

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY**

<b>ALVINO CRAWFORD, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 1916-CV17245</b>
	)	
<b>JIMENEZ ARMS, INC., et al.,</b>	)	<b>Division 10</b>
	)	
<b>Defendants.</b>	)	

**DEFENDANT JIMENEZ ARMS, INC.’S MOTION TO DISMISS  
FOR LACK OF PERSONAL JURIDICTION**

Defendant Jimenez Arms, Inc. (Jimenez), pursuant to Mo. R. Civ. P. 55.27(a)(2), should be dismissed as the Court lacks personal jurisdiction over it for its lawful sale of a firearm from its location in Nevada to a buyer in Georgia. The firearm’s later purported use in an alleged tort committed by others in Missouri does not confer jurisdiction over Jimenez for its extraterritorial act.

**I. Introduction/Relevant Facts**

Jimenez is a Nevada company with its principal place of business also in Nevada. (Ex. A and its Ex. 1). It sold and delivered the firearm at issue to National Wholesale Distribution, LLC, which was located and organized in Alpharetta, Georgia. (Ex. A and its Ex. 2). Jimenez does not dispute that it has contacts with Missouri. Those contacts with Missouri, however, do not give rise to the cause of action for the Decedent’s death based on the sale of the firearm at issue.<sup>1</sup>

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<sup>1</sup> To the extent Plaintiffs attempt to claim sufficient contacts between Jimenez and Missouri as it relates to their nebulous claim for public nuisance, the sale of this firearm was not part of the nuisance allegedly directed at Missouri due to its sale to a bona fide purchaser in Georgia. Thus, the purported nuisance without the contact of the firearm that was the cause-in-fact of the injury is insufficient to confer jurisdiction.

Plaintiffs allege, “...Jimenez Arms gun, a J.A. 380 bearing serial number 361229, was used to murder D[ecedent]...,” (Pet. ¶6), and the same occurred in Kansas City, Missouri. (*Id.* ¶10). They allege personal jurisdiction over Jimenez only on the basis of general personal jurisdiction – *i.e.*, on the basis that it did, and continues to do, business in Missouri. (*Id.* ¶9). Plaintiffs do not, and cannot, allege any contact between Jimenez and the state of Missouri as it relates to the actual firearm involved in Decedent’s death.

## **II. Legal Analysis**

A court evaluates personal jurisdiction by considering the allegations contained in the pleadings to determine whether, if taken as true, they establish facts adequate to invoke Missouri’s long-arm statute and support a finding of minimum contacts with Missouri sufficient to satisfy due process. *State ex rel. Cedar Crest Apartments, LLC v. Grate*, 577 S.W.3d 490, 496, n.5 (Mo. banc 2019) (*citing, Angoff v. Marion A. Allen, Inc.*, 39 S.W.3d 483, 487 (Mo. banc 2001)). When a defendant presents evidence refuting personal jurisdiction, Plaintiffs must respond with contrary evidence or otherwise refute the evidence presented by the defendant as opposed to merely relying on his or her pleadings. *Id.* at 496, n.5. The Court may not rely on conclusory allegations or conclusions of law in the Petition. *Id.*

### **A. There Is No General Jurisdiction over Jimenez.**

“A court normally can exercise general jurisdiction over a corporation only when the corporation’s place of incorporation or its principal place of business is in the forum state.” *Cedar Crest*, 577 S.W.3d at 493–94.<sup>2</sup>

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<sup>2</sup> There is an exception not pled, or at issue, in this case as discussed in *State ex rel. Norfolk So. Ry. Co. v. Dolan*, 512 S.W.3d 41 (Mo. banc 2017), where the majority of a company’s business in a state effectively creates a third home state.

Jimenez is incorporated, and has its principal place of business, in Nevada. (Ex. A). As such, there can be no general personal jurisdiction over Jimenez.

Therefore, Jimenez should be dismissed from this action.

**B. There Is No Specific Personal Jurisdiction over Jimenez**

Missouri courts employ a two-step analysis to evaluate specific personal jurisdiction: (1) the Court inquires whether the defendant's conduct satisfies Missouri's long-arm statute, and (2) if so, the Court next evaluates whether the defendant has sufficient minimum contacts with Missouri such that asserting personal jurisdiction over the defendant comports with due process. *Bryant v. Smith Interior Design Grp., Inc.*, 310 S.W.3d 227 (Mo. banc 2010).

