NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4229-12T3

SHARON BEN-HAIM,

Plaintiff-Appellant,

v.

TAL ITKIN, MIKI MOR and
ITKIN LAW FIRM,

Defendants-Respondents.

Argued January 13, 2014 – Decided June 18, 2014

Before Judges Ashrafi, St. John and Leone.

On appeal from Superior Court of New Jersey, Law Division, Bergen County, Docket No. L-8284-12.

Eric M. Mark argued the cause for appellant.

Rosaria A. Suriano argued the cause for respondents (Meyner and Landis, LLP, attorneys; Ms. Suriano, on the brief).

PER CURIAM

Plaintiff Sharon Ben-Haim appeals from the April 22, 2013 order of the Law Division vacating a prior default judgment against defendants Tal Itkin, Miki Mor and The Itkin Law Firm (Law Firm), and dismissing his complaint for lack of personal jurisdiction.

We begin with a brief synopsis of the relevant facts as gleaned from the parties' submissions, noting that the record before us was made without jurisdictional discovery.

Plaintiff and his estranged wife Oshrat Ben-Haim (Oshrat), not party to this matter, have been embroiled in contentious divorce proceedings. Defendant Itkin is a lawyer licensed to practice family law in Israel. Defendant Law Firm is Itkin's law practice in Israel. Defendant Mor is an Israeli-licensed attorney and former employee of the Law Firm. Neither Itkin nor Mor are licensed to practice law in New Jersey or any other jurisdiction in the United States. Defendants do not maintain a mailing address or place of business in New Jersey, nor do they have any assets located in the State.

In 2010, Oshrat initiated religious and civil divorce proceedings in Israel against plaintiff, which he contested. Defendants represented Oshrat in those actions, and maintain that any alleged exposure to plaintiff would have occurred solely as a result of their representation of Oshrat in Israel.

In 2011, plaintiff filed an action against Oshrat in Superior Court, Family Part, Bergen County, seeking to enjoin the divorce proceedings previously filed in Israel. Oshrat, an Israeli resident, did not appear or otherwise participate in that matter, which resulted in the entry of an order on January

6, 2012, enjoining Oshrat from pursuing religious or civil divorce proceedings, child support, alimony or related actions anywhere other than New Jersey. Plaintiff asserts in his complaint in this action that on August 25, 2011, the Family Part judge "found that the judicial actions of the Rabbinical Court in Israel will not be afforded comity, and that the [Israeli] Supreme Court's judgment was irrational, contrary to the facts and unworthy of comity."[1] The order of the Family Part was rejected by a rabbinical court in Israel, which issued orders compelling plaintiff's appearance in Israel.

Thereafter, in 2012, plaintiff and other individuals commenced an action in the United States District Court for the District of New Jersey against high-ranking Israeli officials,

[1] The alleged order and decision are not part of the record before us. Further, the record does not disclose if the Family Part decided the threshold inquiry of "whether the underlying dispute is a secular one, capable of review by a civil court, or an ecclesiastical one about 'discipline, faith, internal organization, or ecclesiastical rule, custom or law.'" McKelvey v. Pierce, 173 N.J. 26, 45 (2002)(quoting Bell v. Presbyterian Church, 126 F.3d 328, 331 (4th Cir. 1997)). When adjudicating the merits of a claim requires a court to interpret any of these religious tenets, the court must abstain for lack of subject matter jurisdiction. Id. at 52. Where a dispute can be resolved by the application of neutral principles alone, no First Amendment issues arise. "'Neutral principles' are wholly secular legal rules whose application to religious parties or disputes does not entail theological or doctrinal evaluations." Elmora Hebrew Ctr., Inc. v. Fishman, 125 N.J. 404, 414-15 (1991); Abdelhak v. Jewish Press Inc., 411 N.J. Super. 211, 224 (App. Div. 2009).

including a justice of Israel's Supreme Court, two former cabinet-level ministers and a judge of the Haifa Rabbinical District Court. They also sued three non-profit charitable entities, contending that they provided funds, and lobbied, for policies that promote discrimination against fathers in the Israeli Courts. In the fourth count of the complaint, they contended that defendants aided and abetted an anti-suit injunction and also intentional or negligent infliction of emotional distress. That count was dismissed for a lack of diversity jurisdiction. The District Court dismissed with prejudice the balance of the matter for lack of subject matter jurisdiction. See Ben-Haim v. Neeman, No. 12-CV-351(JLL) (D.N.J. Jan. 24, 2013)(slip op.), aff'd, 543 Fed. App'x 152 (3d Cir. 2013).

