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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-755

Filed 5 November 2024

Durham County, No. 22CVS4558

WEB 4 HALF LLC, Plaintiff,

v.

CLARK ROWLETTE; SCOTT PERRY; PRINT-MY LLC; ROBERT C. BURDISS; and,  
BURDISS LETTERSHOP SERVICES CO., Defendants,

v.

BLESSON GEORGE, Counterclaim-Defendant.

Appeal by defendants from order entered 10 May 2023 by Judge Brian C. Wilks  
in Superior Court, Durham County. Heard in the Court of Appeals 9 January 2024.

*Fox Rothschild LLP, by Jeffrey R. Whitley and Taibi Law Group, PLLC, by  
Anthony D. Taibi, for plaintiff-appellee.*

*Parry Law, PLLC, by K. Alan Parry and Jonah Garson, for defendants-  
appellants.*

STROUD, Judge.

Defendants Robert C. Burdiss, Print-My LLC, and Burdiss Lettershop Services  
Co. appeal from the trial court's order denying their motion to dismiss for lack of

personal jurisdiction. As Defendants had sufficient contacts with North Carolina to establish specific personal jurisdiction over them, we affirm the trial court's order.

### **I. Background**

Plaintiff Web 4 Half, LLC ("Web 4 Half") is a North Carolina business entity with its principal place of business in Durham, North Carolina. Web 4 Half creates various promotional products for businesses; Web 4 Half uses different divisions "which use separate d/b/a/ names" including one that offers a wide range of promotional magnets. Defendant Robert C. Burdiss is a citizen of Kansas and is "the principal of Defendant Burdiss Lettershop Services Co." which is a business with its principal place of business in Kansas.

Defendants Clark Rowlette and Scott Perry held executive positions, as chief executive officer and executive vice president of operations, of "The Magnet Guys[.]" which is the division of Web 4 Half that produces promotional magnets. Mr. Rowlette is a citizen of Missouri and Mr. Perry is a citizen of Kansas. Print-My, LLC ("Print-My") is an LLC organized in Kansas.

On 30 December 2022, Web 4 Half filed a complaint in Durham, North Carolina alleging Mr. Burdiss, Mr. Rowlette, and Mr. Perry created Print-My "for the purpose of stealing materials and diverting business from Plaintiff, and to defraud and embezzle from Plaintiff." Web 4 Half specifically alleged that North Carolina has personal jurisdiction over all named Defendants since Web 4 Half is a North Carolina-based entity and Mr. Rowlette and Mr. Perry are its employees; "the individual

Defendants Rowley and Perry directed numerous communications to . . . Plaintiff in North Carolina, traveled to North Carolina and engaged in some of the conduct described herein[;]” Mr. Burdiss and Burdiss Lettershop Services Co. “purposefully directed communications and payments to Plaintiff in North Carolina and knowingly conducted business in the forum state;” and “all Defendants were engaged in a conspiracy . . . to defraud the North Carolina Plaintiff of property, including property located within this state[.]”

On 6 March 2023, Mr. Burdiss, Print-My, and Burdiss Lettershop Services, Co., (collectively the “Burdiss Defendants”)<sup>1</sup> filed a motion to dismiss the complaint “[p]ursuant to Rule 12(b)(2) of the North Carolina Rules of Civil Procedure” arguing the court does not have personal jurisdiction. The Burdiss Defendants attached an affidavit of Mr. Burdiss to their motion to dismiss. The affidavit avers that Mr. Burdiss is a citizen of Kansas and the related business entities are not organized in North Carolina; Mr. Burdiss has never been to North Carolina except for a single time driving through North Carolina to go to another state; and none of the Burdiss Defendants have offices, bank accounts, title to property, licenses or business registrations, mailing addresses, or “[a]ny business contracts with North Carolina residents.” The affidavit further states none of the Burdiss Defendants paid taxes in North Carolina, conducted business in North Carolina or with any North Carolina

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<sup>1</sup> Mr. Rowlette and Mr. Perry were not parties to the motion to dismiss at the trial court and are likewise not parties to this appeal.

residents, directed communications or otherwise shipped anything to North Carolina, promised to perform or pay for services in North Carolina, or participated in any plan to “tortiously or fraudulently interfere” with Web 4 Half.