Plaintiff can satisfy neither prong. The Long Arm statute provides an action can be brought against an out of state defendant if one of the following applies and the cause of action arose from the act alleged:

....

- (1) The transaction of any business within this state;
- (2) The making of any contract within this state;
- (3) The commission of a tortious act within this state;
- (4) The ownership, use, or possession of any real estate situated in this state;
- (5) The contracting to insure any person, property or risk located within this state at the time of contracting;
- (6) Engaging in an act of sexual intercourse within this state with the mother of a child on or near the probable period of conception of that child.

....

3. Only causes of action **arising from acts enumerated** in this section may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

*R.S.Mo.* §506.500 (emphasis added). In other words, for specific personal jurisdiction, Plaintiff has to demonstrate that the cause of action arises from the contact alleged. *Cedar Crest*, 577

S.W.3d at 494 (emphasis in original) (“...without violating due process if that entity has at least one contact with this state **and** the cause of action being pursued arises out of that contact).

In this case, Plaintiffs have only pled the transaction of business within the state as a basis for jurisdiction under the Long Arm Statute. (Pet. ¶9). However, as demonstrated by the evidence, Jimenez’s transaction of business in Missouri did not give rise to Decedent’s death.<sup>3</sup> The specific business transaction of the sale of the firearm with serial number 361229 between Jimenez and National Wholesale Distribution, LLC occurred entirely outside of Missouri. (Ex. A). As such, Plaintiffs have not demonstrated a contact between Jimenez and the state of Missouri from which its cause of action arises. Thus, there is no personal jurisdiction over Jimenez.

Likewise, none of the firearm sales Plaintiff alleges between Jimenez and other defendants in the state of Missouri relate to the actual firearm that was the purported cause-in-fact of Decedent’s death. Any potential argument that a national company doing similar types of sales in the forum state, that did not give rise to the cause of action, has already been found to be wanting by the Missouri Supreme Court. *State ex rel. Bayer Corporation v. Moriarty*, 536 S.W.3d 227, 233 (Mo. banc 2017) (citing, *Norfolk*, 512 S.W.3d at 49. (“To say that “if a company is a national company that does the same ‘type’ of business in the forum state as in the rest of the country, it can be sued anywhere” “would be to turn specific jurisdiction on its head””).

Plaintiffs, in essence, allege that Jimenez purportedly illegally sold guns in Missouri that were similar to the firearm it sold from Nevada to a Georgia resident company. This is simply

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<sup>3</sup> To the extent that Plaintiffs’ Petition could infer a basis under making a contract or committing a tort in the state of Missouri, both of those fail for the same reason – Jimenez’s actions were not within Missouri. Any contract for the sale of the firearm was a contract in Nevada or Georgia. (Ex. A). Even if the sale were illegal or tortious, which Jimenez denies, that purportedly tortious sale occurred in Nevada or Georgia. (Ex. A).

not enough to satisfy the Long Arm Statute or Due Process Clause. There is no personal jurisdiction over Jimenez. Therefore, Jimenez should be dismissed.

### **III. Conclusion**

There is neither general nor specific personal jurisdiction in this case. Jimenez made a lawful sale of a firearm from Nevada to Georgia. That firearm's alleged ultimate use in Decedent's death due to actions of third parties in Missouri subsequent to the Georgia sale, does not confer jurisdiction over Jimenez. Jimenez should be dismissed from this action.

Respectfully submitted,

**FOLAND, WICKENS, ROPER,  
HOFFER & CRAWFORD, P.C.**

*/s/ Joseph J. Roper*

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**ATTORNEYS FOR DEFENDANT  
JIMENEZ ARMS, INC.**

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 10<sup>th</sup> day of October 2019, the foregoing document was filed with the Clerk of the Court using the Court's E-Filing system which electronically sends notice to all counsel of record.

*/s/ Joseph J. Roper*

*Attorney for Defendant*

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	)	
<b>Defendants.</b>	)	

**AFFIDAVIT OF PABLO JIMENEZ**

I, Pablo Jimenez, am over eighteen years old and am competent to testify. I make this affidavit based on my personal knowledge unless otherwise indicated.