On October 26, 2012, plaintiff filed the present suit against defendants, accusing defendants of aiding and abetting Oshrat's violation of the 2012 Family Part injunction and committing various tortious acts against him.

In his complaint, plaintiff makes numerous allegations concerning false or misleading statements by defendants to both the civil and religious courts in Israel, which plaintiff asserts have defamed him and caused him emotional distress. Plaintiff also contends that defendants are in violation of the anti-suit order in that defendants made numerous filings on

behalf of Oshrat in both the civil and religious courts in Israel in order to pursue Oshrat's actions for divorce, child support and alimony. Plaintiff also contends that defendants committed intentional infliction of emotional distress against him by pursuing orders from the Israeli rabbinical court and obtaining a ne exeat restraining order from that court which prevented him from leaving Israel. Plaintiff further alleges that defendants requested and obtained a ruling from the rabbinical court for sanctions against plaintiff prohibiting members of the religious community from doing plaintiff any favors, talking to him, praying with him, negotiating with him, or burying him, and allowing Oshrat to publish plaintiff's name, picture, and description as a criminal in New Jersey and asking the public to assist him in granting Oshrat a divorce.[2] The

[2] The ruling of the State of Israel, Regional Rabbinical Court of Haifa, dated July 17, 2012, states in pertinent part:

> This is an extremely complicated case of an "Aguna" (a woman bound in marriage by a husband who refuses to grant a divorce). [Plaintiff] was ordered to grant a divorce back in [September 7, 2012], and since then he made the wife "Aguna," resides outside Israel in the [S]tate of New Jersey, lives his own life, pulling every trick in the book to avoid the warrant, while the wife in Israel eagerly awaits the divorce.
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> Since [plaintiff] refuses to obey the warrant, he may be called a criminal and his

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rabbinical court also ordered that its ruling would be sent to plaintiff's community rabbi. Putting aside defendants' representation of Oshrat before the Israeli civil and religious courts, there is no factual support in the record that defendants undertook any activity in New Jersey in this matter. Plaintiff does allege that defendants caused the Rabbinical Court to communicate with New Jersey parties, but there is no allegation that defendants directly communicated with anyone in New Jersey.

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> sentence will be as clarified in the book of "Shulchan Aruch," Yoreh Da'at," mark 334.
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> Anyone who can is obligated to assist in saving a woman from being "Aguna," therefore must avoid from doing [plaintiff] any favors and/or talk to him and/or pray with him and/or negotiate with him and/or bury him. As specified in the RMA.
>
> The court approves the wife's request and therefore allows to publish the name and details and picture of [plaintiff] in the community of Fair Lawn, New Jersey and/or anywhere else without any limitations, alongside an announcement which clarifies that anyone who knows anything of his whereabouts and can assist in making him grant a divorce, is hereby ordered to do so, while anyone assisting him to continue in making the wife "Aguna" is considered as aiding a criminal offense.

According to the parties' representations, a default judgment was entered against defendants on January 29, 2013,[3] which they promptly challenged. In a subsequent order vacating that default judgment, Judge Charles E. Powers, Jr. determined that defendants had meritorious defenses to the suit, specifically lack of jurisdiction and failure to state a claim. The judge also found that enforcing the default judgment against defendants would be unjust. The judge also dismissed plaintiff's complaint "for lack of personal jurisdiction." Accompanying the order, the judge issued a comprehensive written opinion. Plaintiff contends that the judge erred in vacating the default judgment, and erred in that "personal jurisdiction exists over the defendants."

We conclude that any challenge to the judge's order vacating the default judgment is without sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(1)(E).

Although the standard that governed the judge's decision on a motion to dismiss requires an assumption of the truth of plaintiff's allegations until resolved at the conclusion of a plenary hearing, see, e.g., Indep. Dairy Workers Union v. Milk Drivers Local 680, 23 N.J. 85, 89 (1956); Seidenberg v. Summit Bank,

[3] We note, however, that no such order is contained in the record.

