

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Case No. 2019-CP-26-05254
Appellate Case No. 2020-000557

Alison Meyers,

Appellant,

v.

Shiram Hospitality, LLC,

Respondent.

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SC Court of Appeals

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

1. WHETHER THE TRIAL COURT PROPERLY DENIED APPELLANT'S MOTION FOR ENTRY OF FOREIGN JUDGMENT BECAUSE THE EVIDENCE SHOWS APPELLANT FAILED TO PROPERLY SERVE RESPONDENT WITH THE ILLINOIS LAWSUIT?

2. WHETHER THE TRIAL COURT PROPERLY DENIED APPELLANT'S MOTION FOR ENTRY OF FOREIGN JUDGMENT BECAUSE THE EVIDENCE SHOWS THE ILLINOIS COURT DID NOT HAVE JURISDICTION OF RESPONDENT PURSUANT TO THE ILLINOIS LONG ARM STATUTE OR DUE PROCESS?

STATEMENT OF THE CASE

This is Appellant's action to domesticate a foreign judgment she obtained by default in Cook County, Illinois, against Respondent Shiram Hospitality, LLC. At issue is whether Appellant properly served the Illinois pleadings upon an agent of Respondent and whether the Illinois court had jurisdiction of Respondent.

Appellant filed her Notice of Intent to Domesticate Foreign Judgment on August 15, 2019, to which Respondent timely objected, asserting the Illinois judgment was void for improper service and lack of jurisdiction. Appellant then moved for entry of the judgment, and a hearing took place before Judge Larry B. Hyman, Jr. on December 4, 2019. Respondent filed an affidavit on the pertinent issues of jurisdiction in support of its objections, while Appellant submitted no such affidavit. By Order dated February 18, 2020, Judge Hyman denied Appellant's motion, concluding the evidence of record shows Appellant failed to properly serve Respondent with the Illinois pleadings and that the Illinois court lacked jurisdiction over Respondent. This appeal follows.

STATEMENT OF FACTS

Appellant's recitation of facts relies heavily on the contents of her Verified Complaint filed in the Illinois case. However, as described below, the record fails to reflect this foreign pleading was ever presented to, or considered by, Judge Hyman. Therefore, Respondent's statement of facts is limited to the record before the trial court.

Respondent Shiram Hospitality, LLC is a South Carolina limited liability company. [R.p. 83]. Respondent's principal, and only, business is the ownership and operation of a hotel located in North Myrtle Beach. Sanjay H. Mishra has always been Respondent's registered agent, and he is a Member and one of two owners of Respondent. [Id]. Appellant is a resident of Illinois.

In 2014, Appellant filed suit in Cook County, Illinois, against Respondent Shiram Hospitality, LLC, Haricharan J. Mishra, and La Quinta Holdings, Inc. There is no dispute that Haricharan J. Mishra is also known as Mike Mishra, and he is the father of Sanjay Mishra.

On February 17, 2015, Horry County Deputy Sheriff Miramane Cox prepared an Affidavit of Substituted Service, reflecting service of the Illinois summons and verified complaint, as follows:

“on the Defendant SHIRAM HOSPITALITY, LLC by delivering personally to MIKE MISHRA, a person of discretion **FATHER OF AGENT SANJAY H. MISHRA** and leaving with said person of discretion; copies of the same at 1601 B. OLD HIGHWAY 17 NORTH, LAQUINTA INN NORTH MYRTLE BEACH, SC in the county and state aforesaid on the 16th day of FEBRUARY 2015; and that he knows the person so served to be the one mentioned and described in the SUMMONS AND VERIFIED COMPLAINT SHIRAM HOSPITALITY, LLC defendant therein, and also knows that the **said person of discretion bears the relation to said defendant or defendants as is hereinbefore stated...**”

[R.p. 29](emphasis added)

By order dated March 8, 2016, the Illinois trial court entered an “X-Parte Default Judgment for Plaintiff” against all three defendants. [R.p. 35]. The court awarded compensatory damages in the amount of \$3,120.74, plus \$6,951.05 for attorney fees and \$24,500 for punitive damages. [Id.]. This order does not reflect how attorney fees in the amount of nearly \$7,000 was deemed reasonable in a default judgment case, nor the basis for awarding punitive damages of nearly 8 times the compensatory damages.

