Guerrero v. Huerta 23FL01360
Hearing Date: November 28, 2023
Motion to Quash
Also on Calendar – Request for Domestic Violence Restraining Order [not discussed in this proposed order]

PROPOSED TENTATIVE

On August 18, 2023, respondent Julio Cesar Huerta (Mr. Huerta or respondent) filed a motion to quash the service of Notice of Court Hearing, Request for Domestic Violence Restraining Order, Temporary Restraining Order, and Request for Child Custody and Visitation Orders, Child Custody, and Visitation Order, which (according to the proof of service filed on August 10, 2023), were personally served on Mr. Huerta by one Norma Mendez, on behalf of Ms. Rita Guerrero (Ms. Guerrero or petitioner), on July 31, 2023. On August 23, 2023, the court tentatively denied the motion to quash, nevertheless indicating in the minute order that it "will still consider the subject matter" in a written order, on calendar for November 28, 2023. The temporary restraining order was to remain in effect until the November 28, 2023 hearing. These conclusions were placed in a "Findings and Order After Hearing[,]" filed on October 20, 2023, directing opposition to be filed by October 31, 2023, and a reply to be filed by November 13. 2023.

Mr. Huerta's counsel has indicated the motion to quash constitutes a special appearance only, and is authorized pursuant to Code of Civil Procedure section 418.10, subdivision (a)(1). Unfortunately, respondent Mr. Huerta has ***not*** actually filed a motion to quash – but instead only a notice of motion to quash. No memorandum of points and authorities was submitted. This omission patently violates California Rules of Court, rule 3.1113(a), as discussed in California Rules of Court, rule 3.10 [all local rules relating to civil cases apply to family law pleadings]. Petitioner Ms. Guerrero filed opposition on October 31, 2023. Mr. Huerta's reply was filed on November 13, 2023, claiming that the court has no personal jurisdiction in violation of constitutional principles and California's long-arm statute, arguing that he has no substantial connection with California. According to respondent, all events happened in Arizona. In light of the reply, and given the standards associated with a motion to quash, the court will address the merits despite the obvious pleading deficiency with Mr. Huerta's motion.

Some basic legal principles will help frame the issues before the court. Mr. Huerta relies on Code of Civil Procedure section 418.10, subdivision (a)(1) as the basis for the motion, claiming the court has no personal jurisdiction over him. Under Family Code section 2012, which incorporates the above provision, during the time a party has filed a motion to this provision, a party may appear in opposition to an application for temporary relief while a motion to quash is pending without making a general appearance. (*In re Marriage of Fitzgerald & King* (1995) 39 Cal. App.4th 1419, 1428.) A motion to quash filed pursuant to Code of Civil Procedure section 418.10, subdivision (a) allows a defendant/respondent to make a special appearance for the narrow purpose of contesting personal jurisdiction where the summons (or its functional equivalent) is defective. (*Stancil v. Superior Court* (2021) 11 Cal.5th 381, 397.) Once a motion to quash is filed, the petitioner/plaintiff bears the burden of proving by a

preponderance of evidence that all jurisdictional criteria are met. The burden is met by competent evidence in affidavits and authenticated documents. (*Nobel Florel, Inc. v. Pasero* (2003) 106 Cal.App.4th 654, 657-658.) If the plaintiff/petitioner meets this burden, "it becomes the defendant[/respondent's] burden to demonstrate that the exercise of jurisdiction would be unreasonable." (*ViaView, Inc. v. Retzlaff* (2016) 1 Cal.App.5th 198, 210.)

There are two components to a court's proper exercise of jurisdiction, both of which are subject to a motion to quash pursuant to Code of Civil Procedure section 418.10. First, a basis for jurisdiction must exist due to defendant's minimum contacts with the forum state (this involves due process and California's long-arm statute). The second basis, assuming minimum contacts has been established, means jurisdiction must be acquired by service of process in strict compliance with the requirements of California's service statutes. Given the arguments advanced by the parties in the briefing, the exclusive focus of the motion to quash involves the former, not the latter.

California's long-arm statute authorizes its courts to assert personal jurisdiction to the fullest extent allowed by the United States Constitution (Code Civ. Proc., § 410.10)—which, in turn, permits jurisdiction over any out-of-state defendant having " ' "certain minimum contacts with [the state] such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.' " ' " (*Jacqueline B. v. Rawls Law Group, P.C.* (2021) 68 Cal.App.5th 243, 251–252 (*Jacqueline B.*).) " 'Minimum contacts exist where the defendant's conduct in, or in connection with, the forum state is such that the defendant should reasonably anticipate being subject to suit in that state.' " (*Id*. at p. 252.) " '[T]he primary focus of [the] personal jurisdiction inquiry is the' 'relationship' between the defendant and the 'forum [s]tate' [citation], and *not* the relationship 'between the plaintiff and the defendant.' " (*Ibid*.)

