2018 IL App (1st) 170655-U

THIRD DIVISION
May 16, 2018

No. 1-17-0655

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ULMER BERNE LLP,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 16 L 8502
	)	
ASCENDIANT CAPITAL MARKETS LLC,	)	Honorable
	)	Margaret Ann Brennan,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE HOWSE delivered the judgment of the court.
Presiding Justice Cobbs and Justice Lavin concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's order denying defendant's motion to dismiss for lack of personal jurisdiction is reversed; a Nevada LLC with no offices in Illinois did not have sufficient minimum contacts with the state of Illinois to be subject to the jurisdiction of Illinois courts where the only contact the company had with the State was an agent returning via email a retainer agreement to an Illinois lawyer for representation in a Florida arbitration.

¶ 2 Plaintiff, Ulmer Berne LLP, a law firm headquartered in Cleveland, Ohio with offices in Ohio, Illinois, and Florida, filed a breach of contract action in the circuit court of Cook County against defendant, Ascendiant Capital Markets LLC (Ascendiant), a Nevada Limited Liability Company headquartered in California. Plaintiff seeks judgment for legal fees it billed defendant,

as well as other additional costs. Defendant filed a motion to dismiss pursuant to 735 ILCS 5/2-619(a)(9) (West 2016), arguing the trial court lacked *in personam* jurisdiction over defendant. The trial court denied defendant's motion to dismiss for lack of jurisdiction. This appeal followed. For the reasons that follow, we reverse the judgment of the trial court and remand this case with directions to dismiss the case for lack of jurisdiction.

¶ 3 BACKGROUND

¶ 4 The record shows that in May 2012, the securities firm Noble Financial Capital Markets filed a Financial Industry Regulatory Authority (FINRA) arbitration action against defendant, Ascendiant, in Boca Raton, Florida. Defendant retained plaintiff, the law firm of Ulmer Berne LLP, to represent Ascendiant in the financial regulatory arbitration in Florida. Plaintiff sent all of its notices of unpaid invoices to defendant from its Cleveland, Ohio office. All of the notices bore the header "In Account With Ulmer & Berne LLP, Attorneys At Law" and the only address provided was a P.O. Box in Cleveland, Ohio. Plaintiff listed a Cleveland phone number and fax number for defendant to contact. The notices indicated plaintiff had offices in Cleveland, Columbus, Cincinnati, and Chicago. On October 19, 2012, plaintiff sent defendant an invoice for $21,123.52 for legal services rendered. Defendant disputed the amount billed, and the relationship between the parties deteriorated. As a result, plaintiff's representation of defendant in the Florida action ended, and defendant retained other counsel.

¶ 5 On August 26, 2016, plaintiff filed a verified complaint in the circuit court of Cook County seeking judgment against defendant in the amount of $32,502.71, plus court costs for its services. Plaintiff served defendant with process and then filed a motion for default judgment when no answer was filed. After plaintiff filed a motion for default judgment, defendant filed a motion to dismiss for lack of personal jurisdiction arguing it did not have sufficient minimum

contacts with Illinois.

¶ 6 The managing principal of Ascendiant is Mark Bergendahl (Bergendahl). Mike Brown (Brown), a Georgia resident, at all relevant times served as defendant's chief compliance officer. Attached to defendant's motion to dismiss was the affidavit of Bergendahl. Bergendahl averred he discussed hiring attorney Alan Wolper (Wolper) with Brown for the Florida arbitration and that "Illinois was never relevant or upon information and belief ever mentioned in discussions of the Boca Raton FINRA arbitration." Brown knew Wolper from when they both lived in Atlanta, and recommended him because of Wolper's experience in the Southeast as the Director for the National Association of Securities Dealers (now FINRA). Wolper is an attorney employed by plaintiff in Chicago, Illinois. Brown and Wolper discussed an attorney-client engagement for plaintiff to represent defendant in the Florida action. Wolper emailed Brown an engagement letter, which included the address of his Chicago office. Brown signed the engagement agreement to retain plaintiff's legal services on September 21, 2012 and returned it via email. Defendant argued that returning the email was the only contact it had with the state of Illinois.