On August 15, 2019, more than three years after the Illinois judgment, Appellant filed her Notice of Intent to Domesticicate Foreign Judgment in Horry County, SC. [R.p. 30]. By this time,

Mike Mishra had passed-away. [R.p. 40, 84]. Respondent filed its Notice of Defense and Response, stating the Illinois court did not have jurisdiction of Respondent and service of the Illinois pleadings was improper. [R.p. 39-41]. Appellant then moved for entry of the judgment, and the matter was scheduled for a hearing. [R.p. 69].

Prior to the hearing, Respondent submitted a memorandum, as well as the Affidavit of Sanjay Mishra, which stated Respondent does not, and never has, conducted business in Illinois, and that Mike Mishra was not an owner or agent of the business. [R.p. 76-84]. Appellant submitted a memorandum together with Deputy Cox's Affidavit of Substituted Service, but no other affidavit. [R.p. 70-75].

At the hearing, Appellant's counsel generally provided a condensed verbal summary of the allegations underlying the Illinois lawsuit. [R.p. 43-44, 54]. Appellant's memorandum also merely summarizes some of the lawsuit's allegations. [R.p. 70-74]. However, at no time does the record reflect that the actual Illinois verified complaint was ever submitted to the court.

Appellant's counsel generally described the underlying facts to the trial court as follows: Appellant's friend was staying at Respondent's hotel but did not have a credit card, so she asked Appellant if she could charge the room to her credit card, to which Appellant agreed. [R.p. 43-44, 54]. The hotel desk clerk called Appellant, who was in Illinois, to confirm this, which Appellant did and she provided her card number and security code to the desk clerk. [Id.]. Appellant contends she authorized her card for two nights only, but when there were additional charges, she called the hotel and requested a refund that the hotel refused to provide. [Id.].

As to whether Appellant properly effectuated service of the Illinois pleadings upon Respondent, Appellant contended Mike Mishra was an agent of Respondent. To this end, Appellant's counsel handed to Judge Hyman three exhibits: (1) a 2018 Facebook post made by an unknown third party, purportedly depicting Mike Mishra and describing him as the owner of La

Quinta North Myrtle Beach; (2) a 2019 purported LinkedIn profile of a Mike Mishra, showing the job title Managing Director at Shiram LLC, and (3) a 2012 Hotel-Online.com article purportedly quoting Mike Mishra saying he was managing the hotel. [R.p. 58-68]. Appellant did not file these documents or move for their admission, and Judge Hyman did not formally admit these documents into evidence, but only said “May I keep these?” [R.p. 56].

On the other hand, Respondent relied on the filed Affidavit of Sanjay Mishra. Under oath, Sanjay states:

- Respondent’s only business is conducted in Horry County, SC;
- Respondent rents rooms in Horry County only, provides services only to guests who are present in Horry County, and only collects payment in Horry County, SC;
- Respondent does not carry on business, nor has it ever carried on business outside of Horry County, SC;
- Respondent has no presence, nor does it do any business in, the State of Illinois.
- Sanjay Mishra has been the registered agent of Respondent since its inception.
- As to Mike Mishra, he was not, and never has been, a member, officer, managing or general agent of the Respondent, nor was he any other agent authorized by appointment of law to receive service of process for the Respondent.
- Mike Mishra did not inform Respondent of his receipt of the pleadings, if in fact they were properly delivered.
[R.p. 83-84].

The Appellant failed to submit any other evidence or affidavit describing the underlying transaction or Mike Mishra.

