

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

(Filed: April 20, 2012)

RACHEL KARINA BEDDOE-GREENE, :
ADMINISTRATRIX FOR THE :
ESTATE OF GEOFFREY BEDDOE :

v. :

C.A. No. PC 2011-4617

BASIC, INC.; BAYER CROPSCIENCE, :
INC., f/k/a AMCHEM PRODUCTS, :
INC.; BIRD INC.; CERTAINTEED :
CORP.; D.A.P.; GENERAL :
REFRATORIES COMPANY; :
GEORGIA PACIFIC LLC.; HASBRO, :
INC.; INTERNATIONAL SUPPLY CO.; :
KELLY MOORE PAINT COMPANY, :
INC.; METROPOLITAN LIFE :
INSURANCE COMPANY; MOBIL OIL :
CORP.; P.I.C. CONTRACTORS, INC.; :
PACKINGS & INSULATIONS :
CORPORATION; UNION CARBIDE :
CORPORATION f/k/a UNION :
CARBIDE CHEMICALS & PLASTICS :
COMPANY, INC.; YALE :
UNIVERSITY AND JOHN DOE :
(fictitious name) :

DECISION

GIBNEY, P.J. In the instant negligence action, Defendant Yale University (“Yale”) moves to dismiss Plaintiff Rachel Karina Beddoe-Greene’s (“Plaintiff”) complaint for lack of personal jurisdiction. Plaintiff’s complaint arises from the death of Plaintiff’s decedent, Geoffrey Beddoe (“Decedent”), from alleged asbestos exposure during his employment with Dimeo Construction Company (“Dimeo”). Plaintiff objects to Yale’s Motion. Jurisdiction is pursuant to Super. R. Civ. P. 12(b)(2). For the reasons stated herein, resolution of Yale’s Motion is stayed pending jurisdictional discovery as to

(1) Yale's relationship with Dimeo, (2) the percentage of Yale's Rhode Island sales of apparel as compared to Yale's total sales of apparel, and (3) Yale's contacts with Rhode Island relative to Yale's Rhode Island Furniture Archive.

I

Facts & Travel

On August 11, 2011, Plaintiff filed an action against Yale and sixteen other defendants, alleging their involvement in Decedent's death from asbestosis. Plaintiff alleged that Decedent was "injuriously exposed to asbestos" during his employment as a field manager for Dimeo from 1985 to 2010. Compl. ¶ 1. Dimeo is a Rhode Island corporation. Yale does not dispute that it contracted with Dimeo for the performance of construction and renovation work.¹ According to Plaintiff, Decedent was exposed to asbestos while working on Yale-owned premises in New Haven, Connecticut. Compl. ¶¶ 1, 17.

Yale moved to dismiss Plaintiff's complaint for lack of personal jurisdiction. In support of its Motion, Yale filed an affidavit from Cary Scapillato, the Assistant Vice President and Controller of Yale University. Scapillato testified that Yale is a Connecticut corporation with a principal place of business in Connecticut. Yale's Mem. in Supp. of Mot. to Dismiss, Ex. 1, Aff. of Cary Scapillato ¶ 6 ("Scapillato Aff."). She stated that Yale is not incorporated in Rhode Island and has not applied for or received authorization to do business in Rhode Island. Scapillato Aff. ¶¶ 5, 13. Scapillato also indicated that neither Yale, nor its corporate officers or representatives, maintains a

¹ Counsel for Yale indicated at oral argument that "it is uncontested that Yale entered into a contract with Dimeo Construction and Dimeo is a Rhode Island entity. It is also undisputed that the decedent worked for Dimeo, a Rhode Island entity."

presence in Rhode Island. Scapillato Aff. ¶ 7. She stated that Yale does not earn fee revenues in Rhode Island, nor does it have any phone listings, bank accounts, or offices in this forum. Scapillato Aff. ¶¶ 8, 12. Scapillato further testified that Yale has not purchased or leased any real or personal property in Rhode Island. Scapillato Aff. ¶ 9. She acknowledged that Yale owns one parcel of real property in South Kingston, Rhode Island, which it received as a donation. Scapillato Aff. ¶ 9. She testified, however, that Yale earns no income from this land and neither occupies nor leases it. Scapillato Aff. ¶ 9. Finally, Scapillato stated that Yale “does not, on an internet website or otherwise, actively target advertising specifically to Rhode Island.” Scapillato Aff. ¶ 11.

Plaintiff objected to Yale’s Motion to Dismiss and disputed Yale’s assertions that Yale lacks sufficient minimum contacts with Rhode Island to justify exercise of personal jurisdiction. In support of her argument, Plaintiff cited: (1) the relationship between Yale and Dimeo; (2) the literature Yale sends advertising its educational services to Rhode Island high school students; (3) the income Yale receives annually from the tuition of Rhode Island residents attending Yale; (4) the involvement of Rhode Island Yale alumni in the school’s admissions and scholarship funding processes; (5) the presence of Yale athletic teams and personnel in Rhode Island for sporting events; (6) the participation of Yale employees at academic events in Rhode Island; (7) the availability of Yale clothing for purchase in Rhode Island; and (8) the maintenance of a Rhode Island Furniture Archive at the Yale University Art Gallery in New Haven, Connecticut.

