

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAUREN MASTERS,  
Appellant,

vs.

MICHAEL GALLAGHER, ESQ., A/K/A  
MICHAEL GALLAGHER, ESQ. &  
ASSOCIATES, D/B/A GALLAGHER,  
LEWIS, DOWNEY & KIM; JONATHAN  
B. ANDRY, ESQ., D/B/A THE ANDRY  
LAW FIRM, LLC; AND GILBERT V.  
ANDRY, IV, D/B/A THE ANDRY LAW  
FIRM, LLC.

Respondents.

No. 45432

**FILED**

JAN 31 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing an attorney malpractice and tort action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant hired Nevada attorney Glen Lerner to pursue an action against the manufacturer of Fen-Phen. Lerner affiliated national class action attorneys Jonathan B. Andry and Gilbert V. Andry of Louisiana to assist in trying the action. Michael Gallagher was a Texas attorney who had received a Fen-Phen verdict for his clients and was negotiating a settlement with the manufacturer, American Home Products. The Andrys contacted Gallagher, who agreed to attempt to settle Lerner's Fen-Phen cases, as well as his own. Gallagher subsequently reached a settlement on behalf of Lerner's clients. A Louisiana Court appointed a Special Master for the purpose of allocating and distributing the proceeds of the settlement. Appellant authorized the Special Master to issue her Fen-Phen settlement check to Lerner and herself and signed a release in June 2001. The gross settlement approved by the Special Master for appellant was \$570,000.00.

In June 2004, appellant filed a complaint against respondents for malpractice, fraud, collusion, conversion and embezzlement. She attempted to serve respondents numerous times, but was unsuccessful. She continued to file defaults even though she had not completed service. In January 2005, the district court entered an order giving appellant a final extension to time to effect proper service on the Gallagher defendants. After she failed to file proof that she had served the Gallagher defendants as required under NRCP 4(g), in May, 2005, the district court granted the Gallagher defendants' motion to dismiss. The district court also granted the Andry defendants' motion to dismiss on the basis that appellant did not demonstrate that they had sufficient contacts with the State of Nevada to meet the standard under International Shoe Company v. Washington,<sup>1</sup> for personal jurisdiction in Nevada.

The orders granting the motions to dismiss were appropriate. First, appellant never demonstrated that she properly served the Gallagher defendants. Additionally the respondents are all out-of-state defendants with virtually no contacts with the State of Nevada. Their actions on behalf of appellant took place at the request of Nevada attorney Lerner, and their services took place in other states.<sup>2</sup> And, since the

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<sup>1</sup>326 U.S. 310 (1945).

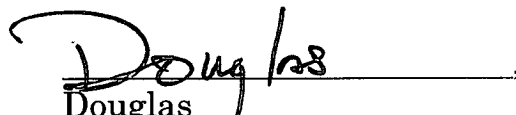
<sup>2</sup>See Arbella Mut. Ins. Co. v. Dist. Ct., 122 Nev. \_\_\_, 134 P.3d 710, 712-13 (2006) (noting that a non-resident defendant's "minimum contacts" satisfy due process if either general personal jurisdiction or specific personal jurisdiction exists and that general personal jurisdiction exists when the defendant's contacts with the forum state are "substantial" or "continuous and systematic," whereas specific personal jurisdiction exists when the defendant purposefully avails himself of the forum state's market or laws or affirmatively directs conduct toward the forum state and the cause of action arises from the defendant's conduct in this regard).

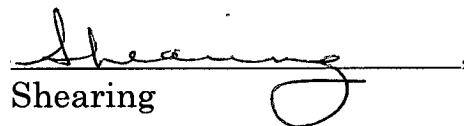
district court properly dismissed appellant's action,, it also properly denied her motions for leave to file default and leave to amend the complaint.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, Sr. J.  
Shearing

cc: Hon. Michelle Leavitt, District Judge  
Lauren Masters  
Benson, Bertoldo, Baker & Carter, Chtd./Las Vegas  
Clark County Clerk

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<sup>3</sup>The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under a general order of assignment entered on January 10, 2007.