348 N.J. Super. 243, 249-50 (App. Div. 2002), we do not find the facts in dispute to be material to the outcome of our decision.

As an initial matter, we note that plaintiff makes numerous factual assertions in his brief that refer to supporting documentation that he has not submitted on appeal, and without which his assertions cannot be tested. The absence of such documentation, and of explanations that expressly cite to it, leaves his claims of certain actions on the part of defendants insufficiently developed for meaningful assessment. See Dempsey v. Alston, 405 N.J. Super. 499, 519 (App. Div.), certif. denied, 199 N.J. 518 (2009)(an appellate court cannot credit a "contention" for which a party "failed to provide any evidence"). Further, plaintiff makes reference to specific facts in the record which do not appear as referenced in his brief. State v. Hild, 148 N.J. Super. 294, 296 (App. Div. 1977)(noting that, under Rule 2:6-9, an appellate court need not make its own "independent examination of the record" on behalf of parties who fail to support their legal arguments with "appropriate" references to the record). However, we find the record sufficient to address plaintiff's arguments concerning in personam jurisdiction over defendants, to which we now turn.

On appeal, we review the law de novo and owe no deference to the interpretative conclusions reached by the motion court.

Aronberg v. Tolbert, 207 N.J. 587, 597 (2011). A ruling on jurisdictional issues is similarly reviewed de novo, as the question of in personam jurisdiction is a question of law. Mastondrea v. Occidental Hotels Mgmt. S.A., 391 N.J. Super. 261 (App. Div. 2007)(citing Vetrotex Certainteed Corp. v. Consol. Fiber Glass Prods. Co., 75 F.3d 147, 150 (3d Cir. 1995)).

New Jersey's long-arm jurisprudence permits our courts to exercise personal jurisdiction over out-of-state defendants to the extent permitted by the federal Constitution. See R. 4:4-4(b)(1); State ex rel. McCormac v. Qwest Commc'ns Int'l Inc., 387 N.J. Super. 487, 498 (App. Div. 2006), cert. denied sub nom. Szeliga v. N.J. Dep't of Treasury, 550 U.S. 935, 127 S. Ct. 2263, 167 L. Ed. 2d 1092 (2007), Anschutz v. N.J. Dep't of Treasury, 550 U.S. 935, 127 S. Ct. 2262, 167 L. Ed. 2d 1092 (2007).

Two fundamental principles are consistently applied in the personal jurisdiction cases decided by the United States Supreme Court under the federal Due Process Clause since International Shoe Co. v. Washington, 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95 (1945). First, "due process requires only that in order to subject a defendant to a judgment [in personam], if he be not present within the territory of the forum, he have certain minimum contacts with it[.]" Id. at 316, 66 S. Ct. at 158, 90 L. Ed. at 102. Second, the minimum contacts must be of a nature

and extent "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" Ibid. (quoting Milliken v. Meyer, 311 U.S. 457, 463, 61 S. Ct. 339, 343, 85 L. Ed. 278, 283 (1940)).

"[T]he requisite quality and quantum of contacts is dependent on whether general or specific jurisdiction is asserted." Citibank, N.A. v. Estate of Simpson, 290 N.J. Super. 519, 526 (App. Div. 1996). General jurisdiction may be obtained where the defendant's contacts with the forum state are "'continuous and substantial,'" regardless of where the cause of action arose. Wilson v. Paradise Vill. Beach Resort & Spa, 395 N.J. Super. 520, 528 (App. Div. 2007)(quoting Charles Gendler & Co. v. Telecom Equip. Corp., 102 N.J. 460, 472 (1986)). Specific jurisdiction, which plaintiff invokes here, "'is established when a defendant's acts within the forum-state give rise to the cause of action.'" McDonnell v. Illinois, 319 N.J. Super. 324, 333 (App. Div. 1999)(quoting Jacobs v. Walt Disney World, Co., 309 N.J. Super. 443, 452 (App. Div. 1998)), aff'd, 163 N.J. 298 (2000)).[4]

