

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-14854

KENNETH L. BRYANT, )  
)  
                                  **Plaintiff,** )  
)  
                                  **v.** )  
)  
BRYAN DONALD FIELDS and )  
CARSTEN JASON GALLINI, )  
)  
                                  **Defendants.** )

**AFFIDAVIT OF  
CARSTEN JASON GALLINI**

CARSTEN JASON GALLINI, being first duly sworn, deposes and says:

1. I am over the age of eighteen and reside in Round Rock, Williamson County, State of Texas, and am *sui generis* and otherwise competent to give testimony in this Affidavit. The matters stated herein are true and of my own knowledge, unless otherwise indicated, and as to those matters, I sincerely believe them to be true.

2. I have resided in Texas for my entire life. I am a citizen of Texas.

3. I have never resided in North Carolina.

4. I have never traveled to North Carolina for business, leisure or any other purpose other than merely driving through North Carolina on interstate highway 85 on vacation with my family to Washington, D.C. in or about 2014.

5. Although Plaintiff states that I operate a sole proprietorship business, I have not conducted any business outside of the State of Texas, except for attending Dayton Hamvention in Dayton, Ohio, for the first in or about May 2022 and in May 2023.

6. My business operation as a sole proprietorship is less than part-time and is currently shuttered. I have never had any employees or independent contractors. I do not advertise, market or solicit business within the State of North Carolina or specifically directed towards North Carolina residents. My marketing consists predominately of postings on Ebay and my passive website for general access via the world-wide web internet for individuals or businesses to locate. I do not maintain any storefront on my website. A customer had to contact me in order to initiate services. I also received customer referrals through word-of-mouth from past customers and contacts, but do not recall any customers in North Carolina.

7. I was employed full-time for an airline contract service for providing ramp operations logistics and support. I did not travel for work and was assigned work duty at Austin Bergstrom International Airport in Austin, Travis County, Texas.

8. Although I can and have traveled via air, I have never visited any airport in North Carolina.

9. I had contact with Bryant Enterprises, LLC, a North Carolina limited liability company, in or about July of 2020. To my knowledge, Bryan Enterprises, LLC was only added to this case in April 2023. I purchased certain product online from Bryant Enterprises, LLC which I believe Bryan Enterprises, LLC marketed to Texas and the product was delivered to my Texas residence. At no time did I travel to North Carolina to engage in the transaction. The product later had an issue and I returned it via postal service to Bryant Enterprises, LLC in or about May 2021. To my recollection, the experience was pleasant and completely unrelated to the event(s) raised in Plaintiff's Complaint.

10. The only statements that I have ever disseminated or posted about Plaintiff(s) were posted online via [www.facebook.com](http://www.facebook.com) in or about 2022.

11. Concerning the specific incident Plaintiff(s) raise, I responded to a user comment on [www.facebook.com](http://www.facebook.com) regarding certain information about Plaintiff Bryant that I had happened upon on the publicly available internet and reposted that I "Figured might as well share it so folks can stay informed." I did not create the content of information about Plaintiff(s) and the information (website) existed prior to me accessing it in or about June 2022. The information and statements on the website were open access to the general public, in that, I did not have to enter any password or be a part of any special group for access to the openly available website.

12. I used my personal computer which is located at my residence in Round Rock, Williamson County, Texas, in order to write and post the statements which were intended for general distribution via the internet and not targeted or focused on a North Carolina audience or anyone in particular, even Plaintiffs.

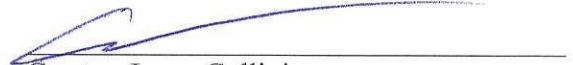
13. I did respond to comments to my original Facebook group post but those engagements were not, to my knowledge, with residents of North Carolina. I did not seek out in my original Facebook group post any particular person in requesting comment or engagement.

14. I have never been friends, associates, partners, or anything else other than incidental acquaintances with Defendant Bryan Fields. Regarding the event complained by Plaintiffs which allegedly occurred in or about June 2022, I did not have any contact with Defendant Fields regarding Plaintiffs prior to the event in question. Defendant Fields did post some comments on my Facebook post along with several other people that are members of the same Facebook group. I did not know at the time that Defendant Fields had created and maintained the website content, which contained actual federal court case documents, related to Plaintiff(s).

15. I have maintained proper decorum and respect for the parties and court in this case. I have not engaged in any harassment or intimidation of any party, attorney or court official in this case.

Further Affiant Sayth Not.

