

Superior Court of New Jersey

CHAMBERS OF
JAMES DEN UYL, J.S.C.



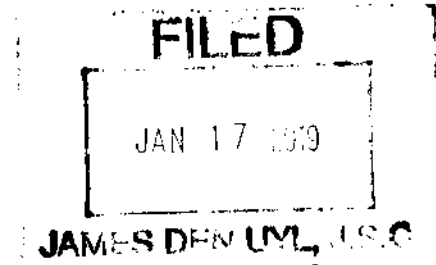
OCEAN COUNTY COURT HOUSE
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January 17, 2019

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Re: Ellen Baskin, Kathleen O'Shea, and Sandeep Trisal, on behalf of themselves and all others similarly situated v. P.C. Richard & Son, LLC (d/b/a P.C. Richard & Son) and P.C. Richard & Son, Inc. (d/b/a P.C. Richard & Son)
Docket No. OCN-L-911-18

Dear Counsel:

Plaintiffs Ellen Baskin, Kathleen O'Shea, and Sandeep Trisal, on behalf of themselves and others similarly situated (collectively, "Plaintiffs"), sued Defendants P.C. Richard & Son LLC and P.C. Richard & Son, Inc. (collectively, "Defendants") asserting a class action claim that the last four digits of customer payment card numbers, along with expiration dates, were printed on retail sales receipts in violation of the Fair and Accurate Credit Transaction Act of 2003 ("FACTA"). Defendants move to dismiss the Complaint for failure to state a claim upon which relief can be granted under FACTA and Plaintiffs oppose. The decision of the Court follows.

Plaintiffs O'Shea and Trisal are New York residents and their FACTA claims are based upon sales receipts allegedly received from Defendants' stores in New York. A complaint filed in New York in 2015 pursuant to this class action was dismissed in August 2017 when a New York federal court found that Plaintiffs O'Shea and Trisal lacked standing to sue Defendants under FACTA (the "New York action").¹ As New York state courts are precluded by statute from hearing the claims under FACTA, Plaintiffs O'Shea and Trisal partnered with Plaintiff Baskin—a New Jersey resident whose FACTA claim is based upon a sales receipt allegedly received from Defendants' store in New Jersey—and filed the instant suit in this Court.

The allegations in Plaintiffs' Complaint, which mirror that of the complaint filed in the New York action, are best summarized by the Honorable Katherine Polk Failla:

Sometime after November 17, 2013, Plaintiff O'Shea made a purchase at one of Defendants' locations and Defendants provided her with one or more receipts that included the expiration date of her debit card and the last four digits of her card number. (FAC ¶ 35). On or about November 2, 2015, Plaintiff O'Shea's counsel served Defendants with a cease and desist letter demanding that Defendants end their FACTA violations. (*Id.* at ¶ 45). Attached to the letter was a draft complaint. (*Id.*). On May 2, 2016, Plaintiff Trisal received from Defendants a receipt that "contained, among other things," his credit card's expiration date and the last four digits of his card number. (FAC ¶ 45). . . . Plaintiffs allege that Defendants continued to print expiration dates on credit and debit card receipts in violation of FACTA until at least August 17, 2016. (FAC ¶ 45). Plaintiffs also allege that these FACTA violations were willful because Defendants (i) "knew of and were well informed about the law" (*id.* at ¶ 39); (ii) were informed by other entities of FACTA's truncation requirements and the prohibition on expiration dates (*id.* at ¶ 40); (iii) knew their electronic receipt printing equipment was outdated, but forewent the proper updates to avoid spending the money, time, and other resources required (*id.* at ¶ 44); and (iv) were put on notice of their FACTA violations by Plaintiff O'Shea's letter and Complaint (*id.* at ¶ 45). Plaintiffs further allege that because Defendants printed their cards' expiration dates on their receipts, Plaintiffs were exposed to "an increased risk of identity theft and credit and or debit card fraud," though, significantly and fortunately, neither alleges that such identity theft or fraud actually occurred. (*Id.* at ¶ 51).²

¹ Plaintiffs' FACTA claim in this Court mirrors in all material respects the FACTA claim Plaintiff's O'Shea and Trisal asserted in New York. See *O'Shea v. P.C. Richard & Son, LLC*, 2017 U.S. Disc. LEXIS 122424, at *2 (S.D.N.Y. Aug. 3, 2017).

