

IN THE SUPREME COURT OF THE STATE OF NEVADA

SELECTIVE INSURANCE COMPANY OF
AMERICA, A NEW JERSEY CORPORATION,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE JAMES C. MAHAN, DISTRICT
JUDGE,

Respondents,

and

JUDY PRINCE, AN INDIVIDUAL; AND
ELAYNE P. EISELMAN, AN INDIVIDUAL,

Real Parties in Interest.

No. 36358

FILED

APR 06 2001

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

ORDER GRANTING PETITION
FOR WRIT OF PROHIBITION

This is an original petition for a writ of prohibition challenging an order of the district court denying petitioner's motion to quash service of process.¹ Selective Insurance contends that the district court erred by refusing to quash service in this matter because Selective Insurance does not have the requisite minimum contacts with Nevada and because maintenance of the suit in Nevada would be unreasonable.² We agree.

¹See *Trump v. District Court*, 109 Nev. 687, 692, 857 P.2d 740, 744 (1993) (noting that a writ of prohibition is the appropriate remedy where a district court exceeds its jurisdiction in refusing to quash service based on a lack of personal jurisdiction).

²See NRS 14.065(1) ("A court of this state may exercise jurisdiction over a party to a civil action on any basis not inconsistent with the constitution of this state or the Constitution of the United States."); *Baker v. District Court*, 116 Nev. ___, ___, 999 P.2d 1020, 1023 (2000) (noting that Due Process is satisfied if: (1) the defendants have "minimum contacts" with the forum state such that the "traditional notions of fair play and substantial justice" are not

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More specifically, Selective Insurance argues that the "purposeful availment" requirement for specific personal jurisdiction has not been met because it has not purposefully availed itself of any of the privileges or protections of Nevada or affirmatively directed any conduct toward the state.³ We agree. The only activity Selective Insurance conducted in Nevada was corresponding with Prince's Nevada attorney to inform him of Selective Insurance's position. Although these actions may have had some consequence in Nevada and may ultimately help establish a bad faith insurance claim, they do not constitute the type of "purposeful availment" necessary to support personal jurisdiction.⁴ Indeed, all of Selective Insurance's conduct in Nevada was provoked by the unilateral activity of the insured Judy Prince, and thus cannot be viewed as actions purposefully availing themselves

. . . continued

offended; and (2) the forum state's exercise of jurisdiction is reasonable (citing *International Shoe v. Washington*, 326 U.S. 310, 316 (1945)).

³See *Trump*, 109 Nev. at 699-700, 857 P.2d at 748 (holding that the "purposeful availment" requirement is met where "the defendant purposefully avails himself of the privilege of serving the market in the forum or of enjoying the protection of the laws of the forum, or where the defendant purposefully establishes contacts with the forum state and affirmatively directs conduct toward the forum state").

⁴See *Batton v. Tennessee Farmers Mut. Ins. Co.*, 736 P.2d 2, 8 (Ariz. 1987) (holding that Arizona did not have personal jurisdiction over nonresident UIM insurer who had merely corresponded with the nonresident insured's resident attorney because the "mere fact that [the UIM insurer] responded to [the insured's] Arizona lawyers, and may have committed a tort against [the insured] in the process, is not evidence that [the UIM insurer] purposefully availed itself of the privilege of conducting business in Arizona"); see also *Emeterio v. Clint Hurt and Assocs.*, 114 Nev. 1031, 967 P.2d 432, 435 (1998) (noting that the defendant's contacts with the forum state must be such that the defendant "should reasonably anticipate being haled into court there" (quoting *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980))).

of the privileges of this state.⁵ We therefore conclude that the due process requirements for exercising specific personal jurisdiction over Selective Insurance have not been met.⁶

Accordingly, we ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF PROHIBITION, precluding the district court from exercising jurisdiction over Selective Insurance.

Maupin, C.J.
Maupin

Rose, J.
Rose

Becker, J.
Becker

cc: Hon. James C. Mahan, District Judge
Beckley Singleton Jemison Cobeaga & List, Las Vegas
Beckley Singleton Jemison Cobeaga & List, Reno
Hale Lane Peek Dennison Howard & Anderson
Pyatt & Silvestri
Clark County Clerk

⁵See Budget Rent-A-Car v. District Court, 108 Nev. 483, 487, 835 P.2d 17, 20 (1992) (holding that "unilateral activity of another person cannot satisfy the requirement of contact between an out of state defendant and the forum"); see also Sharpstown Gen. Hosp. v. Laborers Health, 110 Nev. 431, 433, 874 P.2d 728, 728-29 (1994) (holding that Texas did not have specific personal jurisdiction over a Nevada insurance provider where the provider's contacts with Texas were "random" and "fortuitous" and based upon the "unilateral activity of another party or third person").

⁶Selective Insurance alternatively contends that the district court erred in concluding that Nevada's exercise of jurisdiction over it was reasonable and in allowing Judy Prince to amend her original complaint to include claims against Selective Insurance. Because we conclude that the district court did not have personal jurisdiction over Selective Insurance due to its insufficient contacts with Nevada, we need not address these alternative arguments.