Judge Hyman issued his order on February 24, 2020. [R.p. 6-13]. He concludes that Mike Mishra was not an agent of Respondent, specifically noting the Affidavit of Sanjay Mishra and the absence of any evidence on the issue from the Appellant. [Id.]. Judge Hyman further concludes that Respondent was not doing business in Illinois and did not have sufficient minimum contacts

in Illinois to give that state personal jurisdiction, again noting those facts presented in the only affidavit before the court that describes Respondent's business and the underlying transaction. [Id.]. As such, Judge Hyman denied Appellant's Motion for Entry of Foreign Judgment. [Id.].

STANDARD OF REVIEW

An action to enforce a foreign judgment is an action at law. *Minorplanet Sys. USA Ltd. v. Am. Aire, Inc.*, 368 S.C. 146 (2006). In an action at law, tried by a judge without a jury, the findings of the trial court must be affirmed if there is any evidence to support them. *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81 (1976).

ARGUMENT

A judgment of a court without jurisdiction of the person or of the subject matter is not entitled to recognition or enforcement in another state, or to the full faith and credit provided for in the federal Constitution. *Digital Ally, Inc. v. Light-N-Up, LLC*, 408 S.C. 101 (Ct.App. 2014). The burden of undermining the decree of a sister state rests heavily on the assailant, who can overcome the presumption of jurisdiction and validity by extrinsic evidence, or by the record itself. *Law Firm of Paul L. Erickson, P.A. v. Boykin*, 383 S.C. 497 (2009).

In this case, the evidence of record, namely the Affidavit of Sanjay Mishra, together with the record before the court, establishes (1) Appellant failed to properly serve Respondent with the Illinois lawsuit because Mike Mishra was not the registered agent or other agent of Respondent, and (2) Illinois lacked jurisdiction of Respondent because it was not doing business in, and did not have minimum contacts with, Illinois.

Notably, Appellant submitted to the trial court no substantive affidavits in response to the Affidavit Sanjay Mishra, but instead relied only upon an oral summary, the Affidavit of Substituted Service and three items recently printed from the internet that lack any probative value.

Moreover, the record shows Appellant's Illinois verified complaint was not before Judge Hyman. It was not filed or attached to any filing in this case, it was not referred to in Appellant's pre-hearing memorandum as a document to be examined or analyzed, and it was not referred to by Appellant's counsel at the hearing as a document to be examined or analyzed. While the verified complaint is presumably a public record, Appellant did not request Judge Hyman to take judicial notice of it, and the record shows it was simply not presented to or considered by the trial court. Because Respondent's evidence in this case overwhelmingly supports the trial court's decision, this Court must affirm the Order Denying Plaintiff's Motion for Entry of Foreign Judgment.

1. THE EVIDENCE SHOWS APPELLANT FAILED TO PROPERLY SERVE RESPONDENT WITH THE ILLINOIS LAWSUIT BECAUSE MIKE MISHRA WAS NOT THE REGISTERED AGENT OR OTHER AGENT OF RESPONDENT.

When determining the validity and effect of a foreign judgment based on lack of personal jurisdiction, courts look to the law of the state that rendered the judgment. *Pitts v. Fink*, 389 S.C. 156 (Ct.App. 2010). Thus, to ascertain whether Respondent was properly served with the Illinois lawsuit, this court looks to Illinois law. Under Illinois law, "if a defendant is not properly served with summons, the court lacks personal jurisdiction over the defendant and any judgment against that party is void. *John Isfan Constr. v. Longwood Towers, LLC*, 2016 IL App (1st) 143211, 52 N.E.3d 510 (2016).

A. Service of Process Under Illinois Law – Foreign Limited Liability Company.

In Illinois, personal jurisdiction can be acquired only by service of process in the manner directed by statute. *State Bank of Lake Zurich v. Thill*, 113 Ill.2d 294 (1986). Under the applicable Illinois statute, a foreign limited liability company "shall be served either upon the registered agent appointed by the limited liability company or upon the Secretary of State as provided in this Section." 805 ILCS 180/1-50(a); See, *Pickens v. Aahmes Temple #132, LLC*, 104 N.E.3d 507,

2018 IL App (5th) 170226 (Ct.App. 2018)(Section 1-50 applies to service of LLC's and is more limited than the statute relating to service upon a private corporation).