[4] We need not address the United States Supreme Court's recent decisions in Daimler AG v. Bauman, 571 U.S. __, 134 S. Ct. 746, 187 L. Ed. 2d 624 (2014); J. McIntyre Machinery of Am., Ltd. v. Nicastro, 564 U.S. __, 131 S. Ct. 2780, 180 L. Ed. 2d 765 (2011); and Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. __, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (2011), because (continued)

In the context of specific jurisdiction, we "focus on 'the relationship among the defendant, the forum, and the litigation.'" Blakey v. Cont'l Airlines, Inc., 164 N.J. 38, 67 (2000) (quoting Shaffer v. Heitner, 433 U.S. 186, 204, 97 S. Ct. 2569, 2579, 53 L. Ed. 2d 683, 698 (1977)). Absent territorial presence in the forum, "'it is essential that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefit and protection of its laws.'" Waste Mgmt. v. Admiral Ins. Co., 138 N.J. 106, 120 (1994)(quoting Hanson v. Denckla, 357 U.S. 235, 253, 78 S. Ct. 1228, 1240, 2 L. Ed. 2d 1283, 1298 (1958)). The unilateral activities or actions of a plaintiff are not enough. See Blakey, supra, 164 N.J. at 67.

The purposeful availment requirement ensures that an out-of-state defendant "will not be compelled to participate in litigation in a foreign jurisdiction 'on the basis of random, fortuitous, or attenuated contacts or as a result of the unilateral activity of some other party.'" YA Global Invs., L.P. v. Cliff, 419 N.J. Super. 1, 9 (App. Div. 2011)(quoting Waste Mgmt., supra, 138 N.J. at 121). The "mere foreseeability" that defendant's conduct could have "some effects in the forum

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those cases apply primarily to circumstances involving general, rather than specific, jurisdiction.

state" is not sufficient to establish jurisdiction. Bovino v. Brumbaugh, 221 N.J. Super. 432, 436 (App. Div. 1987). Rather, "'[t]he question is whether the defendant's [purposeful] conduct and connection with the forum state are such that he should reasonably anticipate being ha[i]led into court there.'" Blakey, supra, 164 N.J. at 67 (quoting Lebel v. Everglades Marina, Inc., 115 N.J. 317, 324 (1989)).

This inquiry must be conducted on a case-by-case basis. See Shah v. Shah, 184 N.J. 125, 138 (2005). In particular, the court should consider:

> [T]he burden on the defendant, the interests of the forum State, and the plaintiff's interest in obtaining relief. It must also weigh in its determination "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."
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> [Asahi Metal Indus. Co. v. Superior Court of Cal., 480 U.S. 102, 113, 107 S. Ct. 1026, 1033, 94 L. Ed. 2d 92, 105 (1987) (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 292, 100 S. Ct. 559, 564, 62 L. Ed. 2d 490, 498 (1980)).]

Finally, where jurisdiction is at issue, the burden is on plaintiff to "allege or plead sufficient facts" to warrant the court's exercise of jurisdiction. Blakey, supra, 164 N.J. at 71. This may be accomplished by way of "'sworn affidavits, certifications, or testimony.'" Jacobs, supra, 309 N.J. Super.

at 454 (quoting Catalano v. Lease & Rental Mgmt. Corp., 252 N.J. Super. 545, 547-48 (Law Div. 1991)).

The issue before us is whether plaintiff met the threshold burden of establishing defendants' minimum contacts with New Jersey to warrant our exercise of jurisdiction. It is undisputed that defendants neither reside nor do business in New Jersey, and that the lawyers and Law Firm operate in Israel without soliciting business here. The significant events, or non-events, that are at the core of plaintiff's contentions all involve Israeli actors and Israeli law. The only link to New Jersey is plaintiff's residence and his action in the Family Part.