¶ 7 Plaintiff filed a response to defendant's motion to dismiss. Plaintiff did not submit an affidavit, but argued that because "Brown signed and returned the letter of engagement *** Defendant purposely searched out and hired an Illinois Attorney." "A reasonable person would assume that Wolper, an Illinois attorney who is located in Illinois, would therefore perform a substantial amount of the required work in Illinois." However, plaintiff failed to provide any support for how much work may have been performed in Illinois. No affidavit attesting to where *any* of the work was performed was included with any of plaintiff's filings. Plaintiff has not argued defendant made any contacts with Illinois other than "purposely search[ing] out and hir[ing] an Illinois Attorney," and signing and returning the letter of engagement. Plaintiff

maintains defendant's engagement of Wolper, a Chicago attorney, coupled with the fact that "the work was substantially performed in Illinois," meant defendant was subject to the jurisdiction of Illinois courts under the Illinois Long-Arm Statute under section 735 ILCS 5/2-209(a)(7). Under the Long-Arm Statute:

> "Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits such person, and, if an individual, his or her personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any of such acts: (7) The making or performance of any contract or promise substantially connected with this State." 735 ILCS 5/2-209(a)(7) (West 2016).

Plaintiff argued the trial court exercising jurisdiction over defendant also satisfied the due process clause of the Fourteenth Amendment. See U.S. CONST. amend. XIV; *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945); *Worldwide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980).

¶ 8 Plaintiff claimed that under Illinois law, a "single business transaction can be sufficient to constitute the 'minimum contacts' necessary to give a court jurisdiction over a defendant." This single business transaction was Brown's engagement of Wolper. Bergendahl's affidavit indicated Brown signed an engagement letter prepared and sent by Wolper containing Wolper's Chicago office address and phone number.

¶ 9 In defendant's reply brief in support of its motion to dismiss, defendant argued it "never visited or otherwise contacted Illinois and operates from California." Defendant maintained its "performance was out-of-state in California," it contracted for legal services to be performed out-

of-state in Florida, and that neither Illinois nor Federal law supported the trial court's exercise of jurisdiction over defendant.

¶ 10 On February 14, 2017, the trial court conducted a hearing on the motion at which it heard the arguments of counsel but no additional evidence. The court denied defendant's motion to dismiss. On March 16, 2017, defendant timely filed a Rule 306(a)(3) petition for interlocutory appeal on the basis that it had done nothing to subject itself to the jurisdiction of the Illinois courts. Ill. S. Ct. R. 306(a)(3) (eff. March 8, 2016). On April 13, 2017, we entered an order granting defendant's petition for leave to appeal. Therefore, we have jurisdiction to hear this appeal. *Id*.

¶ 11 ANALYSIS

¶ 12 Initially we note plaintiff did not file an appellee's brief within the time permitted by Rule 343. Ill. S. Ct. R. 343(a) (eff. July 1, 2008). We subsequently entered an order that this case be taken on the appellant's brief alone.

> "[I]f the record is simple and the claimed errors are such that the court can easily decide them without the aid of an appellee's brief, the court of review should decide the merits of the appeal. In other cases if the appellant's brief demonstrates *prima facie* reversible error and the contentions of the brief find support in the record the judgment of the trial court may be reversed." *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 13 The sole issue in this appeal is whether the trial court had personal jurisdiction over defendant. Defendant maintains it is not an Illinois resident, the work contracted for was substantially performed in Florida, it has not submitted itself to the jurisdiction of Illinois courts,

and that the trial court here did not have personal jurisdiction over defendant. "Where personal jurisdiction is challenged, the party asserting personal jurisdiction has the burden of establishing it by a preponderance of the evidence." *Dilling v. Sergio*, 263 Ill. App. 3d 191, 195 (1994). In plaintiff's reply to defendant's motion to dismiss for lack of personal jurisdiction at the trial court, plaintiff argued Illinois courts have personal jurisdiction over plaintiff because plaintiff availed itself of the laws of Illinois by engaging in a contract with a Chicago lawyer. Defendant counters that Illinois law does not support exercising personal jurisdiction over a nonresident defendant on the sole basis that an Illinois attorney was hired when the work performed concerned litigation in a different state.

¶ 14 No jurisdictional facts are in controversy here. This left the trial court to only consider the documentary evidence and resolve the legal question of whether those uncontroverted jurisdictional facts supported the trial court exercising *in personam* jurisdiction over defendant. Thus, our review of the present case is *de novo*. See *Madison Miracle Productions, LLC*, 2012 IL App (1st) 112334, ¶ 39.