II

Analysis

To withstand a non-resident defendant’s Rule 12(b)(2) motion to dismiss a

complaint for lack of personal jurisdiction, “a plaintiff must allege sufficient facts to make out a prima facie case of jurisdiction.” Cerberus Partners, L.P. v. Gadsby & Hannah, LLP, 836 A.2d 1113, 1118 (R.I. 2003) (citing Ben’s Marine Sales v. Sleek Craft Boats, 502 A.2d 808, 809 (R.I. 1985)). When reviewing prima facie jurisdiction, the trial justice must “examine the pleadings, accept the facts alleged by the plaintiff as true, and view disputed facts in the light most favorable to the plaintiff.” Cassidy v. Lonquist Mgmt. Co., LLC, 920 A.2d 228, 232 (R.I. 2007). The trial justice “may rely on affidavits and discovery to establish the jurisdictional facts,” but must consider such evidence in the light most favorable to the plaintiff as well. Ben’s Marine Sales, 502 A.2d at 810. A prima facie case exists “when the requirements of Rhode Island’s long-arm statute are satisfied.” Cerberus Partners, 836 A.2d at 1118.

Rhode Island’s long-arm statute governs the state’s jurisdiction over non-resident defendants. It provides in pertinent part:

“Every foreign corporation, every individual not a resident of this state or his or her executor or administrator, and every partnership or association, composed of any person or persons not such residents, that shall have the necessary minimum contacts with the state of Rhode Island, shall be subject to the jurisdiction of the state of Rhode Island, and the courts of this state shall hold such foreign corporations and such nonresident individuals or executors or administrators, and such partnerships or associations amenable to suit in Rhode Island in every case not contrary to the provisions of the constitution or laws of the United States.” G.L. 1956 § 9-5-33 (2011).

This statutory language “permits the exercise of jurisdiction over non-resident defendants to the fullest extent permitted by the United States Constitution.” Rose v. Firststar Bank, 819 A.2d 1247, 1250 (R.I. 2003). Constitutional due process requires that the non-resident defendant have sufficient minimum contacts with the forum state, such that the

exercise of personal jurisdiction “does not ‘offend traditional notions of fair play and substantial justice.’” Cerberus Partners, 836 A.2d at 1118 (quoting Int’l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)). To make this determination, this Court must examine the facts of a particular case, and consider whether, given such facts, the non-resident defendant should “reasonably anticipate being haled into court” in this forum. Id.

Jurisdiction comes in two forms: specific and general. Plaintiff asserts that Yale’s contacts with Rhode Island are such that this Court may properly hear Plaintiff’s action pursuant to either type of jurisdiction. Alternatively, Plaintiff asks this Court to afford her additional time to perform jurisdictional discovery regarding Yale’s contacts with Rhode Island. This Court shall address questions of specific and general jurisdiction in turn.

A

Specific Jurisdiction

A court may exercise specific jurisdiction over a non-resident defendant “if the claim sufficiently relates to or arises from any of [the] defendant’s purposeful contacts with the forum.” Id. at 1119. This inquiry focuses on “the relationship among the defendant, the forum, and the litigation.” Id. (quoting Md. Cent. Collection Unit v. Bd. of Regents for Educ. of the Univ. of R.I., 529 A.2d 144, 151 (R.I. 1987)). To determine whether specific jurisdiction exists, this Court must examine whether Yale “purposefully availed [itself] of the privilege of conducting activities within the State of Rhode Island thereby invoking the benefits and protections of this state’s laws” Almeida v. Radovsky, 506 A.2d 1373, 1375 (R.I. 1986) (citations omitted).

Demonstrating specific jurisdiction is not an onerous task. Although there must be a relationship between the defendant, the forum, and the litigation, the relationship “need not be terribly robust” Cerberus Partners, 836 A.2d at 1119. At bottom, the analysis boils down to whether the non-resident “defendant’s conduct and connection with the forum [s]tate are such that [it] should reasonably anticipate being haled into court there.” See id. at 1121 (first brackets in original).

Plaintiff alleges that Decedent

“was injuriously exposed to asbestos as follows: [Decedent] was employed by Dimeo Construction in Rhode Island from approximately 1985 until February of 2010 as a field manager at various project sites. During this time, he worked at Hasbro in Pawtucket, Rhode Island and Yale University in New Haven, Connecticut. As a direct result of his exposure to asbestos, [sic] suffered and died from asbestosis.” Compl. ¶ 1.