We conclude that the circumstances in this case are closely analogous to the situation in Reliance National Insurance Co. v. Dana Transportation, Inc., 376 N.J. Super. 537 (App. Div. 2005), where we found no minimum contacts by Florida attorneys to warrant our exercise of in personam jurisdiction. Id. at 549-50. Here, Itkin and her Law Firm were retained to represent Oshrat in a matrimonial matter in Israel. Plaintiff contends that defendants are "aiding and abetting Oshrat's ongoing violation of the [Family Part] Anti-Suit Order because without their assistance Oshrat would not be able to properly litigate in the Israeli courts."[5]

[5] We need not address whether this is a cognizable cause of action or whether the litigation privilege would provide a (continued)

Plaintiff relies on Waffenschmidt v. Mackay, 763 F.2d 711 (5th Cir. 1985), cert. denied, 474 U.S. 1056, 106 S. Ct. 794, 88 L. Ed. 2d 771 (1986), in support of his contention that personal jurisdiction exists over a person who knowingly and actively aids and abets a party in violating a court order on the basis of a "super contact" with that forum. Id. at 714. Waffenschmidt involved the jurisdiction of the United States District Court for the District of Mississippi to enforce its injunctive order against residents of Texas. Id. at 715. The Court of Appeals for the Fifth Circuit stated that the district court had personal jurisdiction over the Texas defendants because "the mandate of an injunction issued by a federal district court runs nationwide." Id. at 716. The case had nothing to do with jurisdiction over a party that is a resident of a foreign country and has not submitted itself to the jurisdiction of a court in the United States.

Furthermore, in Reebok International, Ltd. v. McLaughlin, 49 F.3d 1387, (9th Cir.), cert. denied, 516 U.S. 908, 116 S. Ct. 276, 133 L. Ed. 2d 197 (1995), the United States Court of Appeals for the Ninth Circuit distinguished Waffenschmidt and held that the district court did not have personal jurisdiction

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defense. See Loigman v. Twp. Comm. of Middletown, 185 N.J. 566, 583-84 (2006).

over a foreign bank that had complied with the banking laws of its own country, although its actions were in violation of the district court's injunction. Id. at 1391-92, 1395.

Here, plaintiff is suing the defendants for defamation and other causes of action based on their conduct in litigation in a foreign country and in accordance with that country's laws. Even if we were to apply the "super contact" theory, plaintiff would not fit within its scope. Accordingly, personal jurisdiction cannot be based on the aiding and abetting of the violation a court order argument in this private suit.

Plaintiff further contends that defendants, in the course of representing Oshrat, made defamatory statements in Israel which "caused the [Israeli] rabbinical court to issue statements to Plaintiff's religious community in Fair Lawn, New Jersey," seeking certain religious and personal constraints on him. First, we note that these allegations have no real basis in the record. No transcripts or certifications based upon personal knowledge of defendants' alleged defamatory statements to the Israeli courts are part of the record. Plaintiff has also not demonstrated that a factual statement by an attorney to an Israeli tribunal is sufficient evidential support for a court's decision.

Second, the conduct allegedly giving rise to the tort causes of action, the purported misrepresentations and malicious activities in various Israeli civil and religious courts, took place entirely before Israeli tribunals. The only conduct having any link to New Jersey is the religious ruling sent by the rabbinical court to Fair Lawn. We find that connection unavailing for the exercise of jurisdiction over defendants.

As the United States Supreme Court recently reaffirmed, due process requires a "substantial connection" between a defendant's "suit-related conduct" and the forum state, and such relationship "must arise out of contacts that the 'defendant himself' creates with the forum [s]tate." Walden v. Fiore, __ U.S. __, __, 134 S. Ct. 1115, 1122, 188 L. Ed. 2d 12, 20 (2014)(where Nevada residents brought suit in Nevada against a non-resident federal agent arising from an illegal seizure in a Georgia airport, finding no personal jurisdiction because agent had no jurisdictionally significant contacts in Nevada, all relevant conduct occurred entirely in Georgia and "mere fact that his conduct affected plaintiffs with connections to [Nevada]" was insufficient). The minimum-contacts inquiry is "defendant-focused" and may not be satisfied solely by establishing contacts between the plaintiff or third parties and the forum state. Ibid.; see also Helicopteros Nacionales de

Colombia, S.A. v. Hall, 466 U.S. 408, 417, 104 S. Ct. 1868, 1873, 80 L. Ed. 2d 404, 412 (1984)(explaining that the "unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction"); Hanson, supra, 357 U.S. at 253, 78 S. Ct. at 1239-40, 2 L. Ed. 2d at 1298 ("The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State.").