¶ 15 Specific Jurisdiction

¶ 16 A trial court may assert its jurisdiction "only when it is fair, just, and reasonable to require a nonresident defendant to defend an action in Illinois, considering the quality and nature of the defendant's acts which occur in Illinois or which affect interests located in Illinois." *Rollins v. Ellwood*, 141 Ill. 2d 244, 275 (1990).

> "In all cases involving a nonresident defendant, before a court may subject the defendant to a judgment *in personam*, 'due process requires that the defendant have certain minimum contacts with the forum State such that maintenance of the suit there does not offend "traditional notions of fair play and substantial justice."

> ' " *Russell v. SNFA*, 2013 IL 113909, ¶ 34 (quoting *Wiles v. Morita Iron Works Co.*, 125 Ill. 2d 144, 150 (1988) (quoting *International Shoe Co.*, 326 U.S. at 316)).

We are therefore required to determine "whether defendant has minimum contacts with Illinois and whether subjecting it to litigation in Illinois is reasonable under traditional notions of fair play and substantial justice." *Id.*

¶ 17 Whether defendant has sufficient "minimum contacts depends on whether the plaintiff is seeking general or specific jurisdiction." *Young v. Ford Motor Co.*, 2017 IL App (4th) 170177, ¶ 28. Illinois courts may exercise general jurisdiction over corporate defendants when the defendant "has engaged in continuous and substantial business within the forum, the paradigm example for a corporation being a location where it 'is fairly regarded as at home.' " *Russell*, 2013 IL 113909, ¶ 36 (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 924 (2011)). Once the court has general jurisdiction over a defendant, a plaintiff may bring a cause of action against the defendant for conduct unrelated to the forum state. *Id*. The standard for finding general jurisdiction is therefore "very high." *Id*. A defendant who cannot be subject to the general jurisdiction of a state may still be subject to the specific jurisdiction of the forum state based on the defendant's conduct within the forum state. A court may only exercise specific jurisdiction over a nonresident defendant if it is shown

> "that the defendant purposefully directed its activities at the forum state and the cause of action arose out of or relates to the defendant's contacts with the forum state. [Citation.] Under specific jurisdiction, a nonresident defendant may be subjected to a forum state's jurisdiction based on certain ' "single or occasional acts" ' in the state but only with respect to matters

related to those acts." *Id.*, ¶ 40.

In this case plaintiff did not argue Illinois has general jurisdiction over defendant. Plaintiff instead argued the court has specific jurisdiction over defendant on the basis of its contract with defendant – namely, that defendant's engagement of an Illinois attorney for representation meant defendant had sufficient minimum contacts with Illinois to not offend traditional notions of fair play and substantial justice.

¶ 18 When reviewing cases where a plaintiff asserts there is specific jurisdiction over a defendant, Illinois courts must "decide whether jurisdiction can properly be exercised by 'looking to the meaning' of Illinois' long-arm statute, as well as separately inquiring into whether exercising jurisdiction is permissible under Federal due process standards." *Rollins*, 141 Ill. 2d at 271. Because both federal due process and the Illinois long-arm statute must be satisfied for a trial court to exercise personal jurisdiction over a party, if the exercise of personal jurisdiction does not satisfy either condition the court will necessarily not have personal jurisdiction over defendant. *Ideal Insurance Agency, Inc. v. Shipyard Marine, Inc.*, 213 Ill. App. 3d 675, 678 (1991). Thus, if the exercise of personal jurisdiction violates defendant's right to due process under the United States Constitution, the trial court will not have personal jurisdiction over defendant. *Id*. In this case we will first consider whether due process will be satisfied if the state of Illinois exercises jurisdiction over defendant.

¶ 19 Under the Due Process clause of the Fourteenth Amendment, a nonresident defendant must "have certain minimum contacts with the forum State such that maintenance of the suit there does not offend 'traditional notions of fair play and substantial justice.' " *Ores v. Kennedy*, 218 Ill. App. 3d 866, 872 (1991) (quoting *International Shoe Co.*, 326 U.S. at 316). Whether maintenance of a suit in the forum state offends traditional notions of fair play and substantial

justice turns on a consideration of three criteria:

> "(1) whether the nonresident defendant had 'minimum contacts' with the forum state such that he had 'fair warning' that he may be required to defend himself there; (2) whether the action arose out of or relates to the defendant's contacts with the forum; and (3) whether it is reasonable to require the defendant to litigate in the forum state." *Id.* (citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472–77 (1985)).