Web 4 Half filed a brief opposing the motion to dismiss, arguing the trial court has personal jurisdiction as the central basis for jurisdiction is in tort and Defendants “intentionally interfered with employment contracts, usurped customer relations, and misused the resources and facilities of The Magnet Guys to eventually destroy . . . Plaintiff’s magnet business” and this conduct was “definitively . . . aimed at the North Carolina business.” Blesson George, founder and chief executive officer of Web 4 Half, filed an affidavit opposing the motion to dismiss. Mr. Blesson disputed some of the factual allegations of Mr. Burdiss’s affidavit, stating Mr. Burdiss and Burdiss Lettershop Services Co. “consistently communicated with, and did business with, the North Carolina-based Plaintiff and its Magnet Guys operating unit from at least 2017 through 2021.” Mr. Blesson stated in 2018, Plaintiff “requested a quote from Burdiss for inserting magnets into a mailer” and “Plaintiff issued payments from North Carolina to Burdiss Lettershop Services Co. beginning in January of 2018.” Mr. Blesson further asserted “[Mr.] Burdiss/Burdiss [Lettershop Services] Co.[ ] communicated with, received payment from, and made payments to Plaintiff in the State of North Carolina on multiple occasions” totaling over two million dollars “that came from North Carolina.” Mr. Burdiss and Burdiss Lettershop Services Co. communicated via email to the North Carolina business and “[a]ll written and oral

communications between Defendants Burdiss and Burdiss Lettershop Servies Co. to Scott Perry and Clark Rowlette were communications to employees of a North Carolina entity.” Mr. Blesson also stated Defendants received multiple payments from North Carolina between 2018-2021 because of the ongoing business relationship.

The trial court heard arguments on the motion to dismiss on 25 April 2023 and entered an order denying the motion on 10 May 2023. The trial court made findings of fact addressing personal jurisdiction in its order. On 24 May 2023, the Burdiss Defendants filed written notice of appeal.

## **II. Appellate Jurisdiction**

“Generally, there is no right of immediate appeal from interlocutory orders and judgments.” *Land v. Whitley*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 898 S.E.2d 17, 22 (2024). However, under North Carolina General Statute Section 1-277(b), “[a]ny interested party has the right of immediate appeal from an adverse ruling as to the jurisdiction of the court over the person or property of the defendant[.]” N.C. Gen. Stat. § 1-277(b) (2023). Further, this Court has stated:

The denial of a motion to dismiss for lack of personal jurisdiction affects a substantial right and is immediately appealable. This exception is narrow: the right of immediate appeal of an adverse ruling as to jurisdiction over the person, under N.C. Gen. Stat. § 1-277(b), is limited to rulings on minimum contacts questions, the subject matter of Rule 12(b)(2).

*ITG Brands, LLC v. Funders Link, LLC*, 284 N.C. App. 322, 325, 876 S.E.2d 304, 307

(2022) (citations, quotation marks, and brackets omitted).

In the Statement of Grounds for Appellate Review section of their brief, after citing to applicable precedent, the Burdiss Defendants state “[h]ere, Burdiss Defendants appeal an adverse ruling from the trial court on their motion to dismiss, arguing that Burdiss Defendants lacked minimum contacts with North Carolina to confer personal jurisdiction. As such, appellate review of the matter on interlocutory appeal is appropriate.”

The Burdiss Defendants’ motion to dismiss was based on Rule 12(b)(2) and specifically stated “this Court is without personal jurisdiction over the Burdiss Defendants” and the attached affidavit contends they have no contacts with North Carolina. The Burdiss Defendants have a right to immediate appeal from the denial of the motion to dismiss and this appeal is properly before this Court.

### **III. Personal Jurisdiction Over the Burdiss Defendants**

The Burdiss Defendants’ sole argument on appeal is “[t]he trial court erred in finding [the] Burdiss Defendants subject to personal jurisdiction in North Carolina.” The Burdiss Defendants contend they did not have sufficient contacts with North Carolina to confer personal jurisdiction over them.

