

IN THE FOURTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

CASE NO. 4D2024-0047
L.T. No. CACE22-007802

ADIR SHOSHAN,

Appellant/Defendant,

v.

ST. JOHNS INSURANCE COMPANY, INC.
As Subrogate of SAHAR SHOSHAN and GAD
SHOSHAN,

Appellee/Plaintiff.

_____ /

APPELLANT'S INITIAL BRIEF

APPEAL FROM THE CIRCUIT COURT FOR THE 17TH JUDICIAL
CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA
ORDER DENYING APPELLANT/DEFENDANT'S MOTION TO DISMISS
AMENDED COMPLAINT FOR LACK OF PERSONAL JURISDICTION

AYLIN MORALES

Florida Bar No. 773891
LEVY & PARTNERS, PLLC
3230 Stirling Road, Suite 1
Hollywood, FL 33021
Phone: (954) 727-8570
aylin@lawlp.com

TABLE OF CONTENTS

TABLE OF CONTENTS i
TABLE OF AUTHORITIES..... ii
Cases ii
Statutes iii
PREFACE.....1
INTRODUCTION AND QUESTIONS PRESENTED.....2
STATEMENT OF THE CASE AND FACTS 4
STANDARD OF REVIEW.....9
ARGUMENT 9

A. THE LOWER COURT ERRED IN DENYING APPELLANT/DEFENDANT'S RENEWED MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION.....9

i. Appellee alleged insufficient facts to bring this action within the ambit of Florida's long-arm statute as to specific personal jurisdiction under Fla. Stat. §§48.193(1)(a)(1), (1)(a)(2) and (1)(a)(6). However, if this Court finds that sufficient facts were raised, Appellee failed to establish sufficient "minimum" contacts with Florida to satisfy due process requirements.....10

ii. Appellee alleged insufficient facts to bring this action within the ambit of Florida's long-arm statute as to general jurisdiction under Fla. Stat. §48.192(2). However, if this Court finds sufficient facts were raised, there were no facts that support a finding of "continuous and systematic" activity in Florida.....17

CONCLUSION 233
CERTIFICATE OF SERVICE 24
CERTIFICATE OF TYPEFACE COMPLIANCE 24

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Bafitis v. Ara</i> , 815 So. 2d 702, 703 (Fla 3d DCA 2002).....	17
<i>Bohlander v. Robert Dean & Assocs. Yacht Brokerage, Inc.</i> , 920 So. 2d 1226 (Fla. 3d DCA 2006).....	8
<i>Caiazzo v. American Royal Arts Corp.</i> , 73 So. 3d 245, 250 (Fla. 4 th DCA 2011).....	10
<i>Corporacion Aero Angeles, S.A. v. Fernandez</i> , 69 So. 3d 295, 298 (Fla. 4 th DCA 2011).....	14, 16
<i>Crowe v. Paragon Relocation Resources, Inc.</i> , 506 F. Supp. 2d 1113, 1119 (N.D. Fla. 2007).....	13
<i>Gibbons v. Brown</i> , 716 So 2d 868, 870 (Fla. 1 st DCA 1998).....	21
<i>Heineken v. Heineken</i> , 683 So. 2d 194, 196 (Fla. 1 st DCA 1996).....	21
<i>International Shoe Co. v. Washington</i> , 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95 (1945).....	15
<i>Meraki Invs. v. Unit 1805</i> , 319 So. 3d 718, 721 (Fla. 3d DCA 2021).....	22
<i>Moro Aircraft Leasing, Inc. v. Int’l Aviation Mktg</i> , 206 So. 3d 814 (Fla. 2d DCA 2016).....	14-15
<i>Murphy v. Murphy</i> , 342 So. 3d 799 (Fla. 1 st DCA 2022).....	19
<i>Radcliffe v. Gyves</i> ,	

902 So. 2d 968, 972 (Fla. 4 th DCA 2005).....	18
<i>Taskey v. Burtis</i> , 785 So. 2d 557, 559 (Fla. 4 th DCA 2001).....	15
<i>Two Worlds United v. Zylstra</i> , 46 So. 3d 1175 (Fla. 2d DCA 2010).....	17
<i>Venetian Salami Co. v. Parthenais</i> , 554 So. 2d 499, 502 (Fla. 1989).....	9
<i>Williamson v. Prime Sports Mktg., LLC</i> , 314 So. 3d 480, 482 (Fla. 3d DCA 2020).....	9
<i>Woodward Chevrolet, Inc. v. Taylor Corp.</i> , 949 So. 2d 270 (Fla. 4 th DCA 2007).....	15
Statutes	
Fla. Stat. §48.193 (2022).....	9-23

PREFACE

An Appendix to this Initial Brief is being filed pursuant to Fla. R. App. P. 9.220. All references to Appellant's Appendix are cited as [A: Title of Document, Page #].

