



Not Signed-See comments below

William J. Epton, III
U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re)	
Fox Ortega Enterprises, Inc.)	Case No. 16-40050
)	Chapter 7
)	
<u>Debtor.</u>)	Adv. Pro. No. 18-04012
)	
Michael Kasolas, Chapter 7 Trustee,)	
)	
Plaintiff,)	
v.)	
)	
Johnny Yau,)	
)	
Defendant.)	

**MEMORANDUM OF DECISION ON MOTION UNDER FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(2) TO DISMISS CASE FOR LACK OF PERSONAL
JURISDICTION**

This adversary proceeding for recovery of fraudulent transfers is one of many such proceedings stemming from the collapse and subsequent chapter 7 bankruptcy filing of Fox Ortega Enterprises, Inc. (“Debtor”). On March 8, 2018, Defendant Johnny Yau filed a motion to dismiss this proceeding for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2) (“the Motion”) (doc. 10). Defendant is one of many non-resident defendants

1 involved in similar actions related to this bankruptcy but is the only one to bring a 12(b)(2)
2 motion. Defendant alleges that when he placed multiple orders from his computer in his Hong
3 Kong residence for wine from Debtor's business located in California, Defendant did not
4 purposefully avail himself of either the United States or California as forums. Defendant
5 therefore alleges that he does not have the requisite minimum contacts constitutionally required
6 to subject himself to personal jurisdiction in this Court, and Plaintiff must sue him in Hong Kong
7 to obtain the relief sought. Plaintiff disagrees and filed a timely opposition (doc. 17) that argues
8 that Defendant did purposefully avail himself of this forum when he knowingly and purposefully
9 placed online orders for wine sold by a California business and appeared personally at the
10 physical store to protest poor customer service and make at least one purchase. For the reasons
11 explained below, the Court agrees with Plaintiff and will deny the Motion.

12 **Factual Background**

13 The facts relevant to the Motion are largely undisputed and are derived from the
14 Complaint (doc. 1), the declaration of Defendant Johnny Yau (doc. 11), and the declaration of
15 Brian Nishi (doc. 19), one of Debtor's former employees.

16 In 1997, Defendant learned of Debtor's wine business, Premier Cru, which employed a
17 business model of putatively selling pre-bottled wine at very favorable prices, from a friend in
18 Hong Kong where he resides. Yau Decl. Defendant's first purchases from Premier Cru were
19 made through his wife, Virginia Yau, and shipped to an address in California. Nishi Decl. In
20 2008, Defendant created an account in his own name and requested the wine be shipped to Hong
21 Kong. *Id.* Defendant maintained this business relationship with Premier Cru through 2014. *Id.*

22 Most of his interactions with Premier Cru, both purchasing wine and complaining about
23 performance delays, were conducted online (through Premier Cru's website, facsimile, and
24 through email) while Defendant was physically located in Hong Kong. Yau Decl. However, on
25 at least one occasion, as evidenced by a signed receipt, Defendant made an in-store purchase in
26 Berkeley, California. Nishi Decl. The terms and conditions of the online purchases included the
27 following language: "Any wine sold to you by Premier Cru is sold in California. . . . All orders
28 are shipped by a California wine retailer." *Id.*, Exh. 1.

1 On January 8, 2016, Debtor filed a chapter 7 bankruptcy petition. On January 5, 2018,
2 Plaintiff Trustee filed a complaint for recovery of fraudulent transfers to Defendant from Debtor
3 pursuant to 11 U.S.C. § 544, 548, 550¹, and California Civil Code § 3439.04. The Complaint
4 alleges that Debtor was engaged in a fraudulent scheme to sell pre-arrival wine,² and after Debtor
5 had entered into \$40 million worth of obligations to deliver wine to customers that it could not
6 satisfy, the scheme fell apart. The complaint alleges that those customers who have received their
7 wine, such as Defendant, received fraudulent transfers from Debtor at the expense of the
8 thousands of customers who have not received value for their purchases.