#### **A. Standard of Review**

The Burdiss Defendants contend our standard of review for the order on appeal is entirely *de novo*: “On appeal, dismissal under Rule 12(b)(2) is reviewed *de novo*.” As to the trial court’s conclusion of law, the Burdiss Defendants are correct: “We

review *de novo* the issue of whether the trial court's findings of fact support its conclusion of law that the court has personal jurisdiction over a defendant." *Id.* at 326, 876 S.E.2d at 308 (citations and quotation marks omitted). But, as Plaintiff's brief notes, the parties presented opposing affidavits before the trial court, and the order on appeal includes findings of fact and the Burdiss Defendants have not challenged those findings as unsupported by the evidence before the trial court.

The standard of review for this Court is whether the findings of fact by the trial court are supported by competent evidence in the record. Here, neither party challenges the sufficiency of the evidence to support the trial court's findings of fact, and therefore, they are presumed to be supported by competent evidence and are binding on appeal.

*Embark, LLC v. 1105 Media, Inc.*, 231 N.C. App. 538, 542, 753 S.E.2d 166, 170 (2014) (citations, quotation marks, and brackets omitted).

Additionally, Rule 52(a)(1) of the Rules of Civil Procedure does not require the trial court to recite all of the evidentiary facts; it is required only to find the ultimate facts, i.e., those specific material facts which are determinative of the questions involved in the action and from which an appellate court can determine whether the findings are supported by the evidence and, in turn, support the conclusions of law reached by the trial court.

*Id.* at 548, 753 S.E.2d at 174 (citation, quotation marks, and brackets omitted).

As to the trial court's findings of fact, "[t]he standard of review on appeal of an order determining personal jurisdiction is whether the findings of fact by the trial court are supported by competent evidence in the record." *Bartlett v. Estate of Burke*,

285 N.C. App. 249, 256, 877 S.E.2d 432, 439 (2022) (citations, quotation marks, and brackets omitted). Since the Burdiss Defendants have not challenged the trial court's findings of fact as unsupported by the evidence, the trial court's findings are binding on this Court. *See Embark, LLC*, 231 N.C. App. at 542, 753 S.E.2d at 170. We will therefore consider whether the trial court's conclusion of law is supported by the findings of fact.

## **B. Discussion**

The Burdiss Defendants contend “[t]he trial court erred in finding [the] Burdiss Defendants subject to personal jurisdiction in North Carolina.” (Capitalization altered.) The Burdiss Defendants assert that they “are not subject to specific jurisdiction” because their contacts with North Carolina do not reflect any “‘purposeful availment’ of the privilege of conducting activities in North Carolina, nor any close causal connection between the contacts and the allegations underlying Plaintiff[ ]’s causes of action.”

The United States Supreme Court has recognized two bases for finding sufficient minimum contacts: specific jurisdiction and general jurisdiction. Specific jurisdiction exists when the controversy arises out of the defendant's contacts with the forum state. General jurisdiction may be asserted over a defendant even if the cause of action is unrelated to defendant's activities in the forum as long as there are sufficient continuous and systematic contacts between defendant and the forum state. General jurisdiction is not at issue in this case. Specific jurisdiction is the only possible basis for finding minimum contacts here.



*Opinion of the Court*

With respect to specific jurisdiction, the relationship among the defendant, the forum state, and the cause of action is the essential foundation for the exercise of in personam jurisdiction. Our courts consider the following factors in determining whether minimum contacts exist: (1) the quantity of the contacts, (2) the nature and quality of the contacts, (3) the source and connection of the cause of action to the contacts, (4) the interest of the forum state, and (5) the convenience to the parties.

*Lab. Corp. of Am. Holdings v. Caccuro*, 212 N.C. App. 564, 569-70, 712 S.E.2d 696, 701 (2011) (citations, quotation marks, and footnotes omitted).

North Carolina General Statute Section 1-75.4 “grants North Carolina’s courts specific personal jurisdiction over defendants to the extent allowed by due process.” *Bartlett*, 285 N.C. App. at 256, 877 S.E.2d at 439 (citations, quotation marks, and brackets omitted).

Specific jurisdiction exists if the defendant has purposely directed its activities toward the resident of the forum and the cause of action relates to such activities. To determine whether it may assert specific jurisdiction over a defendant, the court considers (1) the extent to which the defendant purposefully availed itself of the privilege of conducting activities in the State; (2) whether the plaintiffs’ claims arise out of those activities directed at the State; and (3) whether the exercise of personal jurisdiction would be constitutionally reasonable.