Even if, as plaintiff alleges, defendants requested and procured the rabbinical letter by misleading information, the ruling, and any defamatory material contained within it, is a statement of the rabbinical court, not defendants. As plaintiff's certification makes clear, the rabbinical court, and not defendants, published the alleged defamatory statements in New Jersey when it mailed the ruling to a rabbi in Fair Lawn.

Thus, we cannot agree that defendants, by advocating the rabbinical court to independently transmit to New Jersey a religious ruling on its own authority, established minimum contacts with New Jersey. We find that to be "precisely the sort of 'unilateral activity' of a third party that 'cannot satisfy the requirement of contact with the forum State."

Walden, supra, __ U.S. at __, 134 S. Ct. at 1126, 188 L. Ed. 24 (quoting Hanson, supra, 357 U.S. at 253, 78 S. Ct. at 1239-40, 2 L. Ed. 2d at 1298).

We further echo the Reliance court by concluding that New Jersey has no interest in adjudicating whether the representation by an Israeli law firm of an Israeli citizen in Israel was actionable by the plaintiff. See Reliance, supra, 376 N.J. Super. at 551. In summary, this quarrel between plaintiff and his wife's Israeli legal counsel has little connection, much less a substantial connection, with the forum state. We agree with the determination of Judge Powers, and conclude that the demonstrable facts do not support the exercise of personal jurisdiction over Itkin, Mor and the Law Firm. To find otherwise would "'offend traditional notions of fair play and substantial justice.'" Shah, supra, 184 N.J. at 138 (quoting Blakey, supra, 164 N.J. at 66).

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

CLERK OF THE APPELLATE DIVISION

LEONE, J.S.C., (temporarily assigned), concurring.

I join in the court's opinion, except with regard to one of plaintiff's allegations.

Plaintiff's complaint alleged that defendants falsely told the Rabbinical Court in Israel that plaintiff was a criminal, and "requested and obtained a ruling from the Rabbinical Court for sanctions against Plaintiff instructing the public not to do Plaintiff 'any favors and/or pray with him and/or negotiate with him and/or bury him' and allowing Oshrat Ben-Haim to publish Plaintiff's name, picture and description of him as a criminal in New Jersey." Plaintiff alleged that the Rabbinical Court sent its ruling to plaintiff's community rabbi in New Jersey, allowing the publication of those instructions and the falsehood that plaintiff was a criminal. Defendants thus "defamed Plaintiff and committed libel and slander in the Israeli courts and in Plaintiff's community in New Jersey." Plaintiff supported those allegations with his certification and with the Rabbinical Court's July 12, 2012 ruling and the postmarked envelope to the New Jersey rabbi. Because I must hew to our standard of review, see Citibank, N.A. v. Estate of Simpson, 290 N.J. Super. 519, 532 (App. Div. 1996), I cannot agree that these unrebutted allegations have no real basis in the record.

Such allegations satisfy the first requirement for specific personal jurisdiction. "'The "minimum contacts" requirement is satisfied so long as the contacts resulted from the defendant's purposeful conduct . . . .'" Blakey v. Cont'l Airlines, 164 N.J. 38, 67 (2000). "'An intentional act calculated to create an actionable event in a forum state will give that state jurisdiction over the actor.'" Ibid. (quoting Waste Mgmt., Inc. v. Admiral Ins. Co., 138 N.J. 106, 126 (1994), cert. denied, 513 U.S. 1183, 115 S. Ct. 1175, 130 L. Ed. 2d 1128 (1995)). "[I]f defendants' statements are capable of a defamatory meaning and were published with knowledge or purpose of causing harm to plaintiff . . . within New Jersey, those intentional contacts within the forum would satisfy the minimum contacts requirement of International Shoe." Id. at 69.

The fact that defendants had never lived or worked in New Jersey does not preclude the existence of minimum contacts. See id. at 63 & n.12, 69. Rather, "the question is whether the [defamatory statement] was expected or intended to cause injury in New Jersey." Id. at 67. "'The fact that the actions causing the effects in [New Jersey] were performed outside the State did not prevent the State from asserting jurisdiction over a cause of action arising out of those effects.'" Id. at 67-68

(alteration by the Court) (quoting Calder v. Jones, 465 U.S. 783, 787, 104 S. Ct. 1482, 1485, 79 L. Ed. 2d 804, 810 (1984)).