² *Id.* at *3-4.

In addition to the allegations described above, Plaintiff Baskin alleges that she “received from Defendants two credit/debit card receipts on May 24, 2016 each of which contained, among other things, [her] card’s expiration date, the last four digits of her card number, the brand of her card, her full name, her full physical address, and her telephone number” at Defendants’ retail store located in Brick, New Jersey. (Compl., ¶ 4, 18, 37.). Baskin alleges that she too was exposed to an “an increased risk of identity theft and credit and or debit card fraud,” but does not allege that any such theft or fraud actually occurred. (Id. ¶ 55.).

To put Plaintiffs’ allegations into context, it is important to understand FACTA’s legislative history and underlying purpose. FACTA was enacted in 2003 as an amendment to the Fair Credit Reporting Act (“FCRA”), codified at 15 U.S.C. § 1681c(g)(1). FACTA prohibits retailers who accept credit or debit cards from “print[ing] more than the last 5 digits of the card number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.” 15 U.S.C. § 1681c(g)(1). Under the FCRA, a plaintiff may recover actual damages resulting from a negligent violation pursuant to 15 U.S.C. § 1681o(a) or actual, statutory, and/or punitive damages for a willful violation pursuant to 15 U.S.C. § 1681n(a). Congress then enacted the Credit and Debit Card Receipt Clarification Act of 2007, Pub L. 110-241, to clarify that FACTA’s purpose was to “ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers.” Id. § 2(b). Congress further stated that FACTA’s purpose was “to prevent criminals from obtaining access to consumers’ private financial and credit information in order to reduce identity theft and credit card fraud.” Id. § 2(a)(1).

In Defendants' brief in support of their motion to dismiss, Defendants contend that the instant action is Plaintiffs' attempt "for a second bite at the FACTA class action apple." Defendants assert that the New York federal court dismissed Plaintiffs O'Shea and Trisal's complaint because Defendants' alleged FACTA violations were technical in nature and had caused no actual injury.

Specifically, Defendants assert that the Complaint does not allege that Plaintiffs have sustained any ascertainable harm, such as being victims of identity theft, credit or debit card fraud, or that any third party ever came into possession of the sales receipts or the credit card information therein. Defendants state that Plaintiffs' only allegations of harm consist of Defendants "exposing them to at least an increased risk of identity theft and credit and or debt card fraud." Defendants assert that Plaintiffs' allegation of an "increased risk" of harm is speculative. Defendants contend that as no actual harm has been sustained by Plaintiffs, they are pursuing statutory damages available under FACTA as a "mere technical violation" of its requirements.

The crux of Defendants' legal position is that technical violations of FACTA are not appropriately adjudicated as class actions under New Jersey law. At the pleadings stage and pre-discovery, Defendants submit that is well settled that a court may determine if a dispute is properly litigated as a class action. Defendants contend that pursuant to New Jersey Court Rule 4:32-1(b)(3)'s superiority prong, "a class action is maintainable only if the court finds that it "is superior to other available methods for the fair and efficient adjudication of the controversy.'" Primarily, Defendants assert that Plaintiffs' FACTA Complaint is not appropriate for class action adjudication in New Jersey and should be stricken pursuant to the reasoning supplied in Local Baking Products, Inc. v. Kosher Bagel Munch, Inc., 421 N.J. Super. 268 (App. Div.), certif. denied, 209 N.J. 96 (2011).

In the alternative, Defendants assert that this Court lacks personal jurisdiction over Defendants with respect to the claims asserted by New York resident Plaintiffs O'Shea and Trisal. Defendant P.C. Richard & Son, LLC is a New York limited liability company. P.C. Richard & Son, Inc. is a Delaware corporation. Both entities maintain their principal place of business in New York. Specifically, Defendants contend that Plaintiffs O'Shea and Trisal's New York-based claims have connection to New Jersey and Defendants' retail store operations in New Jersey alone are insufficient for jurisdictional purposes as a matter of law. Defendants assert that on a motion to dismiss for lack of personal jurisdiction, the plaintiff bears the burden of pleading sufficient facts to establish jurisdiction and that Plaintiffs O'Shea and Trisal have failed to meet this burden.

