

STATE OF RHODE ISLAND  
PROVIDENCE, S.C.

DISTRICT COURT  
SIXTH DIVISION

[REDACTED]

v.

[REDACTED]

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PC 13-[REDACTED]

**MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

Now comes Defendant in the within action, Todd [REDACTED] (Defendant), and respectfully moves to dismiss the above action pursuant to R.I. Dist. Ct. R. Civ. P. 12(b)(2) for lack of personal jurisdiction over Defendant. For the reasons set forth below, Defendant respectfully requests that his Motion to Dismiss be GRANTED.

**FACTS**

Defendant is a resident of Maryland with no ties to the State of Rhode Island. Defendant listed a motorcycle for sale on the internet auction website E-Bay. Plaintiff was the winning bidder on that motorcycle. Plaintiff traveled to Maryland to pick up the motorcycle. The Bill of Sale for the motorcycle was executed in Maryland. Later, Plaintiff brought the within action in this Court.

**ARGUMENT**

“To establish a prima facie showing of personal jurisdiction in Rhode Island, a plaintiff’s allegations must satisfy the demands of Rhode Island’s long-arm statute.” Cassidy v. Lonquist Mgmt. Co., LLC, 920 A.2d 228, 232 (R.I. 2007); see also, Hainey v. World AM Comm., Inc., 263 F. Supp. 2d 338, 341 (D. R.I. 2003) (“[Plaintiff must] make the showing as to every fact required to satisfy ‘both the forum’s long arm statute and the due process clause of the Constitution.’”). Rhode Island’s long arm statute, R.I. Gen. Laws § 9-5-33(a), “authorizes assertion of personal jurisdiction to the fullest extent permitted by the United States

Constitution.” Tower Mfg. Corp. v. Shanghai Elev. Mfg. Corp., C.A. No. 06-107S, 2008 WL 318334, \*5 (D. R.I. Feb. 5, 2008). Personal jurisdiction can be general, where Defendant’s contacts are “continuous, purposeful and systematic.” Cassidy, 920 A.2d at 232 (R.I. 2007). Defendant has no systematic contacts with Rhode Island; so it appears Plaintiff focuses his argument on specific jurisdiction, rather than general jurisdiction. The minimum contacts analysis for specific jurisdiction is broken “into three categories – relatedness, purposeful availment and reasonableness.” Ade Adelson v. Hananel, 510 F.3d 43, 49 (1<sup>st</sup> Cir. 2007).

Interpreting a materially identical long-arm statute, Massachusetts addressed precisely the question at issue here and held that no personal jurisdiction exists. See Kolberg v. Channell, 2006 Mass.App.Div. 18 (Mass. App. Ct. 2006). In Kolberg, a Massachusetts Plaintiff (Kolberg) submitted the winning bid on a jeep listed on eBay by a West Virginia Defendant (Channell). Kolberg, 2006 Mass.App.Div. at 18-19. Kolberg submitted the winning bid from his computer in Massachusetts and the two exchanged emails and phone calls to facilitate the transaction. Id. at 19. Kolberg then went to West Virginia to pick up the jeep. Id. Kolberg later sued in Massachusetts alleging defects in the jeep. Id. The trial court granted Channell’s motion to dismiss for lack of personal jurisdiction. Id. The Massachusetts Appellate Court sustained the dismissal, noting that Channell was neither a resident nor conducted business in Massachusetts and that “[t]he only connection asserted by Kolberg is the advertisement on eBay for the sale of the jeep.” Id. The court held that this does not constitute “transacting any business” in Massachusetts “even with the benefit of a broad construction of [the long arm statute’s] provisions.” Id. The court continued that “Channell’s limited connections with Massachusetts do not satisfy the Constitutional due process requirements for jurisdiction.” Id. at 20. The court held that Channell’s actions could not satisfy the purposeful availment prong of the personal

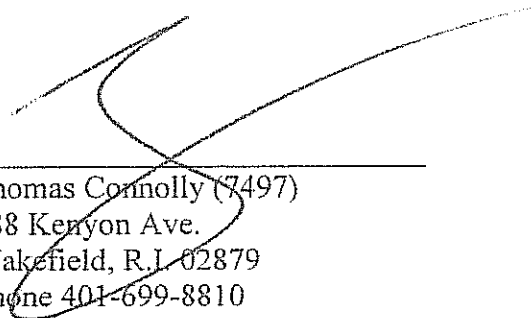
jurisdiction analysis. Id. Ultimately, the court concluded that “Channell’s sale of the jeep on eBay to Kolberg was random and established only an attenuated connection to the state of Massachusetts Channell could not reasonably anticipate being subject to a lawsuit in Massachusetts based on this act.” Id.

The facts here are indistinguishable from those in Kolberg. Defendant here simply posted an item for auction on eBay. The post was not directed specifically to Rhode Island. Defendant has no history of conducting business in Rhode Island. Defendant did not transport the item to Rhode Island. As in Kolberg, “[t]he only connection asserted by [Plaintiff] is the advertisement on eBay for the sale of the [motorcycle].” See id. at 19. As in Kolberg, Defendant has no conducted business in the state of Rhode Island and has not purposely availed himself of the laws of the state of Rhode Island. Accordingly, Plaintiff cannot establish personal jurisdiction in this matter and it should be dismissed.

### CONCLUSION

For the reasons set forth herein, Defendant’s Motion to Dismiss for Lack of Personal Jurisdiction should be GRANTED.

Respectfully submitted,



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