Plaintiff further alleges that Yale “had an ownership interest in the premises where [Decedent] was injuriously exposed to asbestos.” Compl. ¶ 17.

In reviewing a motion to dismiss for lack of personal jurisdiction, this Court must consider all allegations and evidence in the light most favorable to Plaintiff. Cassidy, 920 A.2d at 232. It is undisputed that some sort of agreement or series of agreements existed between Yale and Dimeo, a Rhode Island corporation. Absent this arrangement, Decedent allegedly would not have been exposed to asbestos. Thus, there is a relationship between Yale, Rhode Island, and this litigation. Cerberus Partners, 836 A.2d at 1119.

The question becomes then whether Yale’s contacts with Rhode Island are such that Yale should reasonably anticipate being haled into court in this forum for an injury to Decedent. Critical to this determination are the facts underlying Yale’s relationship with

Dimeo. However, the extent of Yale’s association with Dimeo—contractual or otherwise—is unclear, as is the degree to which their dealings relate to Rhode Island. Plaintiff asks this Court to allow her to conduct jurisdictional discovery regarding Yale’s relationship with Dimeo.

“It is clearly established that a trial court has jurisdiction to determine its own jurisdiction.” Smith v. Johns-Manville Corp., 489 A.2d 336, 338 (R.I. 1985) (citing United States v. United Mine Workers of Am., 330 U.S. 258, 292 n.57 (1947)). Thus, when “a more satisfactory showing of the facts is necessary,” this Court may properly allow discovery to aid in determining whether it has personal jurisdiction. Id. at 339. Jurisdictional discovery, however, is not available whenever a party requests it. Rather, this Court may only grant jurisdictional discovery “when pertinent facts bearing on the issue of jurisdiction are in question and the relevant information remains in the exclusive control of the defendant.” Id. at 340. Such a standard is in keeping with our Supreme Court’s warning that permission to engage in jurisdictional discovery is not a license to conduct a “fishing expedition.” Id.; see Coia v. Stephano, 511 A.2d 980, 984 (R.I. 1986) (cautioning against uncontrolled grant of jurisdictional discovery).

Here, pertinent facts bearing on the issue of specific jurisdiction are in doubt such that leave to conduct jurisdictional discovery is appropriate. The existence of a relationship between Yale and Dimeo, a Rhode Island corporation, is undisputed, but the extent of that relationship remains unclear. The record does not indicate the terms of Yale’s contract with Dimeo or the circumstances surrounding its negotiation (e.g., where the contract was negotiated, where it was signed, etc.). It is also not clear how many such agreements between Yale and Dimeo exist. Therefore “a more satisfactory showing of

the facts is necessary” before this Court may resolve the specific jurisdiction question. Smith, 489 A.2d at 339-40. Yale is the only party with access to these facts. Id. at 340 (noting that jurisdictional discovery is proper where “relevant information remains in the exclusive control of the defendant”). Accordingly, this Court grants Plaintiff’s request for jurisdictional discovery. Plaintiff may seek information regarding Yale’s relationship, contractual or otherwise, with Dimeo.

B

General Jurisdiction

This Court may exercise general jurisdiction over a non-resident defendant when the defendant’s contacts with Rhode Island are continuous, purposeful, and systematic, “such that maintenance of the suit does not offend traditional notions of fair play and substantial justice.” Rose, 819 A.2d at 1250 (internal quotation marks and citation omitted). Where there is general jurisdiction, this Court may assert authority over a non-resident defendant “with respect to any claim, whether or not it arises from the defendant’s contacts with” Rhode Island. Cassidy, 920 A.2d at 233. In the context of a non-resident university, courts have generally declined to find general jurisdiction where the school’s contacts do not specifically target the forum, but amount to the sort of interstate activities typically performed by colleges and universities. See, e.g., Gallant v. Trs. of Columbia Univ., 111 F. Supp. 2d 638, 642 (E.D. Penn. 2000); Severinsen v. Widener Univ., 768 A.2d 200, 206 (N.J. Super. Ct. App. Div. 2001).

Whether a court may exercise general jurisdiction over a non-resident university is a rare question in Rhode Island law.² Yale is a Connecticut corporation with a principal place of business in Connecticut. It is neither incorporated in Rhode Island, nor authorized to do business in Rhode Island. Conn. v. ITT Aetna Fin. Co., 105 R.I. 397, 405-06, 252 A.2d 184, 188 (1969) (considering lack of authorization to do business in forum state significant in denying general jurisdiction); see Park v. Oxford Univ., 35 F. Supp. 2d 1165, 1167-1168 (N.D. Cal. 1997) (same). Yale has no offices, phone listings, or bank accounts in this state and owns no income producing property here. Cerberus Partners, 836 A.2d at 1122 (finding a lack of general jurisdiction where the defendant “maintains no office in Rhode Island, neither owns nor leases property here, maintains no records here, has neither an agent, telephone number nor mailbox here”). Finally, Yale does not draw fee revenues from Rhode Island. Plaintiff has provided no evidence to rebut these facts.