INTRODUCTION AND QUESTIONS PRESENTED

Appellee/Plaintiffs, St. Johns Insurance Company, Inc. insured Sahar Shoshan and Gad Shoshan's residence located in Broward County, Florida. Appellee brought an action as subrogate of The Shoshans against Appellant/Defendant, Adir Shoshan, based on a payment it made to The Shoshans following a loss to their residence. Appellant is Gad Shoshan's father and Sahar Shoshan's father-in-law. At the time the loss occurred and at the time this action commenced, Appellant resided in Israel. While Appellant did visit his family in Broward County, Florida in 2021, Appellant was not here when service was made on him at The Shoshans' residence. As a result, Appellant was successful in quash service of process. Thereafter, Appellant was served with service of process of this action in Israel. Appellant moved for dismissal of the action based on the Court's lack of personal jurisdiction over him. Appellee amended its complaint. Appellant renewed his motion and at the hearing, the lower court denied Appellant's renewed motion.

This case presents the following questions:

- 1) Did Appellee allege sufficient facts to establish that this Court has specific and/or general personal jurisdiction over

Appellant?

2) Did the lower court err in denying Appellant's renewed motion to dismiss the amended complaint for lack of personal jurisdiction?

STATEMENT OF THE CASE AND FACTS

Appellee/Plaintiff, St. Johns Insurance Company, Inc. (hereinafter referred to as “Appellee”), insured Sahar and Gad Shoshan’s (hereinafter referred to as “The Shoshans”) residence located in Broward County, Florida. [A: Plaintiff’s Complaint filed May 23, 2022, Page 4]. On or about August 24, 2021, a loss occurred to The Shoshans’ residence. [A: Plaintiff’s Complaint filed May 23, 2022, Page 4]. Pursuant to the insurance contract between The Shoshans and Appellee, Appellee paid damages to The Shoshans. [A: Plaintiff’s Complaint filed May 23, 2022, Page 4]. On June 22, 2022, as a result of the payment made to The Shoshans, Appellee brought an action as subrogate of The Shoshans against Appellant/Defendant, Adir Shoshan (hereinafter referred to as “Appellant”). [A: Plaintiff’s Complaint filed May 23, 2022, Page 4]. Appellant is Gad Shoshan’s father and Sahar Shoshan’s father-in-law. Appellee proceeded to attempt to serve Appellant with service of process in Florida. The first service Appellee attempted was unsuccessful. [A: Summons Returned Unserved dated June 16, 2022, Page 12]. Appellee then proceeded to serve Appellant with service of process in Broward County, Florida at The Shoshans’ residence despite the fact that Appellant did not reside

there. [A: Alias Summons Returned Served dated July 21, 2022, Page 13]. In fact, at the time of the incident and at all relevant times herein, Appellant resided in Israel. On August 3, 2022, Appellant filed a Motion to Quash Service of Process and attached an Affidavit of Sahar Shoshan stating that Appellant “does not live, and has never lived, at the property where service was effectuated,” which is the residence where the loss occurred. [A: Motion to Quash Service of Process with Affidavit of Sahar Shoshan in Support of Motion dated August 3, 2022, Page 15; 18]. In addition, this Affidavit also states that in 2021, Appellant did come to visit Sahar and her family, but Appellant was not present when service of process was effectuated at The Shoshans’ residence since he does not reside there. Furthermore, Appellant has lived in Israel since 2020. [A: Motion To Quash Service of Process with Affidavit of Sahar Shoshan in Support of Motion dated August 3, 2022, Page 15; 18]. On December 6, 2022, an evidentiary hearing was held on the motion wherein the lower court heard the arguments of counsel and the testimony of The Shoshans. The lower court granted Appellant’s motion and quashed service of process. [A: Order Granting Defendant’s Motion to Quash Service dated January 4, 2023, Page 46]. Thereafter, Appellant was served with the Complaint in Israel. [A: Return of