Admittedly, this statute was not cited by the parties or the trial court. However, this court “may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.” Rule 220(c), SCRAP. There is no dispute that Respondent is a South Carolina Limited Liability Company. Moreover, there is no dispute that Sanjay Mishra has been the registered agent of Respondent since its inception and Mike Mishra has never been the registered agent. Because Section 180/1-50 requires that service upon a foreign LLC must be upon the registered agent or Secretary of State, Appellant failed to properly serve Respondent under Illinois law, and therefore the trial court's order should be affirmed.

B. Service of Process Under Illinois Law – Foreign Corporation.

In this case, service of the Illinois pleading was not only improper pursuant to 805 ILCS 180/1-50 because Respondent is an LLC, it was also improper under the Illinois statute relating to service upon a foreign corporation.

Similar to South Carolina law, a foreign corporation may be served with Illinois pleadings through its registered agent or any officer or agent of the corporation, so long as it is subject to Illinois jurisdiction under its long arm statute and said jurisdiction is consistent with Due Process.¹ 735 ILCS 5/2-204; 735 ILCS 5/2-209(d). Appellant does not contend she served Respondent's registered agent with the Illinois pleadings, so the inquiry under Section 5/2-204 is whether she served Respondent's “officer or agent” under Illinois law. This is known as substituted service.

In Illinois, “for service of process on a corporation to have been properly made upon an agent of the defendant, the agent must have had **actual authority** to accept service on behalf of the corporation.” *M.B. Fin.Bank, N.A. v. Ted & Paul, LLC*, 2013 Il App (1st) 122077, 990 N.E.2d

¹ Jurisdiction under Illinois' Long Arm Statute and Due Process are discussed below.

764 (2013)(emphasis added). In several Illinois cases, the legal inquiry is “did the employee understand the import of the documents which he or she received?” *See, Aspen Am. Ins. Co. v. Interstate Warehouseing, Inc.*, 2016 IL App (1st) 151876, 57 N.E.3d 656, *reversed on other grounds*, 2017 IL 121281, 418 Ill. Dec. 282, 90 N.E.3d 440 (2017).

While there has been disagreement among the Illinois appellate courts as to which party has the burden to show the presence or absence of an agency relationship, the Supreme Court of Illinois has explained that in cases of substituted service:

“The recital in the return that service was made upon a person who was an agent of the corporate defendant is not, therefore, conclusive and can be denied and placed in issue by the affidavit of the defendant. If the affidavit stands un rebutted or uncontradicted, it is a proper basis for quashing the service.”
Nibco, Inc. v. Johnson, 98 Ill. 2d 166 (1983).

Appellant’s arguments regarding the applicable burden of proof after producing an affidavit of substituted service are confusing, but more importantly, they miss the mark. First, Respondent questions whether Deputy Cox’s Affidavit of Substitute Service could even establish a prima facie case under Illinois law, as it seems to state, and the trial court read it to convey, that the sheriff’s deputy knew Mike Mishra to be the “Father of Agent Sanjay Mishra” rather than agent of Respondent. At best, the affidavit of substituted service is poorly phrased and completely ambiguous.

Second, even if the Affidavit of Substituted Service creates a prima facie presumption of proper service, it is not conclusive under Illinois law, as Respondent filed an affidavit denying Mike Mishra was an agent. To be sure, for the Appellant to succeed on this issue, Illinois law requires Appellant to affirmatively refute Respondent’s affidavit with a counter-affidavit or testimony, which Appellant failed to do. Respondent’s Affidavit of Sanjay Mishra is not only clear and convincing evidence refuting the unclear and ambiguous affidavit of substituted service, it was the only probative and direct evidence before the trial court. Thus, under Illinois law, Sanjay

Mishra's affidavit must be accepted as true and a proper basis to quash service, and therefore the trial court's order should be affirmed.