9 Defendant has moved to dismiss the complaint on the grounds that this Court lacks
10 personal jurisdiction over him.

11 **Background Law**

12 At the outset, the Court must clear up a point of confusion that permeated both the papers
13 and the oral argument. Defendant's opening brief makes arguments and cites case law
14 concerning diversity jurisdiction in federal district courts. "In a diversity case [brought in
15 California], the court must first inquire whether the assertion of jurisdiction satisfies California
16 state law as well as due process requirements." *Sinatra v. National Enquirer, Inc.*, 854 F.2d
17 1191, 1194 (9th Cir. 1988) (citations omitted). Accordingly, Defendant argues, and relies on
18 cases supporting such argument, that California could not exercise jurisdiction over Defendant.
19 Strictly speaking, this is an irrelevant line of argument.

20 Bankruptcy courts derive personal jurisdiction over parties in adversary proceedings
21 through Federal Rule of Bankruptcy Procedure 7004(f), which reads in relevant part:

22 (f) Personal Jurisdiction. If the exercise of jurisdiction is consistent with the
23 Constitution and laws of the United States, serving a summons or filing a waiver of
24 service. . . is effective to establish personal jurisdiction over the person of any
25 defendant with respect to a case under the Code or a civil proceeding arising under
26 the Code, or arising in or related to a case under the Code.

26 ¹ Unless stated otherwise, references to "the Code" or to particular statutes are made to the United States Bankruptcy
27 Code (Title 11 of the U.S. Code).

28 ² Pre-arrival wine purchases are designed to hedge against future price fluctuations in the purchased wine. They
operate as a sort of futures contract. The buyer purchases the wine at a price while it is still in the barrel and agrees
to take delivery in the future after it is bottled. Unfortunately, as such futures contracts are intangible, there is no
limit to the amount of such contracts that can be sold by an unscrupulous merchant.

1 Pursuant to this rule, bankruptcy courts need not inquire whether a California court would be
2 able to exercise personal jurisdiction over a defendant through the state's long arm statute. *See*
3 *Levey v. Hamilton (In re Teknek, LLC)*, 354 B.R. 181, 193 (Bankr. N.D. Ill. 2006) (explaining
4 that when subject matter jurisdiction derives from the bankruptcy statute rather than diversity
5 of citizenship or a federal question, the court simply analyzes minimum contacts under the
6 Fifth Amendment due process clause). So long as the exercise of personal jurisdiction does
7 not violate the United States Constitution, personal jurisdiction exists over a properly served
8 defendant in a proceeding, such as this one, arising under the Code. *See, e.g., Goodson v.*
9 *Rowland (In re Pintlar Corp.)*, 133 F.3d 1141, 1144 (9th Cir. 1998). Additionally, the
10 relevant forum is not, as repeatedly suggested by Defendant, California but rather the United
11 States as a whole.³ *In re Teknek, LLC*, 354 B.R. at 192 (citations omitted).

12 As it happens, California's long arm statute confers personal jurisdiction coextensive
13 with due process requirements under the United States Constitution, so the analysis is similar.
14 *Sinatra*, 854 F.2d at 1194. The only difference is that California state long arm statute
15 personal jurisdiction is governed by the Fourteenth Amendment whereas bankruptcy court
16 statutory personal jurisdiction is governed by the Fifth Amendment. Nevertheless, both
17 analyses depend on due process inquiries that are substantially the same. Therefore, while
18 Defendant's argument is based on case law that is technically irrelevant to the extent it
19 establishes a test for determining under the Fourteenth Amendment the constitutional
20 propriety of assertions of personal jurisdiction in diversity cases (which this is not), the
21 rationale underlying those decisions is consistent with the analysis of personal jurisdiction
22 under the United States Constitution's Fifth Amendment to which the Court now turns.