Service/Proof of Service regarding Adir Shoshan dated April 25, 2023, Page 48]. In response, Appellant filed a Motion to Dismiss for Lack of Personal Jurisdiction on the grounds that Appellee did not state any facts regarding Florida’s long-arm statute. [A: Defendant’s Motion to Dismiss for Lack of Personal Jurisdiction dated June 23, 2023, Page 52]. Before the motion could be heard, Appellee filed a motion for leave to amend its Complaint with its Amended Complaint. [A: Plaintiff’s Motion for Leave to Amend Complaint with Amended Complaint dated July 12, 2023, Page 61]. On July 13, 2023, an Agreed Order was entered granting Appellee’s Motion for Leave and the Amended Complaint was deemed filed. [A: Agreed Order Granting Plaintiff’s Motion for Leave to Amend dated July 13, 2023, Page 71]. While Appellee now cites to certain portions of the long-arm statute, the only new factual allegations in the Amended Complaint are located in paragraph 3 wherein Appellee states that Appellant “is an individual over the age of 18, sui juris, and at all times relevant to this action, temporarily residing in Miami-Dade County, Florida, previously owning properties in Miami-Dade County, and permanently residing in Israel.” [Emphasis added][A: Plaintiff’s Motion for Leave to Amend Complaint with Amended Complaint dated July 12, 2023, Page 61]. Appellant filed

a Renewed Motion to Dismiss for Lack of Personal Jurisdiction. [A: Defendant's Renewed Motion to Dismiss for Lack of Personal Jurisdiction dated August 28, 2023, Page 73]. Appellee did not file any sworn affidavits or other evidence at any point during these proceedings after service of process was quashed. Appellant relied on the Affidavit of Sahar Shoshan as is evidenced by the renewed motion and on the lack of factual allegations in the Amended Complaint. After a hearing on said motion, the lower court entered an order denying Appellant's Renewed Motion. [A: Order Denying Defendant's Renewed Motion to Dismiss Plaintiff's Amended Complaint for Lack of Personal Jurisdiction dated December 6, 2023, Page #92]. As such, Appellant appeals the entry of said order.

SUMMARY OF THE ARGUMENT

The lower court denied Appellant's Renewed Motion to Dismiss the Amended Complaint for Lack of Personal Jurisdiction. However, in reviewing the scant allegations contained in the Amended Complaint and the record evidence before the lower court, the lower court erred in denying the motion. There were insufficient facts to bring this action within the ambit of Florida's long-arm statute as to specific and general jurisdiction. However, even if this Court disagrees, the constitutional prong in the two-step analysis was not met for either specific or general jurisdiction. Therefore, the denial of the motion should be reversed, and this action should be dismissed.

STANDARD OF REVIEW

This appeal presents an issue of law reviewed de novo because it involves a trial court's denial of a motion to dismiss for lack of personal jurisdiction. *Bohlander v. Robert Dean & Assocs. Yacht Brokerage, Inc.*, 920 So. 2d 1226 (Fla. 3d DCA 2006).

ARGUMENT

A. THE LOWER COURT ERRED IN DENYING APPELLANT'S RENEWED MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION.

The Florida Supreme Court has set forth a two-step process to determine if personal jurisdiction exists over a nonresident responding litigant. The first step in the analysis is to determine whether the complaint alleges sufficient jurisdictional facts to bring the action within the ambit of Florida's long-arm statute, Fla. Stat. §48.193 (2022). If it is determined that the allegations are sufficient, the second step in the inquiry is whether sufficient "minimum contacts" are demonstrated to satisfy due process requirements. *Venetian Salami Co. v. Parthenais*, 554 So. 2d 499, 502 (Fla. 1989); *see also Williamson v. Prime Sports Mktg., LLC*, 314 So. 3d 480, 482 (Fla. 3d DCA 2020). Personal jurisdiction can exist in two forms, specific or general. Specific

is that in which the alleged activities or actions of the responding litigant that form the underlying operative facts of the claim are directly connected to Florida; and general, in which the responding litigant's connection with Florida is so substantial that no specific or enumerated relationship between the alleged wrongful actions and Florida is necessary. *Caiazza v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