¶ 20 This evaluation is not a mechanical test. Instead, courts must evaluate the overall context and nature of the particular case. *Capital Associates Development Corp. v. James E. Roberts-Ohbayashi Corp.*, 138 Ill. App. 3d 1031, 1036 (1985) ("In determining whether sufficient minimum contacts exist, courts should avoid applying any mechanical tests and should instead look to the facts and circumstances of each individual case."). Our review of whether defendant had sufficient minimum contacts with Illinois to have fair warning to be required to defend itself here turns on the conduct of defendant, not plaintiff. *Coca-Cola Co. v. A. Epstein & Sons International, Inc.*, 89 Ill. App. 3d 253, 259 (1980) ("The unilateral action of plaintiff cannot serve to satisfy the jurisdictional requirement because only the actions of defendant are relevant.").

¶ 21 Defendant's Contacts with Illinois

¶ 22 The first issue in this case is whether plaintiff has proven by a preponderance of the evidence that defendant had sufficient minimal contacts with Illinois and whether defendant availed itself of the laws of Illinois when it contracted with plaintiff for legal representation in a Florida arbitration case. The undisputed affidavit in support of the motion to dismiss stated Brown spoke with Wolper about representation, and plaintiff has not claimed either Brown or

any other agent of defendant came to Illinois. Then Wolper emailed an engagement agreement to Brown. Brown signed the agreement and returned it via email to Wolper. "[A] single business transaction can be sufficient to constitute the 'minimum contacts' necessary to give a court *in personam* jurisdiction over a non-resident defendant." *Id.* at 1037. Although one business transaction can be sufficient, "[t]he number of contacts with the forum state is not, by itself, determinative. [Citations.] What is more significant is whether the contacts suggest that the nonresident defendant purposefully availed himself of the benefits of the forum state." *Brown v. Flowers Industries, Inc.*, 688 F.2d 328, 333 (5th Cir. 1982).

¶ 23 While defendant may have entered into a contract with an Illinois attorney, "that fact alone does not establish jurisdiction over them." *Dilling v. Sergio*, 263 Ill. App. 3d 191, 196 (1994). The Supreme Court of the United States has made it clear that the singular act of entering into a contract with a plaintiff in the forum state is insufficient to subject the nonresident defendant to the specific jurisdiction of the forum state.

> "At the outset, we note a continued division among lower courts respecting whether and to what extent a contract can constitute a 'contact' for purposes of due process analysis. If the question is whether an individual's contract with an out-of-state party alone can automatically establish sufficient minimum contacts in the other party's home forum, we believe the answer clearly is that it cannot. The Court long ago rejected the notion that personal jurisdiction might turn on 'mechanical' tests, [citation], or on 'conceptualistic ... theories of the place of contracting or of performance,' [citation.] Instead, we have emphasized the need for a 'highly realistic' approach that recognizes that a 'contract' is 'ordinarily but an intermediate step serving to tie up prior business negotiations with future

> consequences which themselves are the real object of the business transaction.' [Citation.] It is these factors—prior negotiations and contemplated future consequences, along with the terms of the contract and the parties' actual course of dealing—that must be evaluated in determining whether the defendant purposefully established minimum contacts within the forum." *Burger King Corp.*, 471 U.S. at 478–79.

In *Burger King*, a franchisee residing in Michigan entered into a 20 year franchise contract with a corporation headquartered in Florida to operate a franchise in Michigan. When the franchisee defaulted on the contract the corporation filed suit in Florida. The franchisee moved to dismiss the Florida cause of action. Although the Court found that the contract itself was insufficient to establish minimum contacts with the forum state, the Court found the defendant's conduct by reaching out to the corporation in establishing the 20 year relationship under the contract, the mode of operation required on the contract, as well as agreeing in the contract that the contract be governed by Florida law established sufficient minimum contacts with Florida. *Id.* at 487.