23 "[T]he constitutional touchstone [of personal jurisdiction jurisprudence] remains
24 whether the defendant purposefully established 'minimum contacts' in the forum State."

25 *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985) (citing *Int'l Shoe Co. v.*

26 ³ The proper forum to consider for these cases is not California but the United States as a whole because the personal
27 jurisdiction asserted derives from a federal statute that allows nationwide service of process. *See e.g., In re Enron*
28 *Corp.*, 316 B.R. 434, 444-45 (Bankr. S.D. N.Y. 2004). However, since Plaintiff did not bring this suit in a
jurisdiction far from the relevant contacts, whether the relevant jurisdiction is California, as Defendant wrongly
asserts, or the United States, as Plaintiff correctly asserts, makes no difference to the result. Defendant thinks this
suit should be brought in Hong Kong and believes bringing it in any court located in the United States is
constitutionally impermissible.

1 *Washington*, 326 U.S. 310, 316 (1945). Personal jurisdiction analysis under the Fifth and
2 Fourteenth Amendments both require application of the “minimum contacts” test. *In re*
3 *Teknek, LLC*, 354 B.R. at 193. Courts may assert personal jurisdiction over a non-resident
4 defendant in one of two situations.

5 First, courts may exercise “general” personal jurisdiction over a non-resident
6 defendant if that defendant engages in substantial, systematic, or continuous activity within
7 the jurisdiction. *Hirsch v. Blue Cross, Blue Shield of Kansas City*, 800 F.2d 1474, 1477 (9th
8 Cir. 1986). Such contacts allow a court to exercise general personal jurisdiction over a non-
9 resident defendant even if the cause of action is not related to those activities. *Id.* General
10 personal jurisdiction is not at issue in this case.

11 Second, courts may exercise “specific” personal jurisdiction over a non-resident
12 defendant if the defendant purposefully directed his activities at the forum, and the litigation
13 results from injuries arising out of those activities. *Burger King Corp.*, 471 U.S. at 472-73
14 (citations omitted). This requirement is designed to prevent defendants from being summoned
15 to far away courts solely because of “random,” “fortuitous,” or “attenuated” contacts. *Id.* at
16 475. It is vitally important in the context of the arguments made in this case to note that the
17 Supreme Court has specifically found that “[j]urisdiction [based on minimum contacts with
18 the forum] may not be avoided merely because the defendant did not *physically* enter the
19 forum State.” *Id.* at 476. In *Burger King*, the Supreme Court noted “it is an inescapable fact of
20 modern commercial life that a substantial amount of business is transacted solely by mail and
21 wire communications across state lines, thus obviating the need for physical presence within a
22 State in which business is conducted.” *Id.* Additionally, “[s]o long as a commercial actor’s
23 efforts are ‘purposefully directed’ toward residents of another State, we have consistently
24 rejected the notion that an absence of physical contacts can defeat personal jurisdiction there.”
25 *Id.* (citations omitted). Finally, “[e]ven a single purposeful contact may be sufficient to meet
26 the minimum contacts standard when the underlying proceeding is directly related to that
27 contact.” *Application to Enforce Administrative Subpoenas Duces Tecum of S.E.C. v.*
28 *Knowles*, 87 F.3d 413, 419 (10th Cir. 1996) (citing *McGee v. International Life Ins. Co.*, 355
U.S. 220, 223 (1957)).

1 Defendant makes much in his papers of the three-factor test used in the Ninth Circuit
2 to settle specific personal jurisdiction disputes. These factors have been promulgated in
3 Fourteenth Amendment analyses and do not thereby add greater protections against the
4 assertion of personal jurisdiction against non-resident defendants than does the United States
5 Supreme Court jurisprudence described above. Nevertheless, the Court concludes that the
6 Ninth Circuit would apply the same factors in a Fifth Amendment context, and the factors are
7 simply a restatement of Supreme Court case law, so this Court believes it appropriate to apply
8 them here.