Nonetheless, Plaintiff asserts that Yale has the requisite contacts with Rhode Island to render Yale subject to general jurisdiction in this forum. In arguing so, Plaintiff cites to (1) the literature Yale sends advertising its educational services to Rhode Island high school students; (2) the income Yale receives annually from the tuition of Rhode Island residents attending the school; (3) the involvement of Rhode Island Yale alumni in Yale’s admissions and scholarship funding processes; (4) the presence of Yale athletic

² Plaintiff cites to Cobb v. Stevens-Henager College, No. WC 01-0493, 2004 WL 603484, at *4 (R.I. Super. March 3, 2004). In Cobb, the Superior Court held a non-resident college subject to specific jurisdiction in Rhode Island. Id. at *3-*6. The Cobb Court’s analysis of general jurisdiction, however, consisted entirely of an observation that “[c]learly, Mr. Cobb cannot establish general jurisdiction over SHC and CAS and, in fact, Mr. Cobb does not even argue this point.” Id. at *3. Thus, the circumstances under which a court may exercise general jurisdiction over a non-resident university remain an open question under Rhode Island law.

teams and personnel in Rhode Island for sporting events; (5) the participation of Yale employees at academic events in Rhode Island; (6) the availability of Yale apparel for purchase in Rhode Island stores and over the internet; and (7) the maintenance of a Rhode Island Furniture Archive at the Yale University Art Gallery in New Haven, Connecticut. Plaintiff contends that these contacts, taken on their own or cumulatively, are sufficient to establish general jurisdiction. Plaintiff directs this Court to no case, however, where a non-resident university has been held subject to general jurisdiction on any of these grounds.³ Notwithstanding, this Court shall address each of these contacts in turn.

1

Alleged Bases for Exercise of General Jurisdiction

a

Literature Advertising Educational Services

Plaintiff notes that Yale sends literature advertising and soliciting its educational services to Rhode Island high school students and contends that such contact—at least in part—justifies exercise of general jurisdiction. Courts that have considered whether contacts aimed at recruiting students may support general jurisdiction over colleges,

³ Plaintiff cites to Big East Conference v. West Virginia University, No. PB 11-6391, slip. op. at 8-9 (R.I. Super. Dec. 27, 2011), to support her contention that this Court may properly exercise jurisdiction over a non-resident university. This Court, however, is not bound by the decisions of other Superior Courts. Moreover, Big East Conference is distinguishable from the instant matter. In Big East Conference, the sole jurisdictional question was whether a Rhode Island court could exercise authority over a non-resident university under the Rhode Island long-arm statute. Id. The non-resident university in Big East Conference did not contest personal jurisdiction on constitutional grounds. Id. Yale does so. As such, the persuasive value of Big East Conference is limited.

however, have drawn the opposite conclusion.⁴ In doing so, these courts acknowledge “the noncommercial educational mission” of colleges and universities as “a salient factor weighing against the exercise of” general jurisdiction. Severinsen, 768 A.2d at 206. Institutions of higher education, these courts reason, should be permitted to advertise and solicit students without being burdened by having to defend against lawsuits involving wholly unrelated transactions. See Hardnett v. Duquesne Univ., 897 F. Supp. 920, 923 (D. Md. 1995); see also Severinsen, 768 A.2d at 206.

This Court concurs. Traditional notions of fair play and substantial justice strongly militate against holding a non-profit educational institution like Yale subject to general jurisdiction “in every state of the union from which it may seek or attract outstanding athletes or scholars.” Severinsen, 768 A.2d at 206 (quoting Cassell v. Loyola Univ., 294 F. Supp. 622, 624 (E.D. Tenn. 1968)); see Richards v. Duke Univ., 480 F. Supp. 2d 222, 230 (D.D.C. 2007) (holding that recruitment efforts are generally

⁴ See, e.g., Gehling v. St. George’s Sch. of Med., Ltd., 773 F.2d 539, 542-43 (3d Cir. 1985) (holding that advertising of non-resident medical school in New York Times and Wall Street Journal and a “media swing” through forum state to raise the school’s profile do not constitute “continuous and substantial” contacts with the forum state to warrant exercise of general jurisdiction); Rodi v. So. New. Eng. Sch. of Law, 255 F. Supp. 2d 346, 351 (D.N.J. 2003) (concluding that subjecting a non-resident university to the general jurisdiction of every state to which it grants requests for information does not comply with traditional notions of fair play and substantial justice); Scherer v. Curators of the Univ. of Mo., 152 F. Supp. 2d 1278, 1284 (D. Kan. 2001) (concluding that “the making available of information” to prospective students in the forum state does not render a non-resident college vulnerable to general jurisdiction); Hardnett v. Duquesne Univ., 897 F. Supp. 920, 923 (D. Md. 1995) (concluding that no claim for general jurisdiction could be constructed on the basis of a non-resident university’s sending of literature to plaintiff in forum state); Ross v. Creighton Univ., 740 F. Supp. 1319, 1323-1324 (N.D. Ill. 1990) (noting that solicitation of students in forum state to purchase non-resident university’s educational services is insufficient to permit exercise of general jurisdiction) rev’d on other grounds, 957 F.2d 410 (7th Cir. 1992); Severinsen, 768 A.2d at 206 (ruling that traditional notions of fair play and substantial justice dictate against holding a college subject to general jurisdiction in every state in which it recruits students).