1. I am the President of Jimenez Arms, Inc.
2. Jimenez Arms, Inc. is incorporated in Nevada.
3. Jimenez Arms, Inc. is physically located in Henderson, Nevada.
4. Jimenez Arms, Inc. does not have other physical locations.
5. I have reviewed Jimenez Arms, Inc. records as it relates to the Jimenez firearm with serial number 361229.
6. A true and accurate copy of the Acquisition and Disposition Log entry for the firearm with serial number 361229 is attached hereto as Exhibit 1.
7. The Acquisition and Disposition Log is kept by Jimenez Arms, Inc. in the regular course of business.
8. It was the regular course of business of Jimenez Arms, Inc. for an employee or representative of Jimenez Arms, Inc. with knowledge of the act or event recorded to make the record or to transmit information thereof to be included in such record.



9. The entries into the Acquisition and Disposition Log were made at or near the time of the act or event.

10. This firearm was sold on November 16, 2015 to National Wholesale Distribution, LLC, who has a title 1 license of 1-58-117-018J-11536 to deal in firearms.

11. Serial number 361229 is a .380 caliber pistol. A title 1 license permits National Wholesale Distribution, LLC to purchase a firearm of the caliber of serial number 361229.

12. In the normal course of business, a customer such as National Wholesale Distribution, LLC would have received the firearm within 3-5 days.

13. Jimenez Arms, Inc. had no involvement with serial number 361229 after delivery to National Wholesale Distribution, LLC in Georgia.

14. National Wholesale Distribution, LLC is located in Alpharetta, Georgia.

15. National Wholesale Distribution, LLC is a limited liability company organized under the laws of Georgia, as I have discovered by review of the Georgia Secretary of State's records. (Ex. 2).

**FURTHER AFFIANT SAYETH NAUGHT.**

10/10/19  
Date

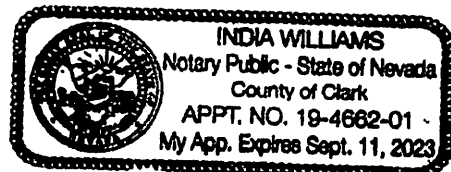
Pablo Jimenez  
PABLO JIMENEZ

STATE OF NEVADA        )  
                                  )    ss.  
COUNTY OF CLARK     )

In witness whereof I have hereunto subscribed my name and affixed my official seal this 10 day of October 2019.

India Williams  
Notary Public

My commission expires on: 9-11-2023  
(Seal)



**JIMENEZ ARMS, INC.**  
 MANUFACTURERS OF AFFORDABLE FIREARMS

7380 Eastgate Rd Suite 150  
 Henderson, NV 89011

Phone: (702) 566-5937

Fax: (702) 566-0724

FFL #9-88-003-07-1H-00873 Expires: 8/1/2021

**A & D Log**

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Tuesday, October 01, 2019

CLng(SerialNum) = 361229

DESCRIPTION OF FIREARM					RECEIPT		DISPOSITION		
Manufacturer	Model	Serial #	Type	Cal.	Date	Name & FFL	Date	Name & FFL/Address	Notes
International Die Casting, Inc.	J.A.380	361229	Frame	.380	09/25/15	International Die Casting, Inc. 9-95-037-07-6A-42960	11/09/15	Jimenez Arms Inc 9-88-003-07-8H-00873	
Jimenez Arms Inc	J.A.380	361229	Pistol	.380	11/09/15	Jimenez Arms Inc 9-88-003-07- 8H-00873	11/16/15	National Wholesale Distribution 1-58-117-01-8J-11536	

**EXHIBIT**  
**1**





**GEORGIA  
CORPORATIONS  
DIVISION**

GEORGIA SECRETARY OF STATE  
**BRAD RAFFENSPERGER**

[HOME \(/\)](#)

**BUSINESS SEARCH**

**BUSINESS INFORMATION**

Business Name:	<b>National Wholesale Distribution, LLC</b>	Control Number:	<b>15057082</b>
Business Type:	<b>Domestic Limited Liability Company</b>	Business Status:	<b>Admin. Dissolved</b>
Business Purpose:	<b>NONE</b>		
Principal Office Address:	<b>1170 Tidwell Road, Suite 106, Alpharetta, GA, 30004, USA</b>	Date of Formation / Registration Date:	<b>6/9/2015</b>
State of Formation:	<b>Georgia</b>	Last Annual Registration Year:	<b>2016</b>
Dissolved Date:	<b>08/24/2017</b>		

**REGISTERED AGENT INFORMATION**

Registered Agent Name: **Reiser, T. Marshall**  
 Physical Address: **104 Central Blvd., Guyton, GA, 31312, USA**  
 County: **Effingham**

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