Defendants' use of a third party, the Rabbinical Court, to send the allegedly defamatory letter to New Jersey does not insulate them from the resulting minimum contacts. In Calder, a newspaper reporter and editor in Florida argued that California lacked jurisdiction over them because they were not responsible for their employer's circulation of their article in California. Their argument failed because

> their intentional, and allegedly tortious, actions were expressly aimed at California. . . . [T]hey knew that the brunt of that injury would be felt by respondent in the State in which she lives and works . . . . Under the circumstances, petitioners must "reasonably anticipate being haled into court there" to answer for the truth of the statements made in their article.
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> [Calder, supra, 465 U.S. at 789-90, 104 S. Ct. at 1487, 79 L. Ed. 2d at 812.]

Defendants here similarly directed their activities at New Jersey, and knew that any injury would be felt in New Jersey. Indeed, they requested that the third party publish the alleged defamation in New Jersey specifically to achieve that result.

Because defendants specifically asked the Rabbinical Court to send the letter to New Jersey, they cannot claim that it was a unilateral action of a third party. Although a defendant may not be haled into a jurisdiction solely as a result of the

"'unilateral activity of another party or a third person,'" jurisdiction is proper "where the contacts proximately result from actions by the defendant himself that create a 'substantial connection' with the forum State." Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475, 105 S. Ct. 2174, 2183-84, 85 L. Ed. 2d 528, 542 (1985) (citation omitted). Here, defendants requested, and therefore proximately caused, the court to send the letter to New Jersey. Sending the letter was a "material contact involving defendants because it was the response designed to occur by the defendants." Accura Zeisel Mach. Corp. v. Timco, Inc., 305 N.J. Super. 559, 569 (App. Div. 1997). "Thus, plaintiff's cause of action resulted from the defendants' purposeful conduct against him, a New Jersey resident, and not his unilateral activities" or those of a third-party. Halak v. Scovill, 296 N.J. Super. 363, 369-70 (App. Div.) (finding minimum contacts in part because defendants filed a criminal complaint in Maryland which resulted in a warrant being issued for plaintiff's arrest in New Jersey), certif. denied, 150 N.J. 28 (1997).

Consequently, defendants created minimum contacts with New Jersey when they caused the allegedly defamatory letter to be sent here. "The tort of libel is generally held to occur wherever the offending material is circulated." Keeton v.

Hustler Magazine, Inc., 465 U.S. 770, 777, 104 S. Ct. 1473, 1479, 79 L. Ed. 2d 790, 799 (1984). Thus, New Jersey's connection with this matter is hardly nonexistent. New Jersey has an interest in both defending its residents against defamation, and preventing defamation within its territory. See id. at 776-77, 104 S. Ct. at 1479, 79 L. Ed. 2d at 798-99.

That defendants are lawyers in Israel does not exempt them from the minimum contacts analysis. In Washington v. Magazzu, 216 N.J. Super. 23 (App. Div. 1987), we held that a Virginia lawyer who sent two letters to a New Jersey attorney "purposefully established minimum contacts within New Jersey." Id. at 27. We refused to consider "the fact that the object of [the lawyer's] New Jersey contacts was to perform services exclusively in Virginia" in determining minimum contacts, stating that it was a factor to be weighed in the second step of the analysis. Id. at 28. Here, defendants purposefully caused the allegedly defamatory missive to be sent to New Jersey.[1]

[1] The court cites another malpractice action, Reliance Nat. Ins. Co. In Liquidation v. Dana Transport, Inc., 376 N.J. Super. 537, 549-51 (App. Div. 2005). However, that case lacked "such purposeful activity." Id. at 549. There, a Florida lawyer brought Florida litigation for a Florida location of a business, unaware that it had a New Jersey location, and thereafter contacted New Jersey only when directed to do so. We could not equate his "compliance with that directive to constitute 'purposeful availment' of the benefits and protections of conducting activities in New Jersey." Id. at 549-50.

Defendants' status as attorneys, like the legal and religious status of the Rabbinical Court and rabbi, do not obviate a finding of minimum contacts. Their status instead may give rise to non-jurisdictional defenses, and are factors for the second step of the jurisdictional analysis.