- i. **Appellee alleged insufficient facts to bring this action within the ambit of Florida's long-arm statute as to specific general jurisdiction under Fla. Stat. §§48.193(1)(a)(1), (1)(a)(2), and (1)(a)(6). However, if this Court finds that sufficient facts were raised, Appellee failed to establish sufficient "minimum" contacts with Florida to satisfy due process requirements.**

Pursuant to Florida's long-arm statute, Fla. Stat. §48.193(1), a nonresident responding litigant may be subject to specific personal jurisdiction when the responding litigant committed any of the acts enumerated in the subsection within Florida and the cause of action arose from the act. Fla. Stat. §48.193(1)(a), specifically states that "a person, whether or not a citizen or resident of this state, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself or herself and, if he or she is a natural person,

his or her personal representative to the jurisdiction of the courts of this state for any cause of action arising from the doing of any of the following acts.” (Emphasis added). The statutory list of Fla. Stat. §48.193(1) consists of specific acts that serve as a predicate for the exercise of specific personal jurisdiction over a nonresident. When the petitioning litigant alleges that the cause of action arose from the responding litigant’s specific acts as enumerated in F.S. §48.193(1) (specific jurisdiction), the due process inquiry involves the trial court’s review of specific facts on a case-by-case basis to determine if due process is satisfied.

In the case at bar, Appellee’s Amended Complaint states that “the court is authorized to exercise personal jurisdiction over each foreign defendant pursuant to the Florida long-arm statute, Fla. Stat. §§48.193(1)(a)(1), (1)(a)(2), and (1)(a)(6), because the causes of action stated herein arise out of each foreign defendant:

- a. Operating, conducting, engaging in, or carrying on a business or business venture in Florida or having an office or agency in Florida;
- b. Committing a tortious act within Florida; or
- c. Causing injury to persons or property within Florida arising out of an act or omission committed outside Florida where, at or about the time of the injury, either (i) the Defendant was engaged in solicitation or service activities within Florida, or (ii) products, materials, or things processed, serviced, or

manufactured by the Defendant anywhere were used or consumed in Florida in the ordinary course of commerce, trade, or use.”

[A: Motion for Leave to Amend Complaint with Amended Complaint dated July 12, 2023, Page 61]. Therefore, for the court to have specific personal jurisdiction over Appellant, the cause of action must arise from the enumerated acts raised by Appellee in the Amended Complaint. The Amended Complaint states that St. Johns is subrogated to the rights of its insured and that it paid its insured for a loss that occurred on or about August 24, 2021. Furthermore, the Amended Complaint contains one count for negligence against Appellant for allegedly discarding a cigarette into a trash receptacle at the insured property. Therefore, it is undisputed the cause of action as alleged in the Amended Complaint clearly does not arise from: “operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state;” or from causing injury to persons or property within this state arising out of an act or omission by the defendant outside this state, if, at or about the time on the injury, either: a) the defendant was engaged in solicitation or service activities within this state; or b) products, materials, or things processed, serviced, or manufactured by the

defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade, or use.” None of the allegations in the Amended Complaint support a finding of specific personal jurisdiction based on Fla. Stat. §48.193(1)(a)(1) or (1)(a)(6).

The only possibility that remains is Fla. Stat. §48.193(1)(a)(2), which addresses causes of action that arise from “committing a tortious act within this state.” However, although Count I of the Amended Complaint sounds in negligence, Appellant argues that the underlying action does not stem from Fla. Stat. §48.193(1)(a)(2). The action arises out of the fact that Appellee and The Shoshans have an insurance contract. If Appellee did not have an insurance contract with The Shoshans, which gives Appellee a right to subrogation, Appellee could not bring any type of action directly against Appellant. Therefore, the cause of action itself does not arise from one of the specific acts enumerated under the statute. Courts have held that Florida’s long-arm statute is to be strictly construed by trial courts when hearing a motion to dismiss for lack of personal jurisdiction. *Crowe v. Paragon Relocation Resources, Inc.*, 506 F. Supp. 2d 1113, 1119 (N.D. Fla. 2007). If the Court strictly construes the long-arm statute as it is

required to do, the cause of action in question does not stem from a tortious act.