*Havey v. Valentine*, 172 N.C. App. 812, 815, 616 S.E.2d 642, 646-47 (2005) (citations, quotation marks, and brackets omitted). Thus, “[t]he two-step inquiry from *Tom Togs* collapses into the question of whether the defendant . . . has the minimum contacts with North Carolina necessary to meet the requirements of due process.” *Bartlett*,

285 N.C. App. at 257, 877 S.E.2d at 439. “The burden is upon the plaintiff to establish by a preponderance of the evidence that personal jurisdiction exists.” *Shaner v. Shaner*, 216 N.C. App. 409, 410, 717 S.E.2d 66, 68 (2011) (citation omitted)

Here, the Burdiss Defendants’ arguments at the trial court and on appeal largely rely on their assertion that the Burdiss Defendants understood The Magnet Guys business to be a Missouri business. While the Burdiss Defendants acknowledge sending invoices and quotes to the North Carolina address for The Magnet Guys, they contend “[n]o correspondence was directed to the attention of . . . Web4Half, or indicated that Burdiss Lettershop understood The Magnet Guys to be a division or d/b/a-appellation of . . . Web4Half or any other North Carolina entity.”

The trial court made the following findings of fact and conclusions of law in the order on appeal:

1. The North Carolina long-arm statute applies in this action.
2. Plaintiff has established, by a preponderance of the evidence, that [the Burdiss Defendants] had sufficient contacts with North Carolina and purposefully availed themselves of the privilege of conducting activities in North Carolina, thus invoking the benefits and protection of the laws of this state. In coming to this conclusion, the Court has considered the quantity of contacts, nature and quality of the contacts, the source and connection of the cause of action to the contacts, the interest of the forum state, and the convenience to the parties.
3. Based on the evidence presented at the hearing of this matter, [the Burdiss] Defendants should have reasonably anticipated being haled into court in North Carolina.

*Opinion of the Court*

4. Maintenance of this lawsuit, including the [Burdiss] Defendants as parties, in North Carolina does not offend traditional notions of fair play and substantial justice.

5. Accordingly, Plaintiff has carried its burden to establish a showing of personal jurisdiction over [the Burdiss Defendants] by a preponderance of the evidence.

Although the trial court did not make evidentiary findings of fact addressing the specific items of correspondence and details of the interactions between Plaintiff and the Burdiss Defendants, it made findings of ultimate fact:

There are two kinds of facts: Ultimate facts, and evidentiary facts.

Ultimate facts are those found in that vaguely defined area lying between evidential facts on the one side and conclusions of law on the other. In consequence, the line of demarcation between ultimate facts and legal conclusions is not easily drawn. An ultimate fact is the final resulting effect which is reached by processes of logical reasoning from the evidentiary facts. Whether a statement is an ultimate fact or a conclusion of law depends upon whether it is reached by natural reasoning or by an application of fixed rules of law.

A trial court's finding of an ultimate fact is conclusive on appeal if the evidentiary facts reasonably support the trial court's ultimate finding.

*State v. Fuller*, 376 N.C. 862, 864, 855 S.E.2d 260, 263 (2021) (citations and quotation marks omitted).

The trial court's order combines its findings of fact with conclusions of law without labelling either as such, but we review each portion of the order based on its content and not upon the trial court's label. *See Walsh v. Jones*, 263 N.C. App. 582,

589, 824 S.E.2d 129, 134 (2019) (“[T]he labels ‘findings of fact’ and ‘conclusions of law’ employed by the trial court in a written order do not determine the nature of our review. If the trial court labels as a finding of fact what is in substance a conclusion of law, we review that ‘finding’ *de novo*.” (citation omitted)). Here, the trial court made two findings of ultimate fact, as these facts were “reached by processes of logical reasoning from the evidentiary facts.” *Fuller*, 376 N.C. at 864, 855 S.E.2d at 263.