Appellant also contends the trial court erred by failing to properly consider those allegations contained in her Illinois verified complaint. As stated above, the record reflects this foreign document was not before the trial court, and therefore, these allegations should not be considered on appeal. Even if the verified complaint was before the trial court, which Respondent denies, the trial court did not reference or rule on the effect of said allegations, and therefore this issue is not proper for appeal. *See, Wilder Corp. v. Wilke*, 330 S.C. 71 (1998)("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.")

Even if the verified complaint was before the trial court and the trial court discussed, evaluated and/or ruled on the allegations contained therein, which never happened, it adds no real probative value. The verified complaint's allegations of agency, namely that Mike Mishra is the managing member of Shiram and he personally operated the hotel, are made by Appellant "on information and belief", meaning she only "believes the same to be true." [R.p. 15, 27]. Thus, even if the verified complaint were to be considered, which it was not and should not, these allegations are not certified to be true and correct and remain without any corroboration. Indeed, Appellant failed to submit a counter-affidavit as required by Illinois law.

Finally, Appellant contends the trial court erred by failing to give proper weight to the three documents printed off the internet. These documents lack any evidentiary value and are plainly insufficient to overcome the sworn affidavit of Sanjay Mishra. While their existence is noted in the trial court's order, they are properly afforded no weight by the judge. First, the record does not show these internet items were ever filed by the Appellant or even admitted into evidence. Second, these internet items are hearsay. Rule 801, SCRE. Third, they were not authenticated before the

trial court. Rule 901, SCRE. Fourth, they are irrelevant and lack any probative value. Rule 401, SCRE.

In this regard, the Facebook post is dated 2018, more three years *after* the purported date of substituted service, and is made by an unknown person with unknown qualifications to make any statement about Mike Mishra or Respondent. The LinkedIn post is even more absurd, as it is undated but printed in 2019 without any identification as to who made the entry or when, nor any information about the author. And the 2012 Hotel-Online.com article is unauthenticated, double hearsay and dated three years *prior* to the purported date of substituted service. In any event, the substance, admissibility, authentication, relevance and probative value of these internet items were not addressed by the trial court, and therefore Appellant's argument that these items should be considered on appeal is improper and not preserved. *Wilder Corp. v. Wilke*, 330 S.C. 71 (1998).

Similarly, Appellants arguments on appeal concerning the easement purportedly signed by Mike Mishra as stated in the Hotel-Online.com article, is unavailing as it is merely a bootstrapping grasp from the otherwise evidentiary deficient article without any corroboration. The purportedly numerous lawsuits involving Mike Mishra, as cited on appeal for the first time by Appellant, are also unavailing, as these too were never before the trial court, nor preserved for appeal, and do not reference or serve as evidence of agency.

In sum, the trial court order should be affirmed because the evidence before the court shows (i) Appellant failed to serve Respondent's registered agent as required by Illinois' Limited Liability Company Act, (ii) Mike Mishra was not an agent of Respondent, and (iii) Appellant failed to file any counter-affidavits (or other proper and admissible evidence) in response to the filed Affidavit of Sanjay Mishra. Once this court determines the evidence supports the trial court's order that Appellant failed to properly serve Respondent with the Illinois pleadings, this court's inquiry ends.

2. THE EVIDENCE SHOWS THE ILLINOIS COURT DID NOT HAVE JURISDICTION OF RESPONDENT PURSUANT TO THE ILLINOIS LONG ARM STATUTE OR DUE PROCESS.

Only if this court reverses the trial court's order on service, must it also determine whether Illinois had jurisdiction over Respondent under the Illinois long arm statute and federal due process.