In Plaintiffs' brief in opposition to Defendants' motion, Plaintiffs assert that a printed receipt for a consumer must not reveal the expiration date of the credit card under FACTA. Plaintiffs contend that Defendants willfully violated FACTA because Defendants printed the last four digits and the expiration date together on Plaintiffs' sales receipts and as such Plaintiffs are entitled to statutory damages. Plaintiffs contend that Defendants do not deny that the statute was violated. Plaintiffs submit that litigating the potentially thousands of claims as individual *pro se* cases under the reasoning of Local Baking is "illogical" because FACTA requires proving the violator's willfulness. As willful conduct is required under FACTA, Plaintiffs assert that the Local Baking court's analysis of class actions under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §§ 227 et seq., is materially distinct and should not be applied to New Jersey plaintiffs seeking class certification of FACTA claims.

Specifically, Plaintiffs assert that Plaintiffs have (1) properly pled all requirements of Rule 4:32-1, (2) properly pled that a class action is the most fair and efficient method to obtain relief for all class members, and (3) sufficiently demonstrated that FACTA is not analogous to the TCPA,

and that even if it is, that each Plaintiff's claim in the instant action exceeds the jurisdictional limits of small claims court as a result of potential punitive damages allowable under FACTA.

In response to Defendants' contention that this Court lacks personal jurisdiction with respect to Plaintiffs O'Shea and Trisal, Plaintiffs assert that personal jurisdiction is proper because Defendants maintain "minimum contacts" with New Jersey by operating stores in New Jersey. Specifically, Plaintiffs assert that the New Jersey forum does not offend traditional notions of fair play and substantial justice because Defendants will not endure a serious burden to litigate here and conduct a large percentage of business in the state. In support of this assertion, Plaintiffs point to figures that indicate that nearly a quarter of Defendants' revenue is generated in New Jersey and that more than quarter of Defendants' stores—17 out of 66—operate in New Jersey. Plaintiffs contend that Defendants violated FACTA in each of the four states where Defendants operate physical stores and that Defendants cannot, and do not, dispute that the violations of FACTA occurred in New Jersey.

In reply to Plaintiffs' opposition, Defendants assert that Plaintiffs cite non-binding decisions by the Fourth Circuit, Seventh Circuit, Ninth Circuit, the United States District Court for the Central District of California, and the United States Court for the Eastern District of Wisconsin and fail to provide New Jersey authority for their assertions. As Plaintiffs do not identify any reported decisions by New Jersey courts related to the certification of FACTA class actions, Defendants contend that the Complaint should be dismissed as matter of law because pursuing a FACTA class action in New Jersey state courts is contrary to the Appellate Division's analysis of the superiority requirement of Rule 4:32-1(b)(3) in Local Baking, 421 N.J. Super. at 280. Additionally, Defendants contend that Plaintiffs' contentions regarding personal jurisdiction over Defendants is "plainly frivolous." Specifically, Defendants assert that this Court lacks both general

and specific jurisdiction over Defendants with respect to the non-resident claims according to United States Supreme Court authority.

A party may file a motion to dismiss with the courts when the non-moving party has failed to state a claim upon which relief can be granted. R. 4:6-2(e). A motion to dismiss may be raised to address only specific counts of the complaint or it may request dismissal of the complaint in its entirety. Current N.J. Rules, comment 4.1.1 on R. 4:6-2(e). When considering a motion to dismiss, the court should accept all allegations in the plaintiff's complaint as true and should determine whether the facts "suggest" a cause of action. Printing-Mart Morristown v. Sharp Electronics Corp., 116 N.J. 739, 746 (1989). New Jersey Court Rule 4:5-2 requires a Plaintiff to plead sufficient facts to give rise to a cause of action; thus, conclusions paired with an intention to rely on discovery are insufficient under R. 4:5-2. Glass v. Suburban Restoration Co., 317 N.J. Super. 574, 582 (App. Div. 1998). Dismissal is appropriate when there is no legitimate basis for relief and a cause of action cannot be gleaned from the plaintiff's complaint. Nostrame v. Santiago, 213 N.J. 109, 128 (2013).