9 [The Ninth Circuit] applies a three-part test to evaluate whether a court may
10 exercise specific jurisdiction: 1. The nonresident defendant must do some act or
11 consummate some transaction with the forum or perform some act by which he
12 purposefully avails himself of the privilege of conducting activities in the forum,
13 thereby invoking the benefits and protections of its laws. 2. The claim must be one
14 which arises out of or results from the defendant's forum-related activities. 3.
15 Exercise of jurisdiction must be reasonable.

16 *Sinatra*, 854 F.2d. at 1195. "To satisfy the minimum contacts requirement, the court examines
17 whether the [defendant] acted affirmatively to promote or transact business in [the forum]." *Id.*
18 (citing *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 840 (9th Cir. 1986)). "A
19 lesser showing of minimum contacts may still warrant the exercise of jurisdiction upon a
20 showing of reasonableness." *Id.* (quoting *Burger King*, 471 U.S. at 477).

21 Once a court determines that a defendant has established minimum contacts sufficient
22 to exercise either specific or general personal jurisdiction, such contacts must be balanced
23 with other factors to determine if an exercise by the court of personal jurisdiction over the
24 defendant is consistent with "fair play and substantial justice." *Burger King*, 471 U.S. at 476
25 (quoting *International Shoe*, 326 U.S. at 320). The presence of other material factors, such as
26 a significant burden on the defendant, may render the exercise of personal jurisdiction
27 unconstitutional even if the defendant purposefully directed her activities at forum residents.
28 *Id.* at 477. In the Ninth Circuit, a showing of minimum contacts creates a rebuttable
presumption that exercise of personal jurisdiction is reasonable. *Sinatra*, 854 F.2d at 1195.
Once the entitlement to the presumption is established, the defendant bears the burden of

1 proving that the exercise of jurisdiction is unreasonable. *Id.* (citing *Burger King*, 471 U.S. at
2 477-78).

3 4 **Legal Analysis**

5 The Court will not engage in a general personal jurisdiction analysis because, although
6 the papers are ambiguous, Plaintiff's counsel explained at the hearing that Plaintiff is not
7 asserting that general personal jurisdiction is appropriate on these facts. Therefore, the Court
8 is only concerned with whether it can exercise specific personal jurisdiction over Defendant.

9 With respect to the first factor in the Ninth Circuit's three-factor specific personal
10 jurisdiction test, Defendant did consummate a transaction (actually many transactions) by
11 which he purposefully availed himself of the privilege of conducting activities in this forum.
12 Defendant learned about Premier Cru from a friend. Defendant does not claim he was
13 confused about the geographic location of Premier Cru. He knew that the store was in
14 California, and he knew that California is in the United States. The purchase and shipping
15 conditions on Premier Cru's website note that Premier Cru is a California company. In fact,
16 Defendant admitted through counsel at the hearing to being physically present at the store in
17 Berkeley, California on at least one occasion to complain about poor service (i.e., failure to
18 deliver purchased wine, a complaint shared by literally thousands of Debtor's customers).
19 Plaintiff included in its opposition to the Motion a receipt indicating that Defendant made a
20 purchase from the physical store with a credit card. He appears to have signed the receipt
21 confirming payment in the amount of \$109.34.

22 The Motion relies on the premise that Defendant was never present physically in
23 California or the United States when he purchased wine from Premier Cru relevant to this
24 litigation. Even if the Court assumes that to be true,⁴ the United States Supreme Court has
25 been abundantly clear, since the 1950's, that physical presence in a forum is not necessary for
26 a court in that forum to assert personal jurisdiction over a non-resident defendant. In 1957, the

27 ⁴ When confronted with the evidence of an in-store purchase, Defendant replied (doc. 20) that because the purchase
28 was an over-the-counter purchase and not a purchase for future delivery, the transaction is unrelated to this
fraudulent transfer litigation. That argument makes little sense to the Court, but deciding the issue is not necessary to
this disposition. The online transactions by themselves are plenty to justify asserting specific personal jurisdiction
over Defendant.