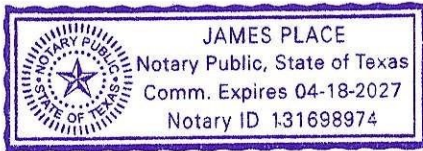
Signed this 2 day of August, 2023.

  
\_\_\_\_\_  
Carsten Jason Gallini

STATE OF TEXAS §

COUNTY OF WILLIAMSON §

This document was sworn and subscribed before me by Carsten Jason Gallini, known to me by Texas Driver's License, on August 2<sup>nd</sup>, 2023.



  
\_\_\_\_\_  
Notary Public, State of Texas

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-14854

KENNETH L. BRYANT, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BRYAN DONALD FIELDS and )  
 CARSTEN JASON GALLINI, )  
 )  
 Defendants. )

**MOTION TO DISMISS  
ON BEHALF OF DEFENDANT  
CARSTEN JASON GALLINI**

COMES BEFORE THE COURT, Defendant Carsten Jason Gallini (hereinafter “Gallini”), by special and limited appearance pursuant to Rule 12 of the North Carolina Rules of Civil Procedure (hereinafter “NCRCP”) and *Simms v. Mason's Stores, Inc.*, 285 N.C. 145, 203 S.E.2d 769 (1974), through the undersigned Counsel and moves the Court, pursuant to NCRCP Rule 12(b)(2), to dismiss the Plaintiff’s claims against Defendant Gallini with prejudice to refile. This verified motion and accompanying affidavit (hereinafter “Gallini Aff.”) contends that this Court lacks personal jurisdiction over Defendant Gallini. For a more complete analysis, cross-references herein are made to Plaintiff’s Amended Verified Complaint (hereinafter “Complaint”).

For cause, the following is respectfully shown:

***Facts / Background***

1. Defendant, Carsten Jason Gallini, currently resides in Round Rock, Williamson County, State of Texas, and has resided in Texas his entire life. Gallini is a citizen of Texas. *See* Gallini Aff. 1, 2.
2. Plaintiff agrees that Defendant is a Texas resident. *See* Complaint, P.3(#12).

3. Gallini has never resided in North Carolina. *See* Gallini Aff. 3.

4. Gallini has never traveled to North Carolina for business, leisure or any other purpose other than merely driving through North Carolina on interstate highway 85 on vacation with his family to Washington, D.C. in or about 2014. *See* Gallini Aff. 4.

5. Although Plaintiff states that Defendant Gallini operated a sole proprietorship business, Gallini did not conduct any business outside of the State of Texas, except for attending Dayton Hamvention in Dayton, Ohio, for the first time in or about May 2022 and then again in May 2023. *See* Gallini Aff. 5; Complaint P.3(#12).

6. Gallini's business operation as a sole proprietorship at the time of the alleged event in or about June 2022 was less than part-time. Mr. Gallini has since shuttered his sole proprietorship business and it is not actively engaged in business at this time. Mr. Gallini has never had any employees or independent contractors. Gallini has not advertised, marketed or solicited business within the State of North Carolina or specifically directed towards North Carolina residents. Gallini's only form of marketing consisted predominately of postings of services and goods on Ebay and his own website for general access via the world-wide web internet for individuals or businesses to locate. Mr. Gallini's business website is passive in that it provided information and prospective customers would then have to contact Mr. Gallini to initiate services. Defendant Gallini would occasionally receive customer referrals through word-of-mouth from past customers and contacts, but does not recall any customers in North Carolina. *See* Gallini Aff. 6.

7. Defendant Gallini was employed full-time for an airline contract service for providing ramp operations logistics and support. Gallini did not travel for work purposes and

was assigned duties at Austin Bergstrom International Airport in Austin, Travis County, Texas. *See Gallini Aff. 7.*

8. Although Defendant Gallini has traveled via air, Gallini has never visited any airport in North Carolina. *See Gallini Aff. 8.*

9. Gallini had contact with Plaintiff, Bryant Enterprises, LLC, a North Carolina limited liability company, in or about July of 2020. Bryant Enterprises, LLC was not initially a party to this case on its inception but was later added as a party in Plaintiff's Amended Verified Complaint. Gallini purchased a certain product online from Bryant Enterprises, LLC which Bryant Enterprises, LLC was marketing to foreign jurisdictions. The product was delivered to Mr. Gallini's Texas residence. At no time did Gallini travel to North Carolina to engage in the transaction. The product later had an issue and Mr. Gallini returned it via postal service to Bryant Enterprises, LLC in or about May 2021. To Defendant's recollection, the experience was pleasant and is completely unrelated to the event(s) raised in Plaintiffs' Complaint. *See Gallini Aff. 9.*