For the court to properly certify a class, the burden is on the plaintiffs to meet specific prerequisites enumerated in New Jersey Court Rule 4:32-1. Typically, certification of a class is proper when the predominance and superiority criteria are met. See, e.g., Myska v. New Jersey Mfrs. Ins. Co., 440 N.J. Super. 458, 475 (2015). Under Rule 4:32-1(a), there are four criteria for maintaining a class action:

One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

R. 4:32-1(a). If all four requirements are met under Rule 4:32-1(a), then the plaintiffs must satisfy one of the following three criteria in Rule 4:32-1(b):

- (1) the prosecution of separate actions by or against individual members of the class would create a risk either of:
 - (A) inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for the party opposing the class, or
 - (B) adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or
- (2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or
- (3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The factors pertinent to the findings include:
 - (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions;
 - (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;
 - (C) the desirability or undesirability in concentrating the litigation of the claims in the particular forum; and
 - (D) the difficulties likely to be encountered in the management of a class action.

R. 4:32-1(b). The Myska court noted that Rule 4:32-1 not only requires consideration of the interests of the class, but also the effect on efficient judicial management. 440 N.J. Super. at 475. Thus, the movant "must demonstrate both predominance of the common issues and the superiority of a cause of action over other available techniques." Id. The court explained that:

[T]he test [for class certification] does not merely turn on the stage of the litigation. Rather, dismissal is dependent on the nature of the claims and the propriety of their presentation as a class action, in accordance with the provisions of Rule 4:32-1. We

flatly reject plaintiffs' urging to impose a bright-line rule prohibiting examination of the propriety of class certification until discovery is undertaken.

Id. at 477-78. After accepting as true the well-pled allegations of a putative class complaint, a court at the outset of a litigation may turn to the "central inquiry" of whether the plaintiff's class allegations pass muster under Rule 4:32-1. Id. at 478.

As it relates to the allegations in the instant Complaint, Congress enacted FACTA in 2003 to combat the threat of identity theft and credit card fraud. See 15 U.S.C. § 1681e(g). In relevant part, FACTA provides that "no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction." 15 U.S.C. § 1681e(g). A consumer can recover for "actual damages" sustained as a result a business's willful failure to comply with FACTA. 15 U.S.C. § 1681n(a)(1)(A). Alternatively, according to the statute, a consumer can recover statutory damages "of not less than \$100 and not more than \$1,000." Id.

Defendants principal argument against class certification rests upon the application of Local Baking Products, Inc. v. Kosher Bagel Munch, Inc., 421 N.J. Super. 268 (App. Div.), certif. denied, 209 N.J. 96 (2011). In Local Baking, the court examined a putative class action on a motion to dismiss brought under the TCPA, a federal statute which prohibits the use of facsimile machines, computers, or other devices to send unsolicited advertisements. 421 N.J. Super. at 271. See 47 U.S.C. § 227(b)(1)(C). Under the TCPA, a claimant may recover actual damages or statutory damages of \$500 for each technical violation of the TCPA, whichever is greater. 47 U.S.C. § 227(b)(3). Importantly, when examining the superiority prong of Rule 4:32-1(b)(3), the Appellate Division held that "a class action suit is not a superior means of adjudicating a TCPA suit." Local Baking, 421 N.J. Super. at 280. The appellate court agreed with the trial court's assessment that

readily available access to, and the ability to seek an expedited procedure in, New Jersey's small claims courts eliminated the need for class action treatment of TCPA claims. Id.