1 Supreme Court explained that “[w]ith this increasing nationalization of commerce has come a
2 great increase in the amount of business conducted by mail across state lines. At the same
3 time modern transportation and communication have made it much less burdensome for a
4 party sued to defend himself in a State where he engages in economic activity.” *McGee*, 355
5 U.S. at 223 (holding that personal jurisdiction was constitutionally exercised in California
6 over a non-resident insurance company that conducted its business with resident insured
7 plaintiff through the mail). In *Burger King*, a 1985 case, the Supreme Court explained that
8 economic activity was increasingly occurring through the mail and over wires. The internet
9 did not even exist in its modern form, and the Court was already addressing Defendant’s
10 argument in this case directly.

11 In *Burger King*, the Supreme Court approved of a Florida court exercising specific
12 personal jurisdiction over a Burger King franchisee in Michigan and rejected the argument
13 that the defendant was not subject to personal jurisdiction in Florida because he conducted all
14 of his litigation-related activities with Burger King from Michigan. The argument that it is
15 unfair to bring suit against a non-resident defendant when all or substantially all of that
16 defendant’s contacts with the forum were through wires, the mail, or other cross-border
17 communications did not prevail in 1985. It did not prevail in 1957. Defendant has shown no
18 reason why it would prevail today. Instead, Defendant argues against the weight of well-
19 established Supreme Court precedent dating back over sixty years that has been repeatedly
20 reaffirmed in the intervening years as technological progress only strengthens the underlying
21 rationale of those decisions.

22 Defendant cites *Thomas P. Gonzalez Corp. v. Consejo Nacional De Produccion De*
23 *Costa Rica*, 614 F.2d 1247 (9th Cir. 1980), for the proposition that “[the argument that]
24 telephone calls, faxes and e-mails to in (sic) California somehow constitute purposeful
25 availment of the benefits and protections of California laws” fails categorically because “the
26 use of the mails or telephones do not qualify as purposeful activity invoking the benefits and
27 protections of the state on the receiving end of such communications.” The Motion at p. 6-7.
28 Defendant apparently draws this rule from one line in the *Gonzalez* opinion that reads,
“[Defendant] validly argues that use of the mails, telephone, or other international

1 communications simply do not qualify as purposeful activity invoking the benefits and
2 protection of the state.” *Gonzalez Corp.*, 614 F.2d at 1254 (citation omitted).

3 It appears that the Ninth Circuit in *Gonzalez* was concerned that, in a case where the
4 locus of a commercial transaction was in Costa Rica, tangential international communications
5 by mail and telex could be used as a justification to exercise personal jurisdiction over a non-
6 resident defendant. This is a valid concern but is one not presented in the case before the
7 Court. In the Motion, Defendant provides absolutely no context for this one line from
8 *Gonzalez*. Some context is necessary, and Defendant should have provided it to the Court.

9 The *Gonzalez* case is inapposite to an analysis of personal jurisdiction in this case.
10 Apparently, the only basis in that case for a California court to exercise specific personal
11 jurisdiction over the defendant was “frequent communication by mail and telex between the
12 [defendant] and [the plaintiff]’s Los Angeles office *concerning* the contracts.” *Id.* at 1249
13 (emphasis added). Therefore, the mail and telex communications at issue in *Gonzalez* were
14 qualitatively different from those at issue here.

15 The Court will note some other lines from *Gonzalez* that Defendant might have
16 discussed in his moving papers. “In none of the transactions, including the one in dispute, was
17 California either the source or destination of the grain.” *Id.* at 1249. Moreover, the dispute in
18 *Gonzalez* arose from a contract “entered into in Costa Rica by an exchange of letters between
19 [Defendant] and [Plaintiff]’s representative in Costa Rica.” *Id.* The court found that “[the
20 defendant] has not performed any act relating to the contract at issue by which it purposefully
21 availed itself of the privilege of conducting business in California. Its actions within the state
22 were unrelated to Gonzalez’s present claim.” *Id.* at 1254. The facts of *Gonzalez* are not
23 closely analogous to the facts of this case.