insufficient to subject colleges and universities to general jurisdiction (citing Scherer v. Curators of the Univ. of Mo., 152 F. Supp. 2d 1278, 1284-1286 (D. Kan. 2001))). Although Yale undoubtedly benefits from its Rhode Island recruitment efforts in the form of tuition collected from this state, Plaintiff has not shown that Yale's recruitment activities are so substantial that Yale should reasonably anticipate being haled into Rhode Island court. See Severinsen, 768 A.2d at 206; see also Cerberus Partners, 836 A.2d at 1118.

b

Attendance and Tuition Payments of Rhode Island Residents

Plaintiff similarly contends that this Court may exercise general jurisdiction over Yale because Rhode Island residents attend Yale and pay tuition. This argument fails for the same reasons as Plaintiff's assertions regarding recruitment efforts by non-resident universities. The fact that Yale educates Rhode Island residents in Connecticut and derives some percentage of its revenues in return for this service does not subject Yale to this Court's general jurisdiction. Gehling v. St. George's Sch. of Med., Ltd., 773 F.2d 539, 542-43 (3d Cir. 1985). "Advanced educational institutions typically draw their student body from numerous states, and [Plaintiff's] theory would subject them to suit on non-forum related claims in every state where a member of the student body resides." Id. at 542. Traditional notions of fair play and substantial justice prevent this Court from holding that Yale renders itself subject to service of process in every state of the union from which its students reside or from which it may derive revenue. See Cassell, 294 F. Supp. at 624; see also Norris v. Okla. City Univ., No. C-93-1626-VRW, 1993 WL 313122 at *4 (N.D. Cal. 1993) ("Given a defendant school's limited contacts with

practically every state, the court must remain especially watchful that the exercise of jurisdiction in distant forums remains fair and reasonable.”).⁵

c

Activities of Yale’s Rhode Island Alumni

Plaintiff argues that this Court may rest general jurisdiction on activities performed by Yale’s Rhode Island alumni. Rhode Island Yale alumni interview applicants for admission and also fund a scholarship for Rhode Island Yale students, which Yale administers. The involvement of alumni residents of a forum state in the admissions and scholarship funding processes of a non-resident university, however, is an improper ground for general jurisdiction over a non-resident university. Traditional notions of fair play and substantial justice dictate against holding Yale subject to general jurisdiction in every state from which it accepts the aid of its alumni regarding

⁵ Courts have uniformly declined to exercise general jurisdiction over a non-resident university on the basis that the school draws revenue from forum state residents or includes forum state residents in its student body. *See, e.g., Gehling*, 773 F.2d at 543 (“Thus the fact that [forum state] residents attend [a non-resident university] is insufficient to establish personal jurisdiction over [that university].”); *Ferris v. Rollins Coll. Inc.*, No. 1:08-cv-00039-SPM-AK, 2008 WL 4569872 *4 (N.D. Fla. 2008) (“[T]he fact that a college may derive some percentage of its revenues from residents in a particular forum does not subject that college to in personam jurisdiction.”); *Richards*, 480 F. Supp. 2d at 230 (“Generally, colleges and universities are not subject to personal jurisdiction in all states from which their students hail, as this would unfairly expose them to litigation in many distant forums.”); *Rodi*, 255 F. Supp. 2d at 351 (“Although [a non-resident university] may recognize a profit from students [from] other states, forcing it to defend itself in courts throughout the nation[] places an unreasonable burden on its recruitment efforts and would eventually lead to the result that smaller universities could only accept in-state applicants.”); *Scherer*, 152 F. Supp. 2d at 1283-1284 (accepting “that an out-of-state school is not subject to general jurisdiction simply because it may draw students from the forum state, receive revenue from the forum state through tuition or fundraising activities, or have contacts with alumnae in the forum state”); *Park*, 35 F. Supp. 2d at 1167 (holding the fact that a non-resident university solicits money from forum state residents as part of a fund-raising campaign insufficient to establish general jurisdiction).