Nevertheless, even if this Court disagrees with Appellant and finds that the cause of action arises under 48.193(1)(a)(2), the case law still holds that a due process analysis needs to be conducted before the court has specific general jurisdiction over a non-resident defendant. To satisfy the second jurisdictional prong, a plaintiff must show that the non-resident defendant “has sufficient minimum contacts to bring the action in the forum statute.” *Corporacion Aero Angeles, S.A. v. Fernandez*, 69 So. 3d 295, 298 (Fla. 4th DCA 2011). This means that a defendant’s contacts:

- (1) “must be related to the plaintiff’s cause of action or have given rise to it,
- (2) must involve some act by which the defendant has purposefully availed itself of the privilege of conducting activities within the forum, and
- (3) the defendant’s contacts with the forum must be such that the defendant should reasonably anticipate being haled into court there.” *Id.* At 299.

“Factors that go into determining whether sufficient minimum contacts exist include the foreseeability that the defendant’s conduct will result in suit in the forum state and the defendant’s purposeful availment of the forum’s privileges and protections.” *Moro Aircraft Leasing, Inc. v.*

Int'l Aviation Mktg, 206 So. 3d 814 (Fla. 2d DCA 2016), *citing to Woodward Chevrolet, Inc. v. Taylor Corp.*, 949 So. 2d 270 (Fla. 4th DCA 2007)(quoting *Taskey v. Burtis*, 785 So. 2d 557, 559 (Fla. 4th DCA 2001). In *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95 (1945), the United States Supreme Court held that, in order to subject a nonresident defendant who is not present in the forum state to personal jurisdiction, the defendant must have certain minimum contacts with the forum “such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’”

In support, the only thing Appellee alleges, which is found in paragraph 3 of the Amended Complaint, is that Appellant is an individual over the age of 18, sui juris, and at all times relevant to this action “temporarily residing in Miami-Dade County, Florida, previously owning properties in Miami-Dade County, and permanently residing in Israel.” [Emphasis added]. [A: Motion for Leave to Amend Complaint with Amended Complaint dated July 12, 2023, Page 61]. However, the uncontroverted evidence is that Appellant has been residing in Israel since 2020, which is before the alleged loss occurred that is the subject of Appellee’s action. [Motion Quash Service of Process with Affidavit of

Sahar Shoshan in Support of Motion, Page 15]. In addition, alleging that Appellant “previously” owned properties in Miami-Dade County without more has nothing to do with the cause of action nor does any previous ownership give rise to the cause of action. As Appellee correctly states, at all relevant times herein, Appellant “permanently resided in Israel.” Therefore, at most, the only thing we can glean from the sworn evidence before the lower court at the time the Amended Motion to Dismiss for Lack of Personal Jurisdiction was heard, is that Appellant lives in Israel, was served in Israel, and visited The Shoshans in 2021. These facts are insufficient to establish the second step in the analysis since it does not support a finding of “minimum contacts” with the state of Florida as per the factors referenced in *Fernandez*. *Fernandez*, 69 So. 3d at 298. It is unforeseeable that visiting Appellant’s family in 2021 would lead to being sued in Florida. Furthermore, nothing about visiting family in Florida in 2021 equates to purposefully availing himself of the privilege of conducting activities within the forum. Appellee did not show or present any sworn evidence that Appellant had sufficient “minimum contacts” with Florida such that Appellant should reasonably anticipate being haled into a Florida court for the incident alleged in Appellee’s Amended Complaint. As

such, it was improper for the lower court to deny Appellant's Amended Motion to Dismiss for Lack of Personal Jurisdiction as there are no grounds to find "minimum contacts" with Florida pursuant to the standards established by the case law cited herein.