These ultimate facts are:

2. Plaintiff has established, by a preponderance of the evidence, that [the Burdiss Defendants] had sufficient contacts with North Carolina and purposefully availed themselves of the privilege of conducting activities in North Carolina, thus invoking the benefits and protection of the laws of this state. In coming to this conclusion, the Court has considered the quantity of contacts, nature and quality of the contacts, the source and connection of the cause of action to the contacts, the interest of the forum state, and the convenience to the parties.

3. Based on the evidence presented at the hearing of this matter, [the Burdiss] Defendants should have reasonably anticipated being haled into court in North Carolina.

Our job of appellate review would be more straightforward had the trial court made more detailed findings of fact addressing the disputes between the parties’ affidavits. Still, Plaintiff presented substantial evidence supporting personal jurisdiction in his affidavit and the multiple exhibits outlining the Burdiss Defendants’ contacts with his business and the State of North Carolina. The trial court found Plaintiff’s evidence to be credible, as indicated by its finding that

“Plaintiff has carried its burden to establish a showing of personal jurisdiction” over the Burdiss Defendants “by a preponderance of the evidence.” Even though the trial court did not make detailed evidentiary findings, “when there is no request of the trial court to make such findings, we presume that the judge found facts sufficient to support the judgment.” *Cherry Bekaert & Holland v. Brown*, 99 N.C. App. 626, 630, 394 S.E.2d 651, 654 (1990) (citation, quotation marks, and ellipses omitted). And even considering the brief affidavit submitted by Mr. Burdiss stating evidence contrary to the affidavit submitted by Plaintiff, “[i]f the presumed findings are supported by competent evidence in the record, they are conclusive on appeal, notwithstanding other evidence in the record to the contrary.” *Id.* (citation, quotation marks, and brackets omitted).

Although the trial court did not make detailed findings on these factors, the trial court’s ultimate finding addresses “the quantity of contacts, nature and quality of the contacts, the source and connection of the cause of action to the contacts, the interest of the forum state, and the convenience to the parties.” The trial court also found Plaintiff demonstrated these factors by the preponderance of the evidence, and the evidence in our record supports the ultimate findings of fact. The findings are sufficient for appellate review and there is no need to remand for additional findings of fact.

Plaintiff notes that the Burdiss Defendants’ argument is based almost entirely on the Burdiss Defendants’ version of the facts instead of addressing the facts as

presented in Plaintiff's affidavits and exhibits:

While ignoring the actual factual record, [the Burdiss Defendants] have simultaneously attempted to create an appellate record that is simply unsupported. For example, [the Burdiss Defendants'] "Statement of Facts" also represents the following:

While Mr. Burdiss was aware that Defendants Rowlette and Perry did have a prior business relationship with Plaintiff[ ] separate from their business as The Magnet Guys, Mr. Burdiss was unaware (i) of the nature of that relationship or (ii) of any non-compete agreement that would preclude Rowlette and Perry from serving as officers of Print-My.

However, [the Burdiss Defendants'] citation is to one page from the affidavit of Robert Burdiss—which makes no such representations—and [the Burdiss Defendants'] counsel's brief to the trial court—which is not evidence.

Plaintiff is correct: the Burdiss Defendants' argument is based on their version of the facts, but the trial court did not find the Burdiss Defendants' version of the facts to be convincing.

Where the parties submit dueling affidavits and the trial court does not hold a testimonial hearing on the motion, the trial court must decide the weight and credibility given to each affidavit. *See Torres v. City of Raleigh*, 288 N.C. App. 617, 621, 887 S.E.2d 429, 433 (2023) ("If the trial court chooses to decide the motion based on affidavits, the trial judge must determine the weight and sufficiency of the evidence presented in the affidavits much as a juror."). In his affidavit, Mr. Burdiss states he has never been in this State and has no offices, mailing addresses, bank

accounts, title to property, licenses, or “[a]ny business contracts with North Carolina residents.” The Burdiss Defendants apparently contend the trial court should have inferred from Mr. Burdiss’s affidavit that the Burdiss Defendants believed The Magnet Guys was a Missouri-based business, but the affidavit does not say that and the trial court could instead rely upon the affidavits and exhibits from Plaintiff which contradict the Burdiss Defendants’ contentions. Mr. George, the owner and chief executive of Web 4 Half, filed an affidavit explaining the contacts the Burdiss Defendants had with The Magnet Guys, which was doing business as North Carolina-based Web 4 Half.