24 Defendant did not enter into contracts with Premier Cru in Hong Kong through
25 Premier Cru’s Hong Kong agents, and his electronic communications with Premier Cru were
26 not limited to mere discussions “concerning” those contracts. Rather, Defendant used the
27 internet and perhaps communications satellites via his phone to deliberately form contracts
28 with Premier Cru in California for wine to be shipped from California subject to terms that
explicitly stated that the contracts were formed in California and Premier Cru was a California

1 company. Additionally, and by his own admission, Defendant traveled to California and
2 complained about not receiving his purchased wine at the physical Premier Cru location. He
3 also purchased wine in person at the store on at least one occasion. These contacts were
4 purposefully directed by Defendant and are obviously not the type of random or attenuated
5 contacts that would constitutionally bar this Court from exercising personal jurisdiction over
6 Defendant.

7 The pertinent question for this Court is not whether Defendant has physically appeared
8 in California or the United States but rather whether he purposefully directed his litigation-
9 related activities toward forum residents. Defendant admits that he has. He purposefully
10 ordered wine, many times over several years, from Premier Cru. Premier Cru is a California
11 company. Defendant was aware of this. The means with which he directed those activities is
12 irrelevant. Defendant could have used the internet to order wine, he could have ordered by
13 mail, or he could have ordered by carrier pigeon. In all three cases, Defendant would have
14 initiated transactions with a California resident that purposefully availed himself of the United
15 States and California as forums and by such transactions would have implicated the
16 protections of their laws. Additionally, Defendant made at least one purchase of wine while
17 physically in California, and he admits to being physically present in California to complain at
18 the store about not receiving wine that he had purchased. It is conceivable that one of the
19 reasons Defendant received some of the alleged fraudulent transfers while other customers did
20 not is because Defendant went to the store to complain in person.⁵ The first factor is amply
21 satisfied.

22 The second factor requires the litigation to arise from the defendant's forum contacts.
23 Defendant does not really contest this factor other than with respect to the in-person purchase
24 evidenced by the above-mentioned receipt. By this litigation, Plaintiff seeks to recover value
25 fraudulently transferred by a chapter 7 debtor to Defendant in an amount in excess of
26 \$600,000 and avoid obligations to Defendant valued at over \$300,000. Defendant initiated the
27 transfers in question when he ordered wine from Premier Cru, and it is possible that some of
28 these transfers were finally made in response to his in-person agitation at the store. Defendant

⁵ This pattern of the squeaky wheel receiving the grease is a common one in this bankruptcy.

1 received wine while thousands of other customers of Premier Cru, who also potentially paid
2 below market prices for the same wine, did not. Those customers are still waiting to receive
3 their bargained-for value and have claims against the chapter 7 estate. The purchases of wine
4 made by Defendant from Premier Cru are the entire focus of this litigation. Had Defendant
5 never deliberately purchased and taken delivery of wine from a forum resident, Premier Cru,
6 this litigation with respect to Defendant would not exist. Therefore, the second factor is amply
7 satisfied.

8 The third factor requires assessment of the reasonableness of this Court exercising
9 personal jurisdiction over Defendant. As explained above, in *Burger King*, the Supreme Court
10 held that the minimum contacts test may be even more readily satisfied when the equities cut
11 in favor of exercising personal jurisdiction in a particular forum. Defendant's argument with
12 respect to this reasonableness prong is it would be burdensome for him to be sued in
13 California. However, Defendant has already demonstrated the ability to hire local counsel;
14 Defendant travels to California multiple times a year to see his wife and children; and
15 although it is possible that Defendant may be required to appear personally in this Court, such
16 an event is unlikely.