- ii. **Appellee alleged insufficient facts to bring this action within the ambit of Florida's long-arm statute as to general jurisdiction under Fla. Stat. §49.193(2). However, if this Court finds that sufficient facts were raised, there were no facts that support a finding of "continuous and systematic" activity in Florida.**

In Appellee's Amended Complaint, Appellee mentions Fla. Stat. §48.193(2) applies. According to Fla. Stat. 48.193(2), "a defendant who is engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity." "Substantial and not isolated activity" is that which is "continuous and systematic." *Two Worlds United v. Zylstra*, 46 So. 3d 1175 (Fla. 2d DCA 2010); *citing to Bafitis v. Ara*, 815 So. 2d 702, 703 (Fla 3d DCA 2002). The case of *Two Worlds United v. Zylstra* dealt with the issue of whether Zylstra's contacts with Florida were sufficient to satisfy Fla. Stat. §48.193. Two Worlds, a Florida not-for-profit corporation, sued Zylstra, a California resident, and others

alleging they posted defamatory statements on a website owned and operated by the individual who was a California resident. *Id.* at 1176. The lower court dismissed the complaint for lack of personal jurisdiction and the appellate court affirmed. *Id.* In doing so, the appellate court considered the testimony of Zylstra which was that he has not lived in Florida since 1994 and that he comes to Florida only a few times a year to visit friends and family. *Id.* at 1178. The court found that his contacts in Florida are insufficient to satisfy section 48.193(2). *Id.*, also see *Radcliffe v. Gyves*, 902 So. 2d 968, 972 n. 4 (Fla. 4th DCA 2005)(holding that “sporadic or occasional family vacations” to Florida are “insufficient to establish general jurisdiction under section 48.193(2)). For this same reason, the appellate court also found that the minimum contacts necessary to meet the due process requirements for the long-arm jurisdiction are lacking. *Radcliffe*, 902 So. 2d at 973. As previously stated, the evidence before the Court indicates that Appellant has resided in Israel since 2020, and visited his son and daughter-in-law in Broward County, Florida in 2021. Pursuant to the case law cited herein, a family visit in 2021 is insufficient to find that Appellant is subject to specific and/or general jurisdiction.

The case of *Murphy v. Murphy*, 342 So. 3d 799 (Fla. 1st DCA 2022), also provides an in depth analysis of how general jurisdiction works. In *Murphy*, the appellate court determined that the denial of the former husband’s motion to dismiss for lack of personal jurisdiction was improper under Fla. Stat. §48.193. In said case, the former wife sued in equity: first, to have an out-of state divorce decree treated as an in-state judgment, and then to have the decree clarified and enforced against the former husband. *Murphy*, 342 So. 3d at 801. To support her contention that the former husband was subject to jurisdiction in Florida, she alleged that he “resided in the State of Florida for most of the last ten to eleven years” in “both the Tampa and Jacksonville areas” and had “owned properties in both of the counties.” *Id.* at 802. She further alleged he “*may*” still own property in Florida. (emphasis supplied). *Id.* While former wife also acknowledged that the former husband “recently left the state,” the former wife went on to aver that “his continued, substantial and *recent* residency in the state provide a basis for personal jurisdiction over him. (emphasis supplied). *Id.* The former husband was served in North Carolina. *Id.* The former husband also filed a sworn motion to dismiss that challenged the trial court’s jurisdiction over him wherein he stated that he resided in Florida from

January 2010 through December 2012, and from July 2017 through February 2019, all related to his military service. *Id.* This means that the last time he resided in Florida was roughly seven months prior to the former wife’s initiation of her suit. *Id.* He also admitted to owning real property in Florida from July to November 2017, but he denied owning any in the state since then. *Id.* At the hearing on the motion to dismiss, the lower court denied the former husband’s motion. *Id.* On appeal, the appellate court explains that the lower court applied the wrong analysis in denying the motion and, as such, the appellate court corrects the trial court’s error since the motion should have been granted. *Id.* at 803. As the appellate court states, in order to find general jurisdiction, the contacts must be “extensive and pervasive,” which is a “much higher threshold” than for specific jurisdiction. *Id.* at 804. Demonstrating robust contacts within the state, however, is not enough. *Id.* The appellate court goes into a very extensive analysis of the wording used in Fla. Stat. §48.193(2), which the court refers to it as “subsection (2).” As stated by the appellate court:

“Grammar rules tell us that under subsection (2), those contacts also must be in the present, not just in the past. This is because the linking verb in the statutory provision (viz.: “is engaged”) is in the present tense. It is part of an adjective clause that begins with the relative pronoun serving as the subject of the clause – “who.”