Even though Defendants Mr. Rowlette and Mr. Perry – who did not file motions to dismiss based upon personal jurisdiction – were not citizens of North Carolina, there is no dispute they were employees of a North Carolina-based business, Web 4 Half. Despite the logo on the e-mails from Mr. Rowlette and Mr. Perry containing a Missouri address and having a phone number with a Missouri area code, there is also sufficient evidence to show the Burdiss Defendants were aware that the business was based in North Carolina. First, Mr. George contends in his affidavit that “[a]t the beginning of the ongoing business relationship between The Magnet Guys and Burdiss, I had conversations with Defendant Burdiss about the nature of our company” indicating Mr. Burdiss would be aware Mr. Rowlette and Mr. Perry do not own the company alone out of Missouri. Further, a 6 July 2018 email exchange between Burdiss Lettershop Services Co. and The Magnet Guys states “[o]ur home

office actually ordered rolls of \$0.50 stamps” and an email dated 9 July 2018 states “[t]he home office in Raleigh is working to get it corrected.” Further, our record contains nearly thirty invoices or estimates billed to The Magnet Guys at an address in Durham, North Carolina. The Burdiss Defendants try to downplay the significance of these invoices and estimates by stating the “Burdiss Defendants’ contacts were limited to Lettershop’s direction of copies of invoices and quotes to the secondary North Carolina mailing address[.]” Web 4 Half also submitted checks made from the Burdiss Defendants addressed to the Durham, North Carolina address. Finally, we note a FedEx shipment notification form for a package over two-thousand pounds in weight to an address in Charlotte, North Carolina.

Thus, the trial court considered the parties’ exhibits and dueling affidavits to determine whether the Burdiss Defendants were aware, or should have been aware, that they were doing business with a North Carolina business. The trial court considered the weight and credibility of the affidavits and exhibits and made the ultimate finding that Plaintiff’s evidence did establish

by a preponderance of the evidence, that [the Burdiss Defendants] had sufficient contacts with North Carolina and purposefully availed themselves of the privilege of conducting activities in North Carolina, thus invoking the benefits and protection of the laws of this state. In coming to this conclusion, the [c]ourt has considered the quantity of contacts, nature and quality of the contacts, the source and connection of the cause of action to the contacts, the interest of the forum state, and the convenience to the parties.



The record includes consistent communications between the Burdiss Defendants and The Magnet Guys, and at least one of those communications states the home office of The Magnet Guys is in Raleigh. In addition to the voluminous estimates and invoices sent to The Magnet Guys at the Durham, North Carolina address from the Burdiss Defendants and multiple payments directed to The Magnet Guys in North Carolina, the trial court had adequate evidence to find the Burdiss Defendants had sufficient contacts with North Carolina to confer specific personal jurisdiction over them. Based upon the evidence, the Burdiss Defendants either knew or should have known that they were dealing with a North Carolina-based business.

As Plaintiff points out, “[a] court may exercise *specific* personal jurisdiction over a nonresident defendant acting outside of the forum when the defendant has intentionally directed his tortious conduct toward the forum state, knowing that that conduct would cause harm to a forum resident.” *Havey*, 172 N.C. App. at 818, 616 S.E.2d at 648 (emphasis added). Plaintiff does not contend that the court has general personal jurisdiction over the Burdiss Defendants.

Here, Plaintiff’s complaint against the Burdiss Defendants alleges tortious interference with contractual relations by conspiring with Mr. Rowlette and Mr. Perry, who were employees of Web 4 Half, to take customers from The Magnet Guys business for the benefit of Print-My. Plaintiff’s complaint also alleges a claim for unfair and deceptive trade practices and misappropriation of trade secrets arising out of the same conduct. As Plaintiff is a North Carolina-based business and Defendants

Mr. Rowlette and Mr. Perry were employees of the North Carolina-based business, the Burdiss Defendants' alleged use of Mr. Rowlette and Mr. Perry to interfere with Web 4 Half's contractual relations with its customers and to misappropriate trade secrets was an ongoing tort directed at a North Carolina-based business. Mr. George also laid out the details of these claims in his affidavit, stating in part:

