

EXHIBIT C

Torrey, et al. v. IDSA, et al. No. 17-00190-RWS

Doctor Defendants' Renewed Motion to Dismiss for Lack of Personal
Jurisdiction

March 11, 2019

Texarkana, TX

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RICO claims against the Doctors should be dismissed

- The Court gave Plaintiffs the opportunity to “allege additional facts establishing specific personal jurisdiction over” the Doctors. (Opinion at 39, Dkt. 114)
- The Doctors participated fully in personal jurisdiction discovery.
- **Plaintiffs allege no additional facts establishing specific personal jurisdiction.**

Sherman Act claims against the Doctors should be dismissed

- “The Sherman Act does not provide for nationwide service of process over individual antitrust defendants.” (Opinion at 38, Dkt. 114)
- Plaintiffs have failed to show a nexus for personal jurisdiction over the Doctors.

Specific personal jurisdiction in the Fifth Circuit

- (1) Whether the defendant has minimum contacts with the forum state, i.e., whether it purposely directed its activities toward the forum state or purposefully availed itself of the privileges of conducting activities there;
- (2) Whether the plaintiff's cause of action arises out of or results from the defendant's forum-related contacts; and
- (3) Whether the exercise of personal jurisdiction is fair and reasonable.

Bustos v. Lennon, 538 F. App'x 565, 568 (5th Cir. 2013)

“A sufficient nexus” is required between each Doctor’s Texas contacts and Plaintiffs’ claims

- Specific personal jurisdiction “**requires a sufficient nexus** between the non-resident’s contacts with the forum and the cause of action.” *Clemens v. McNamee*, 615 F.3d 374, 378-9 (5th Cir. 2010).
- In other words, “the court may assert specific personal jurisdiction over a nonresident defendant whose contacts with the forum state are singular or sporadic **only if the cause of action asserted arises out of or is related to those contacts.**” *Int’l Energy Ventures Mgmt., LLC v. United Energy Grp., Ltd.*, 818 F.3d 193, 212 (5th Cir. 2016).

No facts show a nexus between any Doctor's Texas contacts and any Plaintiff's claims

- **No Plaintiff alleges any contact with any Doctor in Texas.**
- **No Plaintiff alleges hearing or reading any communication from any Doctor in Texas.**
- **No Plaintiff alleges injuries caused by anything any Doctor did that had a connection to Texas.**

Plaintiffs' far-fetched assertions are not facts

- **The Evidence Regarding Dr. Halperin:** Two visits to Texas for professional purposes many years ago. Neither visit concerned Lyme disease or the IDSA Lyme disease guidelines. Occasional personal visits to Texas to see his son and daughter-in-law and grandchildren. See Halperin sworn responses to interrogatories.
 - **Plaintiffs cite no evidence:** “It is clear that the only reason Halperin visits Texas is to spread the false claim that chronic Lyme disease does not exist, and all Lyme disease can be cured with short-term antibiotics.” Response at 7.

Plaintiffs' far-fetched assertions are not facts

- **The Evidence Regarding Dr. Wormser:** Two visits to Texas for professional purposes more than 15 years ago. Neither visit concerned Lyme disease or the IDSA Lyme disease guidelines. *See* Wormser sworn responses to interrogatories.
 - **Plaintiffs cite no evidence:** “Since Wormser’s field of study is Lyme disease, the evidence clearly establishes that he visited Texas for ‘professional activities’ to spread false information about the existence of Lyme disease in Texas and treatment of Lyme disease.” Response at 9.

Plaintiffs' far-fetched assertions are not facts

- **The Evidence Regarding Dr. Dattwyler:** Four visits to Texas for professional purposes. No visit concerned Lyme disease or the IDSA Lyme disease guidelines. *See* Dattwyler sworn responses to interrogatories.
 - **Plaintiffs cite no evidence:** Because Dr. Dattwyler researches Lyme disease, “[i]t is clear that Dattwyler’s ‘few visits to Texas for professional purposes’ relate to Lyme disease and spreading the false claims that chronic Lyme disease does not exist.” Response at 7.

Sporadic contacts with Texas that might have concerned Lyme disease do not establish specific personal jurisdiction

- **Serving as an expert witness 12+ years ago – even if the case concerned Lyme disease – but never appearing in Texas is not a nexus with Plaintiffs’ claims. (Dr. Shapiro)**
- **Visiting Texas more than 14 years ago to speak with rheumatologists about Lyme disease is not a nexus with Plaintiffs’ claims. (Dr. Sigal)**
- **Visiting Texas once every five years to give a one-hour talk regarding Lyme disease to microbiologists or specialist physicians is not a nexus with Plaintiffs’ claims. (Dr. Steere)**