Turning to the second step of the jurisdictional analysis, we must determine whether the maintenance of plaintiff's suit in New Jersey offends "'traditional notions of fair play and substantial justice.'" Blakey, supra, 164 N.J. at 65 (quoting Int'l Shoe Co. v. Washington, 326 U.S. 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 95, 102 (1945)). The predominant factor here is the international nature of this litigation. See Asahi Metal Indus. Co. v. Superior Court of Cal., 480 U.S. 102, 115-16, 107 S. Ct. 1026, 1033-34, 94 L. Ed. 2d 92, 106-07 (1987). "'Great care and reserve should be exercised when extending our notions of personal jurisdiction into the international field.'" Id. at 115, 107 S. Ct. at 1034, 94 L. Ed. 2d at 106 (citation omitted). Courts must "consider the procedural and substantive policies of other nations whose interests are affected by the assertion of jurisdiction by [a State] court." Ibid.

> [T]hose interests, as well as the Federal Government's interest in its foreign relations policies, will be best served by a careful inquiry into the reasonableness of the assertion of jurisdiction in the particular case, and an unwillingness to

> find the serious burdens on an alien defendant outweighed by minimal interests on the part of the plaintiff or the forum State.
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> [Ibid.]

Here, plaintiff bases his defamation claim on actions in and an order from an Israeli rabbinical court. He asks a New Jersey court to contravene the procedural and substantive policies of that alien court. The religious nature of the court, and of the order sent to the rabbi in New Jersey, gives further reason to avoid this foreign-relations issue.

Furthermore, plaintiff is demanding that defendants litigate the actions in and by an Israeli rabbinical court in "a foreign nation's judicial system." Id. at 114, 107 S. Ct. at 1033, 94 L. Ed. 2d at 105. "The unique burdens placed upon one who must defend oneself in a foreign legal system should have significant weight in assessing the reasonableness of stretching the long arm of personal jurisdiction over national borders." Ibid. Finally, "the burden on the defendant[s] in this case is severe" because plaintiff demands that they "traverse the distance" between Israel and New Jersey. Ibid.

"When minimum contacts have been established, often the interests of the plaintiff and the forum in the exercise of jurisdiction will justify even the serious burdens placed on the alien defendant." Id. at 114, 107 S. Ct. at 1033, 94 L. Ed. 2d

105-06. Here, the interests of plaintiff and New Jersey do not justify that burden. Plaintiff alleges that defendants' false statements beginning in 2010 have caused plaintiff damages, including loss of his business in 2011, lessened reputation in his community, and reluctance of others to associate with him. However, his October 26, 2012 complaint does not specifically allege damages from the July 17, 2012 Rabbinical Court order. Further, the religious nature of the order's proscriptions makes unclear whether it has resulted in secular damages that the courts of New Jersey can recompense.

Moreover, plaintiff's claim that defendants made false statements to the Rabbinical Court gives that court "a particular interest" in this dispute, while New Jersey's interest is more "attenuated." See Washington, supra, 216 N.J. Super. at 29 ("The fact that a nonresident lawyer's alleged malpractice affected clients who happen to live in the forum state has not been considered a dominant jurisdictional factor."). Determining whether defendants made misrepresentations to the Rabbinical Court turns largely on witnesses and evidence located in Israel. See id. at 28-29. Further, the Rabbinical Court order indicates that plaintiff's status as a "criminal" may depend on Israeli rabbinical law. Ibid.

"Considering the international context, the heavy burden on the alien defendant," the fact that their alleged misconduct occurred while litigating in an alien court, "and the slight interests of the plaintiff and the forum State," Asahi, supra, 480 U.S. at 116, 107 S. Ct. at 1034, 94 L. Ed. 2d at 107, I am "'unwilling[] to find the serious burdens on an alien defendant outweighed by minimal interests on the part of the plaintiff or the forum State.'" Waste Mgmt., supra, 138 N.J. at 122 (quoting Asahi, supra, 480 U.S. at 115, 107 S. Ct. at 1034, 94 L. Ed. 2d at 106).

I hereby certify that the foregoing is a true copy of the original on file in my office.

CLERK OF THE APPELLATE DIVISION