A. v. Koraly, 957 So. 2d 655, 658 (Fla. 3d DCA 2007)
- Lakewood, Pipe of Texas, Inc. v. Rubaii, 379 So. 2d 475, 477 (Fla. 2d DCA 1979)
- Rebozo v. Washington Post Co., 515 F.2d 1208 (5th Cir. 1975)
- Jack Pickard Dodge, Inc. v. Yarbrough, 352 So. 2d 130 (Fla. 1st DCA 1977)
- Wash. Capital Corp. v. Milandco, Ltd., 695 So. 2d 838, 841 (Fla. 4th DCA 1997)
- Osborn v. Univ. Soc'y, Inc., 378 So. 2d 873, 874 (Fla. 2d DCA 1979)
- Hilltopper Holding Corp. v. Estate of Cutchin, 955 So. 2d 598, 601 (Fla. 2d DCA 2007)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)
- Res. Healthcare of Am., Inc. v. McKinney, 940 So. 2d 1139, 1141 (Fla. 2d DCA 2006)

- Aluminator Trailers, L.L.C. v. Loadmaster Aluminum Boat Trailers, Inc., 832 So. 2d 822, 823 (Fla. 2d DCA 2002)
- EOS Transport Inc. v. Agri-Source Fuels LLC, 37 So. 3d 349, 354 (Fla. 1st DCA 2010)
- Bohlander v. Robert Dean Assocs. Yacht Brokerage, Inc., 920 So. 2d 1226, 1228 (Fla. 3d DCA 2006)
- Telesur v. DOT (SR), Inc., 100 So. 3d 1232, 1235-36 (Fla. 2d DCA 2012)
- Wendt v. Horowitz, 822 So. 2d 1252, 1260 (Fla. 2002)
- Freedom Savings & Loan Ass'n v. Ormandy & Associates, Inc., 479 So. 2d 316, 317 (Fla. 5th DCA 1985)
- PK Computers, Inc. v. Indep. Travel Agencies of Am., Inc., 656 So. 2d 254, 255 (Fla. 4th DCA 1995)
- Hunt v. Cornerstone Golf, Inc., 949 So. 2d 228, 230 (Fla. 4th DCA 2007)
- Bd. of Cnty. Comm'rs v. Grice, 438 So. 2d 392, 393-94 (Fla. 1983)

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