Personal jurisdiction comes in two forms: (1) general (or "all-purpose") and (2) specific (or "case-linked"). (*Jacqueline B., supra*, 68 Cal.App.5th at pp. 252.) The nature and strength of a defendant's conduct with a state will determine the type of jurisdiction a court may assert – general or specific. (*Doe v. Damron* (2021) 70 Cal.App.5th 684, 689.) General jurisdiction, which subjects a defendant to suit in a state by anyone, irrespective of the suit's subject matter, exists only if a defendant's affiliations with the state are so " ' " 'continuous and systematic' " ' " as to make the defendant " ' "essentially at home in the forum [s]tate." ' " (*Jacqueline B., supra,* at p. 252.) Specific jurisdiction subjects a defendant to suit in a forum state, but only as to a specific suit arising out of or related to the defendant's contacts with the forum. (*Ibid.*) Its existence thus turns on the relationship, on the facts of each case, between the defendant, the forum, and the litigation. (*Ibid.*) It exists only if (1) the defendant has purposefully availed himself or herself of forum benefits, (2) the controversy giving rise to the action relates to or arises out of the defendant's contacts with the forum, and (3) an assertion of jurisdiction would comport with " ' " 'fair play and substantial justice.' " ' " (*Ibid.*) The plaintiff/petitioner bears the initial burden of proving the first two elements by a preponderance of the evidence. (*Ibid.*) If this burdened is satisfied, the burden shifts to the defendant/respondent to show why an exercise of

jurisdiction would not comport with fair play and substantial justice. (*Ibid*.) As noted, plaintiff/petitioner asking the forum state to exert jurisdiction over the out-of-state defendant/respondent bears the initial burden of demonstrating the first two elements by a preponderance of evidence; if successful, the burden shifts to the defendant/respondent (the moving party) to demonstrate jurisdiction would be unreasonable. (*Jacqueline B., supra*, 68 Cal.App.5th at p. 253.)

Ms. Guerrero in opposition presents the following evidence to the court. She declares in relevant part that she and Mr. Huerta were married in Santa Maria in April 2017 (a copy of a marriage certificate is contained in Exhibit E of her evidentiary proffer), and have two children together (both of whom were born here); that the family moved to Arizona in 2018; that respondent to this day continues to be a member of a "California construction Union," which requires that he maintain residence in California, and plaintiff uses his nephew's address at 201 N. Benwiley, Santa Maria, as that permanent and mailing address; that respondent currently has a "special permit to be allowed to drive for work only" issued by the California DMV (apparently after a DUI conviction suffered in California) (Ms. Guerrero has presented as Exhibit A copy of Mr. Huerta's driver's license, which expired on February 14, 2021); that Ms. Guerrero left respondent in June 2023, and returned from Arizona to California with all four of her children; that respondent has been threatening her by electronic communications and telephone (examples of this are contained in Exhibit C, which shows, between July 16, 2023, July 28, 2023, a number of unrequited calls); that one of their children is being treated for anxiety as a result of Mr. Huerta's harassment (there are letters from professionals about this contained in Exhibit B); that on October 11, 2023, in Santa Maria, respondent appeared and "tailgated" Ms. Guerrero's car, following her for "a few streets"; respondent at one point pulled next to her car, looked at her, and drove off, causing fear and anxiety; and that on October 13, 2023, as Ms. Guerrero was leaving her job, she was followed by Mr. Huerta, culminating in a police report for an alleged violation of the restraining order.

The court initially finds that there is sufficient evidence to support California's *general* jurisdiction as to Mr. Huerta. It is uncontested that Mr. Huerta is a member of a "California construction union," which mandates that he reside in California. That means, of course, Mr. Huerta works in California on a continuing basis. It is also uncontested that Mr. Huerta lists his nephew's address as his permanent and mailing address for this purpose. And it is finally uncontested that Mr. Huerta has some form of California driver's license on a restricted basis, "for work purposes only" – which by logic must relate to his union work. These are sufficient "extensive or wide ranging" or pervasive, "substantial, continuous and systematic" to support general jurisdiction. (*Secrest Machine Corp. v. Superior Court, supra,* 33 Cal.3d 664, 669; see also *Brown v. Watson* (1989) 207 Cal.App.3d 1306, 1312

The court also finds alternatively that there is sufficient evidence to show that California has specific jurisdiction as to Mr. Huerta. This inquiry looks at the relationship between the

defendant, the forum state, and the litigation, looking to respondent's own actions that must connect him or her to the forum state (*Walden v. Fiore* (2014) 571 U.S. 277, 284-286), and the litigation must arise from or relate to the defendant's actions.) (*Doe, supra,* 70 Cal.App.5th at pp. 690–691.) The evidence shows that Mr. Huerta has purposefully availed itself of forum benefits with respect to the matter in controversy; the controversy is related to or arises out of the defendant's contacts with the forum; and the exercise of jurisdiction would be reasonable and comports with fair play and substantial justice. [Citations.]" (*ViaView, Inc. v. Retzlaf* (2016) 1 Cal.App.5th 198, 216.)

