

Bareh v. Honeywell Int'l

Superior Court of California, County of Los Angeles

March 30, 2023, Decided

23STCV00437

Reporter

2023 Cal. Super. LEXIS 15307 *

SAMSON BAREH, et al. v. HONEYWELL
INTERNATIONAL INC., et al.

Core Terms

supplied, brakes, contacts, **asbestos**, brands, auto parts, discovery, products, Summons, exposed, motion to quash service, cause injury, exercise of jurisdiction, exercise jurisdiction, personal jurisdiction, general jurisdiction, complaint alleges, present evidence, initial burden, minute order, moving party, forum state, no evidence, supplemental, allegations, relatedness, unconnected, exposure, argues, notice

Counsel: [*1] For Plaintiff(s): No Appearances.

For Defendant(s): No Appearances.

Other Appearance Notes: Defense counsel: Jeremy Milbrodt and Jacquelyn Sugapong (X).

Judges: Honorable Laura A. Seigle, Judge.

Opinion by: Laura A. Seigle

Opinion

MINUTE ORDER

NATURE OF PROCEEDINGS: Hearing on Motion to Quash Service of Summons for Defendant Aftermarket Auto Parts Alliance Inc. (Bareh-23STCV00437)

Matter is called for hearing.

The Court provides a Tentative Ruling.

Plaintiff's counsel is not present nor is counsel for the moving party.

The Court adopts the Tentative Ruling as the Final

Court Order as follows:

ORDER RE MOTIONS TO QUASH

Plaintiffs Samson Bareh and Gen Bareh filed this action alleging Samson Bareh developed mesothelioma as a result of exposure to **asbestos**. Defendant Aftermarket Auto Parts Alliance, Inc. filed a motion to quash service of summons for lack of personal jurisdiction.

A defendant may move to quash service of summons on the ground of lack of jurisdiction of the court over him or her. ([Code Civ. Proc., § 418.10, subd. \(a\)\(1\)](#).) The court may dismiss without prejudice the complaint in whole, or as to that defendant, when dismissal is made pursuant to [Section 418.10](#). ([Code Civ. Proc., § 581, subd. \(h\)](#).)

"A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of [*2] this state or of the United States." ([Code Civ. Proc., § 410.10](#).) "The Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful 'contacts, ties, or relations.'" ([Burger King Corp. v. Rudzewicz \(1985\) 471 U.S. 462, 471-472](#).) A state court may not exercise personal jurisdiction over a party under circumstances that would offend "traditional notions of fair play and substantial justice." ([Asahi Metal Industry Co., Ltd., v. Superior Court of California, Solano County \(1987\) 480 U.S. 102, 113](#).)

When a defendant moves to quash service of process on jurisdictional grounds, the plaintiff has the initial burden of demonstrating facts justifying the exercise of jurisdiction. ([Jayone Foods, Inc. v. Aekyung Industrial Co. Ltd. \(2019\) 31 Cal.App.5th 543, 553](#).) Once facts showing minimum contacts with the forum state are established, the defendant has the burden to demonstrate that the exercise of jurisdiction would be unreasonable. (*Ibid.*) "The plaintiff must provide specific evidentiary facts, through affidavits and other authenticated documents, sufficient to allow the court to

independently conclude whether jurisdiction is appropriate. [Citation.] The plaintiff cannot rely on allegations in an unverified complaint or vague and conclusory assertions of ultimate facts. [Citation.]" (*Strasner v. Touchstone Wireless Repair & Logistics, LP* (2016) 5 Cal.App.5th 215, 222.)

