

STATE OF NORTH CAROLINA
WAKE COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
22-CVS-14354

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

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WAKE CO., C.S.C.
BY OB

**MOTION TO DISMISS ON
BEHALF OF DEFENDANT
BRYAN DONALD FIELDS**

Pursuant to the Notice of Special and Limited Appearance filed herewith, the undersigned counsel hereby respectfully move the court, on behalf of defendant Bryan Donald Fields (“Fields”), to dismiss the plaintiff’s claims against him with prejudice pursuant to Rule 12(b)(2) of the North Carolina Rules of Civil Procedure.

As more specifically set out below, the grounds for this motion is that this court lacks personal jurisdiction over Mr. Fields. This motion is supported by the attached Affidavit of Bryan Fields dated 7 January 2023 (the “Fields Aff.”). In further support of this motion the undersigned respectfully show unto the court that:

1. As Plaintiff acknowledges, Mr. Fields is a citizen and resident of Florida. Complaint at 2, para. 9. Fields Aff. ¶ 1.
2. Mr. Fields has never resided in North Carolina. Fields Aff. ¶ 2.
3. Mr. Fields does not vacation in North Carolina. Fields Aff. ¶ 4.
4. To his knowledge, Mr. Fields does not have friends or family who live in North Carolina and if they do, he does not visit them. Fields Aff. ¶ 3.

5. Mr. Fields has not conducted business in, or engaged in commerce in North Carolina in more than 15 years. Fields Aff. ¶ 7.

6. Mr. Fields has not physically been present in the state of North Carolina, outside of an airport for connection purposes, since 2008. Fields Aff. ¶ 8.

7. The only statements that Mr. Fields has ever published or disseminated about the plaintiff were posted online via Facebook™ or on a publicly editable wiki website. Wiki.w9cr.net runs the same wiki software, Mediawiki, used by Wikipedia allowing anyone to add, delete or modify content. This website is hosted on servers in Tampa, Florida and connected to the internet at that location. Fields Aff. ¶ 10.

8. Mr. Fields wrote and posted each of these statements from his home in Florida. All such statements were intended for general distribution via the internet and were not targeted to a North Carolina audience or to anyone in particular. Fields Aff. ¶ 9.

9. Accordingly, Mr. Field lacks contacts with the State of North Carolina sufficient to allow this court to exercise personal jurisdiction over him.

Respectfully submitted, this the 19th day of January 2023.

STEVENS MARTIN VAUGHN & TADYCH, PLLC



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Attorneys for Defendant Bryan Fields

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion to Dismiss was served by depositing a true copy thereof with the United States Postal Service, first class postage prepaid, addressed to:

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

Carsten Jason Gallini
500 E Whitestone Blvd.
Cedar Park, TX 78681

This the 19th day of January 2023.

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Attorneys for Defendant Bryan Fields

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

**AFFIDAVIT OF
BRYAN FIELDS**

BRYAN FIELDS, being first duly sworn, deposes and says:

1. I am over eighteen (18) years of age, reside in St. Pete Beach, Pinellas County, Florida, and am *sui generis* and otherwise competent to give testimony in this Affidavit. The matters stated herein are true of my own knowledge, unless otherwise indicated, and as to those matters I sincerely believe them to be true

2. I have never lived in North Carolina.

3. To the best of my knowledge, I have no family or friends who live in North Carolina. If they do, I have not visited them there.

4. I do not vacation in North Carolina.

5. Upon information and belief, in or about March 2007, I came to North Carolina for professional training.

6. I do not have any business interests in North Carolina.

7. Fifteen or more years ago, I worked on a project with a company with an office in North Carolina. The company was a subcontractor for the installation of a microwave backbone off the northern coast of Indonesia. From Florida, I assisted the company with microwave/internet protocol engineering for the project. I visited North Carolina for one meeting. The company did not pay me and then filed for bankruptcy.

8. Since that meeting 15 or more years ago, I have not been physically present in the state of North Carolina at any time, with the exceptions of driving through the state on the interstate highway and layovers in the Charlotte airport due to connecting flights.

9. When I am posting on the internet, such as on Facebook, my postings are intended for a world-wide general audience and are not directed to anyone in particular. I do not "target" my postings to a North Carolina audience or anyone in particular.

10. The only things that I have ever published or disseminated about the plaintiff were posted online via Facebook™ and on a publicly editable wiki website. Wiki.w9cr.net runs the same wiki software, Mediawiki, used by Wikipedia allowing anyone to add, delete or modify content. This website is hosted on servers in Tampa, Florida, and connected to the internet at that location.

11. On 4 June 2022, the plaintiff attempted to call me via Facebook. I was on a plane landing in Montreal at the time and did not answer. He then followed up with me via a Facebook chat. The only prior contacts I had with the plaintiff were a request for information about a "radio on the cloud" solution that the plaintiff had posted about online and pricing for a radio. At his invitation, I called him to get a quotation about the cost of a radio which, based on his pricing, I did not purchase.

12. Further affiant sayeth not.

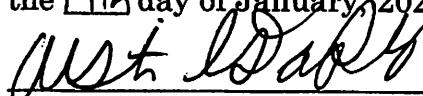
This the 7th day of January, 2023.


Bryan Fields

State of Florida)
County of Pinellas)

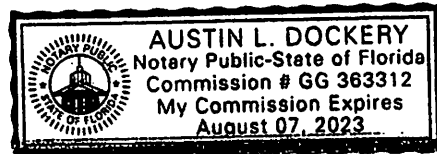
(SEAL)

Sworn to and subscribed before me on this
the 7th day of January, 2023.


Notary Public's signature

Austin L Dockery
Notary Public's name printed

My commission expires: 8/07/2023



CERTIFICATE OF SERVICE


The undersigned hereby certifies that the foregoing Affidavit of Bryan Fields was served by depositing a true copy thereof with the United States Postal Service, first class postage prepaid, addressed to:

John M. Kirby
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4801 Glenwood Ave., Suite 200
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This the 19th day of January 2023.

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