10. The only statements that Gallini ever disseminated or posted about Plaintiff(s) were posted online via [www.facebook.com](http://www.facebook.com) in or about 2022. *See Gallini Aff. 10.*

11. Concerning the specific incident Plaintiffs raise, Gallini responded to a user comment on [www.facebook.com](http://www.facebook.com) regarding the posted information that he had located on the publicly available internet and Gallini reposted that he "Figured might as well share it so folks can stay informed." *See Complaint, Exhibit 3, P.3 (para.1). See Gallini Aff. 11.*

12. Gallini used his personal computer which was located at his residence in Round Rock, Williamson County, Texas, in order to write and post the statements which were intended

for general distribution via the internet and not targeted or directed to a North Carolina audience or anyone in particular. *See Gallini Aff. 12.*

13. At the time of the event, in or about June 2022, complained about by Plaintiffs, Gallini had never been friends, associates, partners, or anything else other than accidental online acquaintances with Defendant Fields. To this day, Mr. Gallini is not friends, associates, partners or anything else with Defendant Fields. *See Gallini Aff. 13.*

14. At all times during the pendency of this case, Mr. Gallini has maintained proper decorum and respect for the parties and court. Gallini has not engaged in any activity, harassment, intimidation, etc, with Plaintiffs or Defendant Fields. Mr. Gallini has had respectful exchanges with Counsel for Plaintiffs and Defendant Fields and with the court clerks and staff. *See Gallini Aff. 14.*

#### *Argument*

15. Even if the Court determines, hypothetically, that personal jurisdiction exists regarding Defendant Fields, North Carolina must independently establish that Gallini had sufficient minimum contacts with The State of North Carolina to allow this Court to exercise personal jurisdiction.

16. Plaintiffs now have the burden of proof to establish by *prima facie* evidence personal jurisdiction in this case. *See Brown v. Refuel America, Inc.*, 652 S.E.2d 389, N.C. App. (2007).

17. After both defendants in the case filed motions to dismiss for lack of personal jurisdiction, Plaintiff(s) could have filed a response to the motions to dismiss and provided additional information and evidence as to the personal jurisdiction question. Rather, Plaintiffs filed an Amended Verified Complaint on the eve of hearing on Gallini's first motion to dismiss

case which mooted the initial motions to dismiss case. The filing of the Amended Verified Complaint was of right. However, Plaintiffs' Amended Verified Complaint dated April 26, 2023, did not add any new facts regarding personal jurisdiction on Defendant Gallini. Plaintiffs now seek leave to file yet another amended complaint and according to Plaintiffs' motion for leave to file an amended complaint, no new facts regarding personal jurisdiction related to the event in question are to be introduced.

18. Plaintiffs did complain in Plaintiffs Amended Verified Complaint about Gallini is "further harass(ing) and intimidate(ing) the Plaintiff and his business" by "repeatedly" changing the case caption in this litigation and in various filings. Plaintiff claims that use of his middle initial in the case caption is some form of triggering harassment and intimidation. *See* Complaint P.17, #70. Plaintiff defames Defendant Gallini via a Verified, sworn under penalty of perjury, Complaint that Mr. Gallini is harassing and intimidating Plaintiff via the court process, causing emotional distress. Given that the truth of the matter is clearly evident by a simple search of the official court docket record and Civil Summons, which shows Plaintiff's name as "Kenneth L. Bryant" for the case caption of the case, Plaintiffs appear to be sensationalizing facts so the court will perhaps view Gallini as a bad actor needing corrective action for abuse of the court system. From the on-set of this case, Mr. Gallini reviewed the court docket information, civil summons, Plaintiff's pleading(s), and Defendant Fields' filings. Mr. Gallini simply followed the preferred style of the case as indicated in the official court record and on the civil summons. This has nothing to do with personal jurisdiction but addresses the attack on Defendant Gallini's credibility by salacious means.

19. When applying the requirements of NCGS § 1-75.4 (the long-arm statute) and the Fourteenth Amendment to the U.S. Constitution (Due Process Clause) for personal jurisdiction,



Defendant Gallini has not had sufficient minimum contact with the State of North Carolina. Gallini has had very little contact with North Carolina in his lifetime (merely driving through the state and an interstate commercial transaction which was directed to Texas from North Carolina) and the event for which Plaintiffs complain occurred solely over the internet and from the State of Texas without anyone in North Carolina as the specific intended recipient. Defendant Gallini maintains that even this event of June 2022 does not constitute contact with the State of North Carolina.