admissions and scholarship funding. See Gehling, 773 F.2d at 542-43; see also Scherer, 152 F. Supp. 2d at 1283-1284 (accepting “that an out-of-state school is not subject to general jurisdiction simply because it may . . . have contacts with alumnae in the forum state”); Norris, 1993 313122 at *2 (“Although [the non-resident] defendant maintains contact with current students and alumni within the [forum state], these contacts are insufficient to constitute the continuous and systematic contacts which give rise to general jurisdiction.”); Severinsen, 768 A.2d at 206 (“While these [non-resident] schools undoubtedly benefit from the . . . alumni dollars collected from the [forum] state, their recruitment efforts are not such that they should be reasonably able to anticipate being haled into court.” (internal quotation marks and citation omitted)).

d

Yale’s Participation in Athletic Events in Rhode Island

Plaintiff also seeks to base general jurisdiction on the regular presence of Yale’s men’s and women’s athletic teams in Rhode Island for sporting events. Yale’s participation in athletic contests in Rhode Island, however, does not form a sufficient nexus with this forum to establish general jurisdiction. Gallant, 111 F. Supp. 2d at 642. Plaintiff has not produced evidence suggesting that Yale’s athletic activities are focused on Rhode Island, rather than being part of a general involvement in interstate collegiate sports that includes events in this state. Id.; see Stainbrook v. Kent, 771 F. Supp. 988, 990 (D. Minn. 1991) (holding that a non-resident university’s participation in a basketball tournament in Minnesota did not subject the school to personal jurisdiction in Minnesota). Although Yale athletes may enter Rhode Island to compete in sporting events at regular intervals each year, these appearances are not so regular or so focused

on this state as to be considered systematic or continuous. Gallant, 111 F. Supp. 2d at 642. Moreover, interstate collegiate athletics play a fundamental role at colleges throughout the country. To hold a university subject to the general jurisdiction of every state where the school's athletes compete would contravene traditional notions of fair-play and substantial justice. Id.; see Severinsen, 768 A.2d at 206. As such, this Court declines to exercise general jurisdiction over Yale based on its athletic teams' participation in sporting events in Rhode Island.⁶

e

Yale's Participation in Academic Events in Rhode Island

Plaintiff argues that the participation of Yale employees in academic conferences and presentations in Rhode Island justifies this Court's exercise of general jurisdiction. However, as in the case of athletic events, Plaintiff has not produced any evidence that suggests that Yale or its employees have "singled out" Rhode Island "as opposed to

⁶ Plaintiff suggests that Big East Conference bolsters her contention that a non-resident university's participation in athletic contests in Rhode Island can subject the school to this Court's general jurisdiction. No. PB 11-6391, slip. op. at 8-9. In Big East Conference, the court stated: West Virginia University ("WVU") "has been a member of the Big East Conference, which is headquartered in Rhode Island, for twenty years and has participated in over one hundred athletic contests in the State of Rhode Island." Id. at 8. The court then noted that WVU "does not contest that it has sufficient minimum contacts to be subject to personal jurisdiction in Rhode Island" and concluded that it had personal jurisdiction over WVU. Id. at 8-9. The Big East Conference Court never specified whether it had general or specific jurisdiction over WVU. The factual circumstances of the case, however, imply that WVU's athletic contacts with Rhode Island supported an exercise of specific jurisdiction. See id. at 1-9. Big East Conference involved a dispute over WVU's attempt to withdraw from an athletic conference headquartered in Rhode Island before WVU could contractually do so. Id. at 1-4. WVU's participation in conference affairs, including sporting events in Rhode Island, would therefore be a relevant contact in the specific jurisdiction inquiry. See Cerberus Partners, 836 A.2d at 1119 (observing that the specific jurisdiction inquiry focuses on "the relationship among the defendant, the forum, and the litigation"). Accordingly, this Court declines to read Big East Conference as subjecting WVU to general jurisdiction in this forum.

generally participating in interstate academic activities that may take place in” this forum. Gallant, 111 F. Supp. 2d at 642; see Park, 35 F. Supp. 2d at 1167 (holding academic interaction between non-resident university and forum state insufficient to merit exercise of general jurisdiction). Thus, this Court concludes that such contacts with Rhode Island are not sufficiently continuous, purposeful, or systematic to render Yale subject to general jurisdiction.⁷

f

Sale of Yale Apparel in Rhode Island

Plaintiff suggests that exercise of general jurisdiction over Yale is appropriate because Yale’s apparel is sold by Rhode Island retailers and over the internet.⁸ Yale may

⁷ Traditional notions of fair play and substantial justice strongly militate against the exercise of general jurisdiction on the grounds that Yale recruits students from Rhode Island, derives some tuition revenue from Rhode Island, interacts with its Rhode Island alumni, and/or participates in athletic and academic events in Rhode Island. Traditional notions of fair play and substantial justice, however, do not similarly prevent a court from basing specific jurisdiction on any of these grounds in an appropriate case. Nothing in this Decision should be construed as holding otherwise.