¶ 24 In this case the only contact defendant had with Illinois was to return the representation agreement. The representation defendant contracted for was to be performed in Florida. Although plaintiff argues Wolper worked on the Florida action from his Chicago office, it is the defendant's actions that are to be evaluated not the plaintiff's: "the significant factor is whether [the defendant] engaged in some act or conduct by which it may be said to have invoked the benefits and protections of Illinois law." *Coca-Cola Co.*, 89 Ill. App. 3d at 258.

¶ 25 We find the case *Orton v. Woods Oil & Gas Co.*, 249 F.2d 198, 199 (7th Cir. 1957) to be instructive. In *Orton* the issue presented was whether the defendant contracted business within the State under the old long arm statute when it retained an Illinois lawyer. However the case

was decided on due process grounds – the issue was whether defendant had sufficient minimal contacts to satisfy due process. The plaintiff Illinois law firm was hired by the defendant to file letters of incorporation, registration, and contacting the defendant in New Orleans, Louisiana. Although the plaintiff mainly performed its work in Chicago, and the defendant made numerous calls from New Orleans to the plaintiff law firm's Chicago office, the court nevertheless found the defendant had insufficient contact with Illinois for jurisdiction to comport with due process.

> "It is conceded that plaintiffs generally did their work in Chicago in performing their services for defendant, including long distance telephone conferences with defendant's representatives in New Orleans, the sending of telegrams, letters and other communications from Chicago, and the drafting of the various documents. Also, that the incorporation papers were filed in Delaware and that the registration papers were processed in Washington, D.C. Likewise, that defendant was never licensed or otherwise qualified to do business in Illinois, had no office or place of business of its own in Illinois, had no property in Illinois and sold no stock in Illinois. Finally, that defendant's sole business contact with the State of Illinois was its dealings with plaintiffs." *Id.*

The fact that the plaintiff performed work in Chicago was insufficient to establish jurisdiction over the non-resident defendant.

> "There is no contention that defendant ever engaged in the oil and gas business in Illinois, or transacted any business in this state in the furtherance of its corporate purposes. It merely accepted the services of an engineer-consultant and a lawyer to charter the corporation in Delaware and register its securities in Washington, D.C., for public sale. The fact that plaintiffs did most of their actual work in

> Chicago in accomplishing their assignments seems to us to be a slender thread on which to hang their claim for jurisdiction over defendant in Illinois. We do not believe that defendant had such 'minimum contacts' with the territory of the forum chosen by plaintiffs to subject it to a judgment *in personam*. To do so, would 'offend traditional notions of fair play and substantial justice.' " *Id.* at 202.

Similarly, here defendant is a non-resident company which hired an Illinois attorney for an out-of-state legal matter. Defendant here had fewer communications with Illinois than the defendant in *Orton*. Plaintiff here requested its invoices be remitted with payment to their Cleveland office. Additionally, defendant only knew the Illinois attorney because of Brown's connection to Wolper from Atlanta. "[W]hether a non-resident defendant intentionally caused a wrong to a plaintiff in the forum is only one factor that may be considered in determining jurisdiction, other factors include whether a nonresident defendant had repeated business contacts with the forum" *Ores*, 218 Ill. App. 3d at 873. Here defendant is not a resident of Illinois. Defendant hired one of plaintiff's Illinois employees for representation in a Florida arbitration. Although plaintiff's preparation work may have been performed in Illinois, the purpose of the engagement was an out-of-state legal matter.

¶ 26 In a similar federal case, a U.S. District Court in Maryland found the due process clause did not support the court's exercise of jurisdiction. *Griffin Whitaker, LLC v. Torres*, 2010 WL 2696704, at *1 (D. Md. July 7, 2010). In *Griffin*, the defendants, Virginia residents, hired the plaintiff, a Maryland law firm, to represent them in a federal suit in Virginia. The

> "[d]efendants never came to [the p]laintiff's offices in Maryland, but one deposition was conducted there and *** another attorney representing Defendants in the underlying matter, met with [the p]laintiff's attorneys in their Maryland

> offices on several occasions. When [the p]laintiff submitted invoices for services rendered *** [the d]efendants refused to pay." *Id*.