20. What constitutes “minimum contacts” depends on the quality and nature of the defendant's contacts on a case-by-case basis, but, regardless of the circumstances, there must be “some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State.” *Dailey v. Popma*, 662 S.E.2d 12 (N.C. Ct. App. 2008), *Chadbourn, Inc. v. Katz*, 285 N.C. 700, 705, 208 S.E.2d 676, 679 (1974) (quoting *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S.Ct. 1228, 1240, 2 L.Ed.2d 1283, 1298 (1958)).

21. Further, the case of *Dailey v. Popma*, 662 S.E.2d 12 (N.C. Ct. App. 2008), which establishes a multi-step test for determining personal jurisdiction in cases involving internet activities, directs very clear questions:

- a. Whether or not defendant, through his internet activities, manifested an intent to target and focus on North Carolina citizens?
- b. Whether or not sufficient minimum contact was established if some of the other internet forum participants were North Carolinians?
- c. Whether or not it constitutes sufficient contact if defendant’s posting(s) on the internet affected plaintiff in North Carolina?

22. In *Dailey*, the trial court dismissed the case for lack of personal jurisdiction and the Court of Appeals determined “No” to each of the above questions, thus upholding and affirming the trial court’s proper decision. *See Id.*

23. Here, Gallini made no specific or purposeful contact with North Carolina that would warrant an exercise of personal jurisdiction over him. Although the website link of information, which Mr. Gallini took from a publicly available domain, and reposted on Facebook was concerning Plaintiff, at no time was Gallini specifically directing or targeting the information at Plaintiff. The audience was a general audience of Facebook users from all over the country, and perhaps further.

24. Thus, personal jurisdiction is not vested in North Carolina over Defendant Gallini.

***Request for Findings of Fact and Conclusions of Law***

25. It is respectfully requested, pursuant to N.C.R. Civ. P. 52(a)(2), that the court issue findings of fact and conclusions of law in determining this motion. *See A.R. Haire, Inc. v. St. Denis*, 176 N.C.App. 255, 258, 625 S.E.2d 894, 898 (2006).

***Prayer for Relief***

**WHEREFORE, PREMISES CONSIDERED**, it is prayed that this Court grant Defendant Gallini’s Motion to Dismiss with Prejudice and for all other relief available, by equity or law.

Respectfully submitted,



\_\_\_\_\_  
Grey Powell  
Attorney for Defendant Gallini  
911 New Bern Avenue  
Raleigh, NC 27601

(919) 872-4566  
[Grey.Powell@GreyPowellLaw.com](mailto:Grey.Powell@GreyPowellLaw.com)

VERIFICATION

STATE OF TEXAS

§  
§  
§

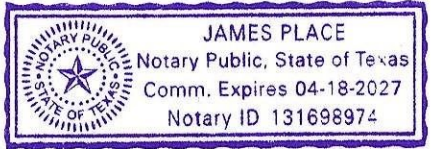
COUNTY OF WILLIAMSON

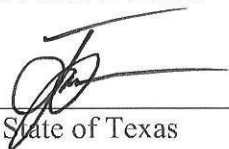
BEFORE ME, the undersigned authority, personally appeared CARSTEN JASON GALLINI, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

“My name is CARSTEN JASON GALLINI. I am capable of making this verification. I read the Motion to Dismiss and all attachments thereto. The facts stated in it are within my personal knowledge and are true and correct.”

  
\_\_\_\_\_  
CARSTEN JASON GALLINI

SUBSCRIBED AND SWORN BEFORE ME on this the 2<sup>nd</sup> day of August, 2023, to certify which witness my hand and seal of office.



  
\_\_\_\_\_  
Notary Public, State of Texas

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 2, 2023, the foregoing Motion to Dismiss and all attachments was served by depositing a true copy thereof with the USPS via First Class Mail, pre-paid.

John M. Kirby, Esq.  
Law Offices of John M. Kirby, PLLC  
4801 Glenwood Ave., Suite 200  
Raleigh, NC 27612-3856

Michael J. Tadych, Esq.  
Stevens Martin Vaughn & Tadych, PLLC  
6300 Creedmoor Rd, Suite 170-370  
Raleigh, NC 27612