The Illinois long arm statute, governs the exercise of personal jurisdiction by an Illinois court over a nonresident. 735 ILCS 5/209. Illinois courts will evaluate the Illinois long arm statute and the federal due process requirements similarly, and if the requirements of due process are not satisfied, then personal jurisdiction under the long-arm statute is not proper. *Russell v. SNFA*, 2013 IL 113909, 987 N.E.2d 778 (2013); *Young v. Ford Motor Co.*, 2017 IL App (4th) 170177, 90 N.E.3d 647 (Ct. App. 2017). Due process requires that the defendant have certain "minimum contacts" with the forum State such that maintenance of the suit there does not offend "traditional notions of fair play and substantial justice." *Id.*

In this case, Appellant seeks specific jurisdiction, which requires (1) the corporate, nonresident defendant must have minimum contacts with Illinois in that (a) it purposefully directed its activities at this state and (b) plaintiffs' claims arose from or related to those contacts with Illinois, and (2) it must be reasonable for Illinois to exercise jurisdiction over the defendant. *Russell v. SNFA*, 2013 IL 113909, 987 N.E.2d 778 (2013); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472, 105 S. Ct. 2174, 85 L. Ed. 2d 528 (1985); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292, 100 S. Ct. 559, 62 L. Ed. 2d 490 (1980).

A. Burden of Proof.

Under Illinois law, the plaintiff has the burden to establish a prima facie basis to exercise personal jurisdiction over a nonresident defendant. *Russell v. SNFA*, 2013 IL 113909, 987 N.E.2d 778 (2013). Any conflicts in the pleadings and affidavits must be resolved in the plaintiff's favor,

but the defendant may overcome plaintiff's prima facie case for jurisdiction by offering uncontradicted evidence that defeats jurisdiction. *Id.* "If facts alleged in a defendant's affidavit contesting jurisdiction are not refuted by a counter affidavit filed by the plaintiff, then those facts are accepted as true." *Aspen Am. Ins. Co. v. Interstate Warehouseing, Inc.*, 2016 IL App (1st) 151876, 57 N.E.3d 656 (2016)(emphasis added), *reversed on other grounds*, 2017 IL 121281, 418 Ill. Dec. 282, 90 N.E.3d 440(emphasis added).

Again, Appellant relies heavily on her Illinois verified complaint, and Respondent again notes this foreign pleading was not filed in this case, was not referenced to by Appellant in Appellant's memorandum or at the hearing as a document to be examined or relied upon, was not acknowledged by judicial notice or any other manner, and was not considered or referenced by the trial court. Thus, this court's review of the trial court's decision should be limited to the facts and information available at the time the order, which consisted of the oral descriptions given at the hearing, the Affidavit of Substituted Service and the Affidavit of Sanjay Mishra. Because Appellant failed to file any counter-affidavit to Respondent's Affidavit of Sanjay Mishra, the evidence before the trial court clearly defeats jurisdiction in this case.

B. Evidence Shows Respondent Did Not Purposefully Direct Its Activities at Illinois.

When evaluating minimum contacts, the purposeful availment requirement ensures that jurisdiction will not be obtained as the result of random, fortuitous, or attenuated contacts. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472, 105 S. Ct. 2174, 85 L. Ed. 2d 528 (1985). When parties have contacts based on a contractual or business relationship, factors relevant to purposeful availment include: (1) who initiated the transaction, (2) where the contract was entered into, and (3) where performance was to occur. *Aasonn, LLC v. Delaney*, 961 N.E.2d 939 (Ct. App. 2nd, 2011). Illinois recognizes a fourth factor, namely where the contract was negotiated, but will also consider the terms of the contract, the contemplated future consequences, and the parties' actual

course of dealing. *Khan v. Gramercy Advisors, LLC*, 2016 IL App. (4th) 150435, 61 N.E.3d 107 (2016).