The purposeful availment requirement is satisfied because Ms. Guerrero's claim is based on actions by Mr. Huerta, who traveled to California and injured petitioner here. (See, e.g., *Taylor-Rush v. Multitech Corp.* (1990) 217 Cal.App.3d 103, 111; *Doe v. Damron, supra,* 70 Cal.App.5th at p. 691.) Ms. Guerrero has presented evidence that since she left Mr. Huerta in Arizona, and returned to California; that Mr. Huerta has twice followed her in California, culminating in a police report on October 13, 2023; that he has harassed her by social media; and that he has caused their children severe emotional distress, necessitating counseling. In the court's view, Mr. Huerta should have reasonably anticipated being haled into court in California given his purposeful acts of confrontation, harassment, and threats. Mr. Huerta purposefully and affirmatively undertook acts within California that foreseeably could expose him to potential liabilities as well as the benefits and protections of the laws of the state.

Further, the controversy is related to, or has arisen out of, Mr. Huerta's contacts with California. There must be an affiliation " 'between the forum and the underlying controversy', principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation." (*Goodyear Dunlop Tires Operations, S.A. v. Brown* (2011) 564 U.S. 915, 919, [citation].) For this reason, "specific jurisdiction is confined to adjudication of 'issues deriving from, or connected with, the very controversy that establishes jurisdiction.' " (*Ibid.*) Here, the underlying controversy—the claim for temporary restraining order —arises directly and solely from Mr. Huerta's actions in California.

Finally, where, as here, a plaintiff /petitioner carries her initial burden to show purposeful availment and a direct relationship between defendant's conduct and the controversy, the burden shifts to defendant to demonstrate that the court's exercise of personal jurisdiction Courts may evaluate " 'the burden on the defendant,' 'the forum State's interest in adjudicating the dispute,' 'the plaintiff's interest in obtaining convenient and effective relief,' 'the interstate judicial system's interest in obtaining the most efficient resolution of controversies,' and the 'shared interest of the several States in furthering fundamental substantive social policies.' " (*Casey v. Hill* (2022) 79 Cal.App.5th 937, 973.)

Mr. Huerta has failed to carry his burden of demonstrating that the exercise of specific jurisdiction would be unfair or unreasonable. First, the court perceives that the burden on Mr. Huerta is minimal, as he seems to travel to California for work multiple times per year. This is

not an instance where it would impose a burden on the respondent to subject him to personal jurisdiction in a distant state he has no intention of visiting. (See, e.g., *Asahi Metal Industry Co., Ltd. v. Superior Court* (1987) 480 U.S. 102, 114 [severe burden on defendant residing in Japan to travel to California for litigation].) Second, California plainly has an interest in adjudicating this dispute. (*County of Humboldt, supra*, 206 Cal.App.3d at p. 861.) Third, for similar reasons, Ms. Guerrero's interest in obtaining convenient and effective relief in California courts is self-evident. (See, e.g., *Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 447 ["state has a manifest interest in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors"].) Finally, the court sees nothing unreasonable here insofar as it pertains to the interstate judicial system's interest in obtaining the most efficient resolution of controversies, and the shared interest of the several states in furthering fundamental substantive social policies. (See, e.g., *Crosby & Grooms, supra*, 116 Cal.App.4th at p. 206.)

Nothing in Mr. Huerta's reply undermines these conclusions. Initially, he has submitted no evidence, a fatal omission. Further, while it is true that some of the allegations in Ms. Guerrero's declaration are not relevant to the present inquiry, many are. At no point does Mr. Huerta address his membership in a California union, the fact he claims a residence and mailing address in California, the fact he has a restricted California's driver's license as claimed, the fact he contacted Ms. Guerrero by email and telephone, and, most notably, that fact he was in California on at least two occasions, culminating in an October 13, 2023 police report with local police. Contrary to Mr. Huerta's exhortations, these events are not innocuous, attenuated, or fortuitous to California.

The court finds *Doe v. Damron, supra*, particularly instructive under the circumstances. In *Doe*, plaintiff and defendant were married, and travelled together to California on two occasions. On the first occasion, defendant groped plaintiff, attempted to force her to perform oral sex, and raped and strangled her; on the second occasion, defendant assaulted plaintiff, shoved her to the floor, strangled her, and bruised her neck. The couple were living in Georgia, and on numerous occasions defendant allegedly assaulted plaintiff in Georgia (something akin to the allegations here), culminating in marital dissolution proceedings in Georgia. (*Doe, supra*, 70 Cal.App.5th at pp. 687-688.) Doe sued defendant in California, alleging causes of action against Damron for domestic violence, sexual battery, and gender violence, based solely on the acts of violence in California and not Georgia. Although the trial court granted Damron's motion to quash, the appellate court reversed, concluding there was sufficient evidence to support specific jurisdiction. ". . . Damron's actions easily satisfy the minimum contacts requirement; if a negligent car accident or dog bite suffices, surely an assault does, too. In no way could Damron's intentional tort in California be described as 'random,' fortuitous, or 'attenuated.' Basis for jurisdiction that falls short of the minimum contacts. [Citation.] Visitors to a state should reasonably expect that, if they assault someone on their travels, they may have to answer for their conduct in the state's courts. . . ." (*Id.* at p. 692.) In the court's review, Mr. Huerta is similarly situated to Damron.

For these reasons, the court denies Mr. Huerta's motion to quash.