25. Burdiss, Clark, and Perry quickly began using the newly formed Print-My LLC entity to divert customers from The Magnet Guys. In May 2021, Legacy Mail Management LLC was a customer of The Magnet Guys. However, in May 2021, Rowlette instructed customer Legacy Mail Management to send purchase orders and art to "another" separate e-mail address because The Magnet Guys supposedly "try to keep the Non-profit stuff separate from our Sage and ASI stuff." . . . The Magnet Guys did not have separate non-profit and profit divisions, nor kept any different e-mail addresses for such purposes. Upon information and belief, Rowlette instructed Legacy Mail Management to send the purchase order to Print-My LLC instead. A purchase order dated just days after this communication . . . shows an order from Legacy Mail Management LLC listing "Print-My [LLC]" as the vendor rather than The Magnet Guys. Print-My LLC invoiced Legacy Mail Management LLC shortly thereafter. . . . Notably, the purchase order and invoice are dated weeks before Print-My LLC was even incorporated. Upon information and belief, Perry and Rowlette, employees of the Plaintiff North Carolina entity, fulfilled this order using assets of our Magnet Guys division for the benefit of Burdiss' new entity. The day prior to Print-My invoicing Legacy for the magnet order, someone in the Magnet Guys Missouri facility shipped the order using The Magnet Guys' Fed Ex account, designating Legacy as the consignee.

26. In the ongoing effort to divert the business of Legacy Mail Management, Perry communicated with the customer in September 2021 and cautioned the Legacy employee

that “we will need to talk before you send the [purchase order].” The Legacy employee then sent a purchase order to Perry (at his The Magnet Guys email) on the same day, indicating “Print-My” as the vendor, and listing the address of Burdiss Lettershop.

We will not quote the rest of the affidavit verbatim, but it also addresses other alleged acts that are similar to the acts listed above: Mr. Rowlette, Mr. Perry, and the Burdiss Defendants acted together to interfere with Web 4 Half’s contractual accounts. Thus, Web 4 Half alleged sufficient conduct that the Burdiss Defendants were “acting outside of the forum when [they] . . . intentionally directed [their] tortious conduct toward the forum state, knowing that that conduct would cause harm to a forum resident.” *Id.* (citation omitted).

Finally, the exercise of specific personal jurisdiction over the Burdiss Defendants would be constitutionally reasonable since there was “deliberate action within the forum state in the form of transactions between the [Burdiss Defendants] and residents of the forum or conduct of the defendant purposefully directed at residents of the forum state.” *Id.* at 819, 616 S.E.2d at 649. In contrast to *Havey*, where the defendant “had essentially no contact with the State of North Carolina over the past ten years” and “a passive internet website cannot provide the basis for an exercise of personal jurisdiction[,]” the Burdiss Defendants had repeated contact with the North Carolina business from 2018 until 2021 and deliberately worked with Mr. Rowley and Mr. Perry to interfere with the contractual relations of Web 4 Half, a North Carolina business. *Id.* Therefore, it would be constitutionally reasonable for

North Carolina to have specific personal jurisdiction over the Burdiss Defendants.

In sum, the trial court rejected the Burdiss Defendants' contentions and made an ultimate finding of fact that the Burdiss Defendants have purposefully availed themselves of the privilege of conducting activities in North Carolina. Plaintiff's affidavits and exhibits support the theory that the Burdiss Defendants, Mr. Rowlette, and Mr. Perry engaged in intentional conduct to interfere with the contractual relations of Web 4 Half. By directing tortious conduct at a North Carolina-based business, the Burdiss Defendants' conduct is sufficient for this State to have specific personal jurisdiction over them for conduct arising out of their activities directed at North Carolina, which includes the conduct alleged in Web 4 Half's complaint. *See id.*

#### **IV. Conclusion**

The Burdiss Defendants have not challenged the trial court's findings of ultimate fact and have not demonstrated that the trial court erred by relying upon the Plaintiff's affidavits and exhibits to make its findings. Upon *de novo* review, the trial court did not err in concluding that the Burdiss Defendants had sufficient contacts with North Carolina as to confer specific personal jurisdiction over them; we affirm the order denying the Burdiss Defendants' motion to dismiss.

**AFFIRMED.**

Judges TYSON and ZACHARY concur.

Report per Rule 30(e).