17 On the other hand, the burden to Plaintiff of suing Defendant in Hong Kong is
18 manifestly greater. Defendant counters by arguing that "[t]here can be no doubt that [P]laintiff
19 has a convenient and effective method of obtaining relief in this action, if such relief is
20 justified, i.e., the filing of a lawsuit in *Hong Kong*, which has a [c]ourt system which is
21 independent of China, and is based on English common law." Def. MPA at p. 7, ln. 20-22
22 (emphasis added). The Court doubts, despite a shared affinity for the common law Anglo-
23 American tradition of jurisprudence, that Plaintiff's primary concerns about being forced to
24 bring this suit in Hong Kong are nullified by Hong Kong's nominal independence from China
25 and the fact that its judicial system was imposed upon it by the United Kingdom.

26 If Defendant's position is correct that Defendant has a right to be sued where he
27 resides so long as he did not physically enter the forum state (or country), Plaintiff would be
28 able to obtain the relief sought in this litigation only through a suit brought in Hong Kong.
This, by itself, is unreasonable enough. However, this is not the only fraudulent transfer

1 action Plaintiff is bringing on behalf of the bankruptcy estate. There are over 100 such cases
2 with defendants residing all over the United States and the world. As Defendant would have
3 it, the reasonable answer to this state of affairs is that the Constitution of the United States
4 requires Plaintiff to bring separate lawsuits in jurisdictions all over the world (and indeed all
5 over the United States).⁶ Especially in the context of bankruptcy proceedings, this theory is
6 clearly unreasonable.

7 There is a strong federal interest in hearing bankruptcy matters in the bankruptcy court
8 where the bankruptcy case was filed. *See In re Teknek, LLC*, 354 B.R. at 204-05. The very
9 purpose of bankruptcy law is to liquidate or reorganize a debtor's affairs in one place in as
10 organized, efficient, and predictable a fashion as possible. *See* 28 U.S.C. § 1334(a) & (e)
11 (providing exclusive federal jurisdiction over bankruptcy cases and the property in bankruptcy
12 estates). Requiring bankruptcy trustees in large cases to sue to recover money for the estate in
13 every defendant's forum of residence whenever that defendant conducted her activities over
14 the internet would severely undermine this interest.

15 **Conclusion**

16 This is simply not a close case. The relevant law has been settled for decades. The fact
17 that there is a dearth of case law concerning federal courts exercising personal jurisdiction
18 over non-resident defendants when those defendants were customers who made their
19 purchases online is not vindication for Defendant's argument as he seems to believe. Rather,
20 it is indicative of 1) the fact that usually these disputes flow the other way, from buyer to
21 seller, and 2) other similarly situated defendants are not making this argument because it
22 strains the bounds of reason given the evolution of personal jurisdiction law over the last 70
23 years.

24 Defendant purposefully directed commercial activity at a forum resident, Premier Cru,
25 when he purchased thousands of bottles of wine from Premier Cru over the course of several
26 years. The fact that these purchases, or nearly all of these purchases, were made over the

27 ⁶ Lest a reader worry that the Court is exaggerating this point, the Court notes that when this exact proposition was
28 put to Defendant's counsel at the hearing, he responded by expressing the belief that "99.9%" of the defendants in
these fraudulent transfer actions are not subject to jurisdiction in California "if they don't live here and weren't
physically here."

1 internet does not defeat this Court’s exercise of personal jurisdiction over Defendant. This
2 litigation directly flows from Defendant’s purposeful contacts with the United States. Finally,
3 for the reasons stated above, the exercise of jurisdiction over Defendant by this Court does not
4 offend notions of fair play and substantial justice and is not unreasonable.

5 Accordingly, the Court will issue an order DENYING the Motion.

6
7
8 ***END OF MEMORANDUM***
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Court Service List

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28