That clause altogether modifies the antecedent of “who,” which is “a defendant.” This adjective clause, stated in the present tense, thereby describes the type of defendant subject to general jurisdiction in subsection 2. That is to say, because the verb “is” links the past participle “engaged” – operating here as a subject complement – to the relative pronoun it modifies – “who” – the clause effectively links “engaged” (in the present tense) to the defendant being described. This means, in turn, that jurisdiction must be based on *current* (not exclusively past) “substantial and not isolated activity” within Florida. *Cf. Heineken v. Heineken*, 683 So. 2d 194, 196 (Fla. 1st DCA 1996) (concluding that “limited past contacts,” like a defendant’s possession of a Florida driver’s license and a Florida voter registration card, are not “substantial and not isolated’ activities within the state sufficient to” satisfy subsection (2)); *Gibbons v. Brown*, 716 So 2d 868, 870 (Fla. 1st DCA 1998) (treating the phrase “is engaged” as adding a present-tense component to the consideration of whether a defendant’s contacts with the state are “substantial and not isolated activity”). *Id.* at 804.

As noted by the appellate court, if the Legislature had intended to allow prior conduct (i.e., activity that started and ended in the past) to support jurisdiction over a nonresident, it would have used a past tense of the being verb (i.e., “*was engaged*”) or a perfect tense (i.e., “*has engaged*” or “*had engaged*”). It did not. *Id.* at 805, 806. Therefore, the former wife had to establish not only the former husband’s “extensive and pervasive” contacts, but also the fact that he *currently* maintained those contacts with Florida at the time she filed suit. This is something she failed to do. Similarly, the only allegations raised by Appellee in

the Amended Complaint are that Appellant “temporarily” resided in Miami-Dade County, Florida and “previously” owned properties in Miami-Dade County, Florida. [Emphasis added]. It is unrefuted that Appellant has been living in Israel since 2020. Therefore, whether he ever temporarily resided in Miami-Dade County, Florida, or whether he previously owned any properties, is irrelevant to a finding of general jurisdiction. These statements, on their own, do not meet the requirements of subsection (2) of Fla. Stat. 48.193. Therefore, there is no way that this Court has general jurisdiction over Appellant and accordingly, the motion should have been granted. In *Meraki Invs. v. Unit 1805*, 319 So. 3d 718, 721 (Fla. 3d DCA 2021), the appellate court found that a nonresident corporation’s ownership of two condominium units in Florida did not constitute substantial contacts and thus did not subject it to general personal jurisdiction under Fla. Stat. §48.193(2). The mere ownership of two condominium units is, without more, insufficient to confer general personal jurisdiction. *Id.* “By itself, ownership of property is insufficient to subject a nonresident defendant to jurisdiction of the courts of this state, unless the cause of action arose out of such ownership.” *Id.* Here, even though Appellee has not alleged that Appellant owned property at the time suit was filed, it

would be irrelevant since the residence in question was clearly not owned by Appellant.

CONCLUSION

In accordance with all the foregoing arguments and the law on the issues raised herein, the order denying Appellant's Renewed Motion to Dismiss for Lack of Personal Jurisdiction should be reversed and this action should be dismissed.

Respectfully Submitted,

/s/ Aylin Morales

AYLIN MORALES

Florida Bar No. 773891

LEVY & PARTNERS, PLLC

3230 Stirling Road, Suite 1

Hollywood, FL 33021

Phone: (954) 727-8570

aylin@lawlp.com

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2024, a true and correct copy of the foregoing has been furnished by email to Tyler Brown, Esq., Brown Law Firm, PL, 1540 Int'l Pkwy, Ste. 2000, Lake Mary, FL 32746, at: service@BLFFL.com; tbrown@BLFFL.com

/s/ Aylin Morales

AYLIN MORALES

Florida Bar No. 773891

LEVY & PARTNERS, PLLC

3230 Stirling Road, Ste. 1

Hollywood, FL 33021

Phone: (954) 727-8570

aylin@lawlp.com

CERTIFICATE OF COMPLIANCE

I certify that this Initial Brief complies with the font and word count limit requirements of Florida Rule of Appellate Procedure 9.045(b) and 9.210. The brief has been prepared using Bookman Old Style, 14-point font and the word count is 4,961.

/s/ Aylin Morales