Plaintiffs maintain, however, that Local Baking does not apply here because the TCPA is not analogous to FACTA as the TCPA has no requirement that violations be willful in order to seek recovery and FACTA provides for attorney fee-shifting, indicating that the legislature did not intend such claims to be brought by individuals representing themselves in small claims court. As there is no controlling authority in New Jersey related to FACTA class action claims, and Plaintiffs' legal assertions exclusively rely upon non-binding authority, this Court finds that the reasoning behind the Appellate Division's decision in Local Baking is properly applicable to the instant motion. As the Local Baking court stated, "by imposing a statutory award of \$500, a sum considerably in excess of any real or sustained damages, Congress has presented an aggrieved party with an incentive to act in his or her own interest without the necessity of class action relief." 421 N.J. Super. at 280. Thus, it follows that the prevailing law in New Jersey is that adjudication of claims on an individual basis in small claims court is "a far superior method to vindication of any rights and protection of the public than any certification or class action" in situations where a statutory damage award incentivizes a party to act in his or her own interest. Id. at 272. In terms of accessibility to the small claims process in New Jersey, the Superior Court website, NJcourts.gov, has a self-help center and section that explains and walks an unrepresented person through the steps for filing a small claim in six different languages. Applicable filing forms are also available. In addition, each vicinage has an Ombudsman to answer any questions about the process in person, by phone, or via email. After a complaint is filed and the matter scheduled, the unrepresented litigant may appear before the court with the offending receipt under FACTA and testify to the foundational elements of what, when, and where the purchase was made. As a result,

certifying a class for these Plaintiffs—persons who have alleged no concrete harm and yet are seeking a robust remedy in the form of a class action suit for technical violations of a federal statute—would be contrary to relevant New Jersey law. See Local Baking, 421 N.J. Super. at 280.

Consequently, Plaintiffs' burden is not met under Rule 4:32-1 as Plaintiffs fail to satisfy the prerequisite grounds for certifying a class. Plaintiffs have not alleged a potential class number, except to contend that there could be "thousands of people whose credit card information was exposed on improper receipts." Plaintiffs have also not provided sufficient evidence to support a claim that the class is so numerous that joinder of all members is impracticable or how the alleged class has been damaged in such a way that would be representative of the whole. Plaintiffs allege that it is the violation of FACTA itself that has caused damage to the consumer, but Plaintiffs fail to allege that they were victims of identity theft, credit or debit card fraud, or that any third party ever came into possession of the sales receipts or the credit card information contained on the receipts, which puts Plaintiffs' claims at odds with the legislative purpose of FACTA and points to an overall lack of demonstrable damages in the case of these particular Plaintiffs. As a result, the alleged liability of Defendants would need to be determined on the facts on an individual basis, especially if other consumers who received the allegedly violative receipts actually were victims of identity theft or other instances of fraud. The potential disparate nature of damages that may or may not have been suffered by consumers who received such receipts would require courts to adjudicate Defendants' liability on a case by a case basis as such claims may not be representative of the entire class. It is this type of indispensable case by case determination that cuts directly against the purpose of Rule 4:32-1's class certification predominance and superiority prongs. See Local Baking, 421 N.J. Super. at 172.

Therefore, Plaintiffs have not sufficiently pled to meet their initial burden for maintaining a class action under Rule 4:32-1. Accordingly, certification of a class is not warranted in this matter and the Complaint is dismissed.

As the Complaint is dismissed for failure to meet the requirements of class certification under New Jersey law, Defendants' assertion that this Court lacks personal jurisdiction under Rule 4:6-2(b) as to the non-resident Plaintiffs' claims need not be addressed. For the sake of completeness, however, personal jurisdiction as to Plaintiffs O'Shea and Trisal is discussed below.

Rule 4:6-2 provides that every defense—whether it be legal or equitable—to a claim for relief in any complaint, counterclaim, cross-claim, or third party complaint shall be asserted in the answer thereto, except that the following defenses may be made by motion, including lack of personal jurisdiction. See R. 4:6-2. With regard to personal jurisdiction, due process requires that a forum state's exercise of jurisdiction over a defendant be reasonable. Reasonableness of specific personal jurisdiction is measured by the minimum contacts doctrine as established in International Shoe v. Washington, 326 U.S. 310 (1945). Under International Shoe and its progeny of cases, the maintenance of the lawsuit must not offend "traditional notions of fair play and substantial justice." 326 U.S. at 316. The New Jersey Supreme Court "clarified the purposes of the 'minimum contacts' doctrine: to protect a defendant against litigating in an inconvenient forum and to ensure that States not exceed their jurisdictional limits under our federal system." Waste Management v. Admiral Ins. Co., 138 N.J. 106, 120 (N.J. 1994).