In this case, based on the information before the trial court, the entire transaction was initiated in South Carolina by Appellant and her friend. The friend was renting a room in South Carolina, and the friend called Appellant from South Carolina to use her credit card. Use of the credit card only took place in South Carolina. The charging of the card took place in South Carolina and the deposit of money took place in South Carolina. Clearly, the contract was entered into in South Carolina and the performance (renting the room) took place in South Carolina. Respondent's only alleged action was a single call to Appellant to verify this transaction. Indeed, Respondent did not reach out to Illinois to solicit Appellant's business, or to initiate this transaction, as that was already established between Appellant and her friend, and the desk clerk only called to obtain Appellant's confirmation, which she provided. At best, this was a random, fortuitous, or attenuated contact that precludes jurisdiction.

C. Evidence Shows Appellant's Claims Arose From or Related to Her Contacts with South Carolina, Not Respondent's Contacts with Illinois.

Moreover, when evaluating minimum contacts, "focus is on the defendant's activities within the forum State, not on those of the plaintiff." *Madison Miracle Prods., LLC v. MGM Distrib. Co.*, 2012 IL App (1st) 112334 (2012). As already discussed, Appellant and her friend initiated the transaction where Appellant agreed she would pay for her friend's hotel room in South Carolina. Again, Respondent did not purposefully or otherwise seek out Appellant or any business in Illinois, instead the desk clerk only confirmed and obtained authorization for the agreement already existing between Appellant and her friend. Respondent did not rent a hotel room located in Illinois, nor did Respondent obtain payment in Illinois, as all actions were conducted in South Carolina only.

Without sufficient minimum contacts, Illinois did not have jurisdiction over Respondent and the trial court's order should be affirmed.

D. Evidence Shows it is Unreasonable to Require Defendant to Litigate in Illinois.

Even if there are sufficient minimum contacts, which is denied, it is unreasonable to require Respondent to litigate this case in Illinois. The protection against inconvenient litigation is typically described in terms of "reasonableness" or "fairness." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980). "The defendant's contacts with the forum State must be such that maintenance of the suit does not offend traditional notions of fair play and substantial justice, and the relationship between the defendant and the forum must be such that it is reasonable...to require the corporation to defend the particular suit which is brought there." *Id.* The factors to consider when deciding reasonableness include: (1) the burden imposed on the defendant by requiring it to litigate in a foreign forum; (2) the forum state's interest in resolving the dispute; (3) the plaintiff's interest in obtaining relief; and (4) the interests of the other affected forums in the efficient judicial resolution of the dispute and advancement of substantive social policies. *Russell v. SNFA*, 2013 IL 113909, 987 N.E.2d 778 (2013).

Really, the only element that may weigh in favor of Appellant is her interest in obtaining relief at home in Cook County, Illinois. No doubt the burden imposed on the Defendant would be substantial, it does not even conduct any business in Illinois. There is no real basis to conclude that Illinois would have any interest in a hotel room and credit card dispute that took place in South Carolina, and it is much more readily apparent that South Carolina would have a greater interest and would provide a much more efficient judicial resolution of a dispute that originated completely by the actions of Appellant and her friend in this state. To be sure, the evidence not only fails to show Respondent had sufficient minimum contacts with Illinois, it is wholly unreasonable to require Respondent to litigate in Illinois.

CONCLUSION

The trial court’s findings are not only supported by “any evidence”, they are overwhelmingly, if not totally, supported by all the evidence before the court. The Illinois court did not have jurisdiction over Respondent because Appellant failed to serve Respondent’s registered agent and because the evidence shows Mike Mishra was not a proper, authorized agent for service. Moreover, the Illinois court did not have jurisdiction over Respondent because the evidence shows the subject transaction occurred in South Carolina, Respondent did not have minimum contacts in Illinois and it would be unreasonable to require Respondent to litigate there. Therefore, the trial court’s order denying Appellant’s motion for entry of foreign judgment should be affirmed.



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CERTIFICATE OF COUNSEL

I hereby certify this Final Brief complies with Rule 211(b), SCACR



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