¶ 27 The *Griffin* court found that even though "[the p]laintiff drafted the retainer agreement, made phone calls, received documents and payments from [the d]efendants, and conducted a deposition and met *** in its Maryland offices does not justify this court's exercise of personal jurisdiction." *Id.* at *4. Here, plaintiff is an Illinois resident and defendant signed an engagement agreement which had plaintiff's Illinois address listed. The engagement was for representation in a Florida action, and the attorney knew defendant's agent from their time in Georgia. Unlike *Griffin*, here plaintiff sent its invoices from Ohio with an Ohio return address. Defendant here has fewer contacts with Illinois than the defendant in *Griffin* where the federal district court found insufficient contacts to support exercising personal jurisdiction.

¶ 28 Before the trial court, plaintiff claimed defendant had "sufficient 'minimum contacts' necessary to give [the] court jurisdiction," relying on *Capital Associates Development Corp.*, 138 Ill. App. 3d at 1037. We find *Capital Associates* inapposite to this case. In *Capital Associates*, the plaintiff, an Illinois entity, executed a written agreement with the defendant for the defendant to construct a building in Oakland, California. *Id.* at 1033. A dispute followed when the defendant claimed he engaged in an oral agreement with a general partner of the plaintiff for additional work and performed that work. *Id.* at 1033-34. An arbitration was set to begin in California when the plaintiff filed its Illinois action to enjoin the California arbitration. We found the due process clause of the Fourteenth Amendment and the Illinois Long-Arm Statute were satisfied because the defendant had many contacts and activities with Illinois. "[The plaintiff's] complete performance under the written contract, namely, paying [the defendant] the $9,412,500.00 for the construction of the residential building, took place from an office located

in Illinois." *Id*. The *Capital Associates* defendant "purposely sent requests for payments, proposed change orders, lien waivers, and numerous other letters to [the plaintiff's] Illinois office. [The defendant] also placed numerous calls to [the plaintiff's] Illinois office." *Id*. In contrast, here plaintiff sent its requests for payment from its Cleveland office to defendant's California office. The only address marked for remittance of payment was a Cleveland post office box. Moreover, we noted in *Capital Associates* that the defendant's "general business activities are insufficient to render them amenable to the jurisdiction of an Illinois court *** [the defendant's] contacts and activities with [the plaintiff,] an Illinois entity, are adequate to grant jurisdiction." *Id.* at 1038. However, in this case the only contact defendant had with Illinois was to return via email a signed engagement agreement which had been emailed to Brown by an Illinois attorney for representation in a Florida arbitration. Defendant did not have repeated contacts with Illinois, never set foot in Illinois, and would not have completed any of the performance in Illinois. Therefore, *Capital Associates* is inapposite to the present case.

¶ 29 We conclude defendant lacked sufficient contacts with Illinois to support the trial court's exercise of personal jurisdiction over defendant in this case. Although defendant retained an Illinois attorney, the attorney was retained for representation in Florida arbitration, and plaintiff failed to show any connection with Illinois other than defendant returning an engagement agreement via email. In similar circumstances, federal and Illinois courts have found against exercising jurisdiction over such a defendant. *Coca-Cola Co.*, 89 Ill. App. 3d at 261; *Orton*, 249 F.2d at 202; *Griffin Whitaker, LLC*, 2010 WL 2696704, at *1.

¶ 30 We are not required to address other issues such as the burden on defendant to litigate here or the interest of Illinois in adjudicating this matter because we find defendant had insufficient minimal contacts with Illinois. "Factors such as the plaintiff's interest in obtaining

relief, the burden on the defendant in being forced to litigate in a foreign forum, and the forum State's interest in adjudicating the matter are generally addressed only after 'it has been decided that a defendant purposefully established minimum contacts with the forum State.' " *Wiles*, 125 Ill. at 161–62 (quoting *Burger King Corp.*, 471 U.S. at 476).

¶ 31 Because the matter is resolved under federal due process analysis, we also do not reach whether the jurisdiction over defendant is appropriate under the Illinois Long-Arm Statute. *Ideal Insurance Agency, Inc.*, 213 Ill. App. 3d at 678. We find as a matter of law that exercising jurisdiction over defendant in this matter does not comport with due process and reverse the judgment of the trial court. We remand the cause with instruction for the trial court to dismiss the matter for lack of jurisdiction.

¶ 32 CONCLUSION

¶ 33 For the foregoing reasons the judgment of the circuit court of Cook County is reversed and the cause is remanded with instruction.

¶ 34 Reversed; remanded with instruction.