⁸ At oral argument, Plaintiff contended that the presence of a link on the Yale Association of Rhode Island’s website to the Yale Bookstore’s website was relevant to the general jurisdiction question. This Court declines to liken the Yale Association of Rhode Island’s decision to link to the Yale Bookstore’s webpage to an affirmative act by Yale to advertise its wares to Rhode Island residents. Implicit in Plaintiff’s argument, however, is the suggestion that this Court might hold Yale subject to general jurisdiction based on the possibility that Rhode Island residents may purchase items from the Yale Bookstore over the internet.

This Court takes this opportunity to dispel such notions. “Given that individuals can access an Internet website from any forum, an exercise of general jurisdiction based solely on an interactive website would subject many companies and individuals to suit in essentially any court, which is untenable.” Mullally v. Jones, No. 2:05-cv-00154-BES-GWF, 2007 WL 674294 at *5 (D. Nev. 2007); see Sostre v. Leslie, C.A. No. 07-289ML, 2008 WL 245837 at *7 (D.R.I. 2008). Rather, there must be evidence to show “that the website was systematically and continuously aimed at the forum such that an exercise of jurisdiction would comport with traditional notions of fair play and substantial justice.” Mullaly, 2007 WL 674294 at *5; see GTE New Media Servs. Inc. v. BellSouth Corp., 199 F.3d 1343, 1350 (D.C. Cir. 2000) (“The Due Process Clause exists, in part, to give a

fall within this Court's general jurisdiction if Yale's Rhode Island sales of apparel are such that these sales constitute continuous and systematic contacts with Rhode Island. In performing this inquiry, this Court must consider Yale's dollar amount of business in Rhode Island, as well as the percentage of its Rhode Island business against its total corporate sales. White v. Shiller Chems., Inc., 379 F. Supp. 101, 104 (D.R.I. 1974).

Plaintiff proffers photographic evidence that Yale athletic wear is on sale in Rhode Island stores. Yale disputes the value of the photograph, arguing that there is no evidence that Yale profited from the sale of the athletic wear or manufactured, distributed, or sold the athletic wear. Yale does not deny that its apparel is on sale in Rhode Island, however, nor has it offered an affidavit or other evidence contradicting Plaintiff's allegations. On a motion to dismiss for lack of personal jurisdiction, this Court must accept Plaintiff's allegations as true and view all evidence in the light most favorable to Plaintiff. Cassidy, 920 A.2d at 232; Ben's Marine Sales, 502 A.2d at 810. Accordingly, for the purposes of this Decision, this Court accepts that Yale apparel is on sale in Rhode Island.

The record is presently bare of evidence, however, relating to the percentage of Yale's sales of apparel in Rhode Island versus Yale's total sales of apparel. White, 379 F. Supp. at 104. Plaintiff requests jurisdictional discovery of these sales figures. This

degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." (internal quotation marks and citation omitted)). Plaintiff has not demonstrated that the Yale Bookstore's website focuses on this forum. Absent such evidence, this Court does not have general jurisdiction over Yale on the basis of any website that might be attributable to Yale, let alone the Yale Association of Rhode Island. See GTE New Media, 199 F.3d at 1350 ("We do not believe that the advent of advanced technology, say, as with the Internet, should vitiate long-held and inviolate principles of federal court jurisdiction.").

Court may properly allow discovery to aid in determining whether it has personal jurisdiction where “pertinent facts bearing on the issue of jurisdiction are in question and the relevant information remains in the exclusive control of the defendant.” Smith, 489 A.2d at 340. Without data relative to Yale’s Rhode Island sales of apparel versus Yale’s total sales of such wares, this Court cannot determine whether Yale’s sales of apparel are sufficient to render Yale subject to general jurisdiction. Moreover, as any records containing information that may provide an answer remain in Yale’s exclusive control, “it seems particularly important that jurisdictional fact discovery be allowed.” Id. at 339. This Court therefore grants Plaintiff limited jurisdictional discovery. Plaintiff may seek information regarding the percentage of Yale’s Rhode Island sales of apparel as compared to Yale’s total sales of apparel.⁹

g

Yale’s Rhode Island Furniture Archive

Finally, Plaintiff contends that Yale’s Rhode Island Furniture Archive (“the Archive”) at the Yale University Art Gallery supports general jurisdiction. Plaintiff has produced screen-shots from the Archive’s website, including an “Acknowledgements” page. On this “Acknowledgements” page, the Yale University Art Gallery states:

“The custodians of public records were also generous with their time and resources, including the town clerks of all the towns in Rhode Island who opened their archives to us, as well as the staff of the Rhode Island State Archives, and Stephen Grimes, Andrew Smith, and other staff members of the Supreme Court Judicial Records Center, Pawtucket,

⁹ This Court’s authorization of jurisdictional discovery does not extend to information relating to Yale’s “sales” of educational services in Rhode Island. Supra at 10-13 (finding improper the exercise of general jurisdiction on the basis of Yale’s solicitation of its educational services in Rhode Island and/or its receipt of tuition from Rhode Island residents).