The minimum contacts doctrine requires "that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." Hanson v. Denckla, 357 U.S. 235, 253 (1958). Such a requirement ensures that a defendant will not be haled into a jurisdiction solely as a result

of random, fortuitous, or attenuated contacts. Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985). A defendant's "conduct and connection with the forum state must be such that he should reasonably anticipate being haled into court there." World-Wide Volkswagen v. Woodson, 444 U.S. 286, 297 (1980). The requirement is satisfied so long as the contacts resulted from the defendant's purposeful conduct and not the unilateral activities of the plaintiff. Id.

Rule 4:4-4(b)(1)(A) outlines New Jersey's long-arm statute—the method by which a plaintiff may establish in personam jurisdiction over a non-resident defendant. In determining whether long-arm jurisdiction applies, the forum state must apply a two-prong analysis: "first, an examination of the nature of the contacts the defendant has had with New Jersey" and second, "a consideration whether the exercise of jurisdiction comports with 'fair and substantial justice.'" Lebel v. Everglades Marina, Inc., 115 N.J. 317, 328 (1989).

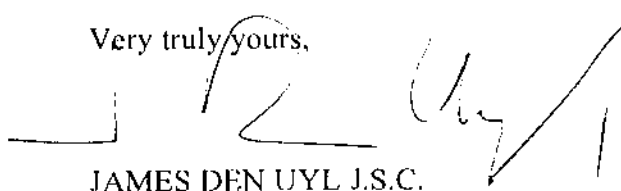
Additionally, invoking International Shoe, the U.S. Supreme Court in Bristol-Myers Squibb Co. v. Superior Court of California noted that there are "two types of personal jurisdiction: 'general' (sometimes called 'all-purpose') jurisdiction and 'specific' (sometimes called 'case-linked') jurisdiction." 137 S. Ct. 1773, 1779-80 (2017). Only a "limited set of affiliations with a forum will render a defendant amenable" to general jurisdiction. Id. at 1780. For a corporate defendant, the "paradigm forum" in which a corporate entity is subject to general jurisdiction is either the entity's state of incorporation or its principal place of business. Id. at 1779-80; BNSF Ry. Co. v. Tyrrell, 137 S. Ct. 1549, 1558 (2017). With respect to specific jurisdiction, the Court in Bristol-Myers emphasized that "[i]n order for a state court to exercise specific jurisdiction, the suit must aris[e] out of or relat[e] to the defendant's contacts with the forum." 137 S. Ct. at 1780 (internal quotations omitted). When that connection is non-existent, then "specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." Id. at 1781.

Indeed, even regularly occurring sales in the forum do not justify the exercise of specific personal jurisdiction where the underlying claim is unrelated to those sales. Id.

In this case, Defendant P.C. Richard & Son, LLC is a New York limited liability company. Defendant P.C. Richard & Son, Inc. is a Delaware corporation. Both entities maintain their principal place of business in New York. Thus, Defendant P.C. Richard & Son, LLC is subject to general jurisdiction in New York and Defendant P.C. Richard & Son, Inc. is subject to general jurisdiction in both Delaware and New York. As general jurisdiction does not exist in this case, this Court would need to be able to exercise specific jurisdiction over Defendants. As for specific jurisdiction, Plaintiffs O'Shea and Trisal are New York residents. Plaintiffs O'Shea and Trisal's claims arise out of receipts they each received at Defendants' New York stores. While Defendants do operate numerous retail stores in New Jersey, this fact by itself does not meet the requirements of specific jurisdiction under Bristol-Myers. Specifically, Plaintiffs O'Shea and Trisal fail to allege that the claims they have asserted against Defendants "aris[e] out of or relat[e]" to Defendants' operations in New Jersey. See Bristol-Myers 137 S. Ct. at 1780. Thus, specific jurisdiction is also lacking because the claims alleged do not have any connection with Defendants' contacts in New Jersey as the forum state. Therefore, notwithstanding this Court's principal ruling that class certification in this matter is not appropriate under Rule 4:32-1, the Court finds that it may not properly exercise personal jurisdiction over the non-resident Plaintiffs' claims.

For the aforementioned reasons, Defendants P.C. Richard & Son LLC and P.C. Richard & Son, Inc.'s motion to dismiss is granted.

Very truly yours,


JAMES DEN UYL J.S.C.

ORDER ENCLOSED