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FILED

By Superior Court of California, County of San Mateo

ON 06/02/2022

By /s/ Jimenez, Vanessa

Deputy Clerk

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CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SAN MATEO**

14 EARTH ISLAND INSTITUTE,
15 Plaintiff,

16 v.

17 CRYSTAL GEYSER WATER
18 COMPANY;
19 THE CLOROX COMPANY;
20 THE COCA-COLA COMPANY;
21 PEPSICO, INC.;
22 NESTLÉ USA, INC.;
23 MARS, INCORPORATED;
24 DANONE NORTH AMERICA;
25 MONDELEZ INTERNATIONAL, INC.;
26 COLGATE-PALMOLIVE COMPANY;
27 THE PROCTER & GAMBLE
28 COMPANY;
and DOES 1-25, inclusive,
Defendants.

CASE NO. 20-CIV-01213

Assigned for all purposes to:

Hon. V. Raymond Swope

RS

**[PROPOSED] ORDER DENYING
SPECIALLY APPEARING
DEFENDANTS' MOTION TO QUASH
SUMMONS AND DISMISS FOR LACK
OF PERSONAL JURISDICTION**

Date: May 23, 2022

Time: 3:00 p.m.

Dept: 23

Judge: Hon. V. Raymond Swope

Complaint Filed: February 26, 2020

Trial Date: None Set

1 Specially Appearing Defendants' Motion to Quash Summons and Dismiss for Lack of
2 Personal Jurisdiction ("Motion to Quash") came on for hearing before this Court on May 23, 2022
3 at 3:00 p.m. The Court, having reviewed and considered the papers submitted in support of and
4 opposition to the Motion to Quash, as well as the arguments of counsel, and for good cause
5 appearing, **HEREBY ORDERS that:**

6 Specially Appearing Defendants' Motion to Quash Summons and Dismiss for Lack of
7 Personal Jurisdiction is DENIED. Specially Appearing Defendants' request under CCP
8 § 418.10(b) to extend their deadline to file a petition for a writ of mandate by 20 days is
9 GRANTED.

10 Plaintiff Earth Island Institute's Request for Judicial Notice of Molumphy Declaration,
11 Exhibits B - C are GRANTED and Exhibit A ("Stipulated Facts") is GRANTED, BUT NOT FOR
12 THE TRUTH OF THE MATTERS ASSERTED THEREIN.

13 Plaintiff asserts specific jurisdiction and not assert general jurisdiction in opposition. (*See*
14 *Reply*, p. 4:16-17.)

15 [A] court may exercise case-linked jurisdiction over a nonresident defendant if
16 three requirements are met. First, the defendant must have purposefully availed
17 himself of the privilege of conducting activities in this state, thereby invoking the
18 benefits and protections of California's laws. Second, the claim or controversy
19 must relate to or arise out of the defendant's forum-related contacts. Third, the
20 exercise of jurisdiction must be fair and reasonable and should not offend notions
21 of fair play and substantial justice.

22 (*Rivelli v. Hemm* (2021) 67 Cal.App.5th 380, 392–393.) The opposing plaintiff has the burden to
23 demonstrate the first two prongs and the nonresident defendant has the burden to demonstrate the
24 third prong.

25 When a nonresident defendant challenges a trial court's exercise of personal
26 jurisdiction, the plaintiff bears the initial burden to demonstrate facts justifying the
27 exercise of jurisdiction. (*Vons, supra*, 14 Cal.4th at p. 449; *Snowney, supra*, 35
28 Cal.4th at p. 1062.) To meet this burden, a plaintiff must do more than make

1 allegations. A plaintiff must support its allegations with “competent evidence of
2 jurisdictional facts. Allegations in an unverified complaint are insufficient to
3 satisfy this burden of proof.” (*Automobile Antitrust, supra*, 135 Cal.App.4th at p.
4 110.) If the plaintiff makes this showing by a preponderance of the evidence on
5 the first two requirements (i.e., that the defendant has purposefully availed itself
6 of the forum and the plaintiff's claims relate to or arise out of the defendant's
7 forum-related contacts), the burden shifts to the defendant to demonstrate that the
8 exercise of jurisdiction would be unreasonable. (*Snowney*, at p. 1062; *Automobile*
9 *Antitrust, supra*, at p. 110; *see Burger King, supra*, 471 U.S. at p. 477.)
10 (*Rivelli, supra*, 67 Cal.App.5th at p. 393.)

11 For the first prong, Defendant has stipulated to purposeful availment. (Stipulated Facts, ¶
12 8. *See Opp.*, p. 7:2-3.)

13 For the second prong, Plaintiff has met its burden to show “a connection between the
14 forum and the specific claims at issue.” (*Rivelli, supra*, 67 Cal.App.5th at p. 399.)

15 The applicable test is whether plaintiff has offered substantial evidence that
16 persuades the trial court that there is reason to believe that each of the named
17 nonresident defendants might be linked to the alleged [claims]. This evidence
18 need not be strong or conclusive, nor need plaintiffs prove each element of their
19 causes of action. However, they must provide some evidence allowing the trial
20 court—as finder of fact on jurisdictional issues—to conclude that these particular
21 named defendants were involved in the alleged [claims].

22 (*SK Trading Int’l Co. Ltd. v. Sup. Ct.* (2022) 77 Cal.App.5th 378 (cleaned up).)

23 The Court finds Plaintiff has offered substantial evidence. (Stipulated Facts, ¶¶ 2(g), 3 – 6;
24 Cohen Dec., ¶¶ 2, 3; McGuire Dec., ¶¶ 3 – 5.)

1 For the third prong, Defendant has not posited any argument or evidence to demonstrate
2 the exercise of jurisdiction would be unreasonable. (MPA, p. 15:25-28, fn. 8. *See Opp.*, p. 11:28 –
3 12:1.)

4 **IT IS SO ORDERED.**

5 Dated: 05/31/2022
6 _____

Electronically

SIGNED

By /s/ **Swope, Raymond**

HONORABLE V. RAYMOND SWOPE
JUDGE OF THE SUPERIOR COURT

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