Rhode Island. Ray Battcher, Bristol Historical and Preservation Society, Rhode Island, and Bertram Lippincott III, Newport Historical Society, Rhode Island, provided access to resources at those institutions.” Pl.’s Mem. in Opp’n to Yale’s Mot. to Dismiss, Ex. 4, Screen-shots from R.I. Furniture Archive Website.

The logical inference from these acknowledgments is that Yale employees contacted Rhode Island during the Archive’s assembly. Whether such contacts are sufficiently continuous, purposeful, and systematic to render Yale subject to this Court’s general jurisdiction is another matter entirely. The record is presently devoid of evidence relative to the substance of Yale’s Archive-related contacts with Rhode Island.

Plaintiff asks this Court to permit jurisdictional discovery so that Plaintiff might uncover such evidence. Jurisdictional discovery is appropriate where “pertinent facts bearing on the issue of jurisdiction are in question and the relevant information remains in the exclusive control of the defendant.” Smith, 489 A.2d at 340. The duration of the Archive project, the frequency of Yale employees’ Archive-related visits to Rhode Island, and the regularity of Yale employees’ Archive-related communications with Rhode Island residents and/or institutions are all unclear. Without data regarding the extent of these Archive-related contacts, this Court cannot determine whether such contacts are sufficient—on their own or taken with the sales contacts—to subject Yale to general jurisdiction in this forum. A more satisfactory showing of the facts regarding Yale’s Archive-related contacts with Rhode Island is therefore necessary. Because Yale is the only party with access to this information, jurisdictional fact discovery is particularly appropriate. Id. at 339. As such, this Court authorizes limited jurisdictional

fact discovery. Plaintiff may seek information regarding the extent of Yale's Archive-related contacts with Rhode Island.¹⁰

2

Summary

This Court grants Plaintiff's request for jurisdictional discovery regarding matters of general jurisdiction. Because this Court is mindful that it is not to license a fishing expedition when granting jurisdictional discovery however, such discovery is not without limits. Id. at 340. Plaintiff should not interpret permission to conduct jurisdictional discovery as an open invitation to scour Yale's past for all of Yale's possible contacts with Rhode Island. Plaintiff may not seek information relative to Yale's advertising and recruitment of students, Yale's derivation of tuition revenue from Rhode Island residents, Yale's involvement of its Rhode Island alumni in Yale's admissions and scholarship funding processes, or Yale's participation in athletic and academic events in Rhode Island. Traditional notions of fair play and substantial justice weigh heavily against exercising general jurisdiction over Yale based on activities in which any nationally prominent university would engage. Supra at 10-16; see, e.g., Gehling, 773 F.2d at 542-43; Gallant, 111 F. Supp. 2d at 642; Severinsen, 768 A.2d at 206. Therefore, jurisdictional discovery regarding such activities would prove wasteful.

¹⁰ Yale argues that the simple fact that Yale displays furniture from Rhode Island in its art gallery does not mean that Yale actually had any contact with Rhode Island and contends that Plaintiff fails to offer proof indicating otherwise. Viewed in the light most favorable to Plaintiff, however, the "Acknowledgements" page of the Archive's website suggests that Yale did have contact with this forum. Yale does not provide affidavits or other evidence to the contrary. Thus, Yale's Archive-related contacts with Rhode Island are relevant to the general jurisdiction inquiry.

Rather, this Court's authorization of jurisdictional fact discovery as it relates to general jurisdiction is quite limited. Plaintiff may request information regarding (1) the percentage of Yale's Rhode Island sales of apparel as compared to Yale's total sales of apparel, and (2) the extent of Yale's Archive-related contacts with Rhode Island. If these contacts, on their own or cumulatively, prove sufficiently continuous, purposeful, or systematic, this Court may properly exercise general jurisdiction over Yale.¹¹

III

Conclusion

For the foregoing reasons, resolution of Defendant Yale University's Motion to Dismiss for Lack of Personal Jurisdiction is stayed to permit Plaintiff Rachel Karina Beddoe-Greene to conduct limited jurisdictional fact discovery. Plaintiff may seek information regarding (1) Yale's relationship with Dimeo, (2) the percentage of Yale's Rhode Island sales of apparel as compared to Yale's total sales of apparel, and (3) Yale's contacts with Rhode Island relative to Yale's Rhode Island Furniture Archive. Counsel shall submit an appropriate Order for entry.

¹¹ Plaintiff also requests jurisdictional fact discovery regarding Yale's use of the services of Rhode Island-based companies so that she may better establish general jurisdiction. Plaintiff, however, produces no evidence suggesting that Yale has contracted with other Rhode Island-based companies apart from Dimeo. Absent such evidence, this Court concludes that granting jurisdictional discovery relative to Yale's contracts with other Rhode Island-based companies would amount to licensing a fishing expedition. Coia, 511 A.2d at 984. Accordingly, this Court declines to authorize such a venture.