A defendant is subject to a state's general jurisdiction if its contacts "are so continuance [*3] and systematic as to render [it] essentially at home in the forum State." (*Saimler AG v. Bauman* (2014) 571 U.S. 117, 127.) A nonresident defendant may be subject to the specific jurisdiction of the forum "if the defendant has purposefully availed himself or herself of forum benefits [citation], and the 'controversy is related to or 'arises out of' a defendant's contacts with the forum.'" [Citations.]" (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 446.) This test does not require a "causal relationship between the defendant's in-state activity and the litigation." (*Ford Motor Co. v. Montana Eighth Judicial District Court* (2021) 141 S.Ct. 1017, 1026.) The "arise out" of standard "asks about causation," but "relate to" does not. (Ibid.) "[W]hen a corporation has 'continuously and deliberately exploited [a State's] market, it must reasonably anticipate being haled into [that State's] court[s]' to defendant actions 'based on' products causing injury there." (*Id. at p. 1027.*)

Defendant presents evidence it is incorporated in New Jersey and has its principal place of business in Texas. (Washbisk Decl., ¶ 4.) Plaintiffs do not contend there is general jurisdiction over Defendant.

Regarding specific jurisdiction, Defendant does not deny contact with California. Rather, it argues Plaintiffs "must show that his claims arises out of the supply of a particular Aftermarket product[] [in] [*4] California, not merely that Aftermarket sold other products in California." (Motion at p. 6.) Defendant argues Plaintiffs have no evidence Defendant directed any product to California that injured Bareh. (*Id. at p. 7.*) Defendant submits evidence that it has never distributed auto parts. (Washbisk Decl., ¶ 5.)

Plaintiffs contend "the relatedness prong is satisfied because the allegations of Plaintiffs' asbestos-related tort claims are based in California" and because the complaint alleges Bareh was exposed to "asbestos that was released from the brakes that Aftermarket and others supplied to the California market." (Opposition at p. 16.) Plaintiffs cite to pages 2-6 of the complaint. (Ibid.) Contrary to Plaintiffs' assertion, the complaint does not allege that Aftermarket supplied brakes to the

California market. The complaint alleges nothing about Aftermarket except to name it as a defendant.

Further, even if the complaint did allege Aftermarket supplied brakes to California, supplying products to California is not enough. A defendant's sale of products in California unconnected to the product that alleged caused the injury is not relevant to determining "relatedness." (*Jayone Foods, supra, 31 Cal.App.5th at p. 558.*) When there [*5] is no connection with the product that caused the injury, "specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." [Citation.]" (Ibid.) In other words, Plaintiffs need to show Aftermarket supplied the brands of brakes that exposed Bareh to asbestos in California. But because Plaintiffs do not identify the brand of brakes that Aftermarket allegedly supplied to California and exposed Bareh to asbestos, Plaintiffs have not shown their claims relate to Defendant's contacts with California.

Also, to satisfy its initial burden, "[t]he plaintiff must do more than merely allege jurisdictional facts. It must present evidence sufficient to justify a finding that California may properly exercise jurisdiction over the defendant." [Citation.]" (*Zehia v. Superior Court* (2020) 45 Cal.App.5th 543, 552.) Plaintiffs submitted no evidence of Bareh's exposure to any brand of brake that Aftermarket supplied to California.

Plaintiffs request jurisdictional discovery. (Opposition at p. 17-18.) However, the extensive discovery Plaintiffs request focuses on Defendant's contacts with California, which is undisputed. Plaintiffs are to identify the particular brands of brake they allege exposed Bareh to asbestos. [*6] After making that identification, Plaintiffs may take jurisdictional discovery concerning Defendant's supplying those brands of brakes to California.

The motion is CONTINUED as follows:

On the Court's own motion, the Hearing on Motion to Quash Service of Summons for Defendant Aftermarket Auto Parts Alliance Inc. (Bareh-23STCV00437) scheduled for 03/30/2023 is continued to 06/30/2023 at 09:00 AM in Department 15 at Spring Street Courthouse for case 23STCV00437.

The motion is continued to allow jurisdictional discovery. Plaintiffs may file a supplemental opposition and Defendant may file a supplemental reply on regular notice.

The moving party is electronically notified to give notice to all via File & Serve forthwith.

A copy of this minute order will append to the following coordinated case under JCCP4674: 23STCV00437.

End of Document