

JURISDICTION AND THE INTERNET UPDATED 2013

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As we noted in Dickerson, Chambers & Cohen, *Personal Jurisdiction and the Marketing of Goods and Services on the Internet*, 41 Hofstra L.R. 31-51 [Fall 2012] ["*Internet Jurisdiction*"], the increasing use of the Internet for the transaction of business, especially involving the marketing and sale of goods and services(81), has raised important issues

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regarding the assertion of personal jurisdiction over foreign companies including suppliers and tour operators and other purveyors of travel services. This article updates *Internet Jurisdiction* with a discussion of new case law involving jurisdiction and the Internet.

The Solicitation Plus Doctrine

If a foreign travel supplier, e.g., a hotel or an air carrier conducts business through an agent(82), a wholly owned subsidiary(83), a parent corporation(84) or joint venturer(85) or maintains an office with a staff, a bank account and a local telephone number then the assertion of personal jurisdiction would, generally, be appropriate. In the absence of such indicia of physical presence in the forum, however, the assertion of personal jurisdiction is more problematic. For example, a foreign travel supplier or travel seller may conduct business through an independent contractor(86), travel agent(87), tour operator(88) or the Internet. Under these circumstances New York Courts have found personal jurisdiction if there was active solicitation of business plus " some financial or commercial dealings in New York or (the foreign company) holds itself out as operating in New York "(89) and/or contract formation occurs in New York State(90). This concept, known as the " solicitation-plus "

doctrine, is still followed with some exceptions(91) by many U.S. Courts(92) .

A Transactional Analysis Of Internet Commerce

The extent to which an Internet Web site confers personal jurisdiction in the forum in which the consumer's computer is located has been addressed recently by several courts(93). A useful jurisdictional analysis appears in *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*, (94) a trademark infringement action brought by the manufacturer of " Zippo " lighters against a computer news service using the Internet domain name of " zippo.com ". In *Zippo*, the defendant was a California based news service with an interactive Web site " through which it exchanges information with Pennsylvania residents in hopes of using that information for commercial gain later ". The defendant had entered into news service contracts(95) with 3,000 Pennsylvania residents and 7 " contracts with Internet access providers to furnish services to their customers in Pennsylvania ". Since it was defendant's " conscious choice to conduct business (in Pennsylvania)" the Court asserted personal jurisdiction based upon the following analysis. " At one end of the spectrum are situations where a defendant clearly does business over the Internet. If the defendant enters into contracts with residents

of a foreign jurisdiction that involve the knowing and repeated transmission of computer files over the Internet, personal jurisdiction is proper...At the opposite end are situations where a defendant has simply posted information on an Internet Web site which is accessible to users in foreign jurisdictions. A passive Web site that does little more than make information available to those who are interested in it is not grounds for the exercise (of) personal jurisdiction ...The middle ground is occupied by interactive Web sites where a user can exchange information with the host computer. In these cases, the exercise of jurisdiction is determined by examining the level of interactivity and commercial nature of the exchange of information that occurs on the Web site." Implicit in the *Zippo* analysis and those cases which have followed it as discussed below is some form of continuous transaction of business. This is not say, however, that a single Interact transaction involving the sale of goods or services may not be sufficient to establish personal jurisdiction(96). Recent cases(97), with some exceptions(98), continue to use the *Zippo* analysis in determining whether and to what extent Internet activity provides a sufficient basis for the assertion of personal jurisdiction.

Burden Of Proof

In addition, plaintiffs carry the burden of establishing, in detail, a level of internet activity sufficient to warrant the assertion of personal jurisdiction. For example, the Court in *Hensgens v. Pelican Beach Resort* (98.1) the Courts stated that "While customers have the option of booking their reservations line...Hensgens only used the Internet site to view pictures of the property...Hensgen has not met his initial burden of showing sufficient minium contacts with the State of Louisiana".

In *Matthews v. Kerzner International Limited* (99), a case involving a guest's accident caused by an allegedly defective water slide, the Court noted that "while some courts have exercised general jurisdiction on the basis of 'virtual stores' and other online activity approximating physical presence in the forum, Plaintiff presents only a blanket assertion that 'Defendants' collectively do business through www.atlantis.com and fails to present facts concerning the nature, quality and volume of activity through the site and its nexus to Ohio...While the court is sensitive to the fact that Plaintiff seeks redress for his injuries in a convenient forum, Plaintiff must nevertheless present some facts from which the court can make a good-faith and well-reasoned decision concerning the issue of jurisdiction".

In *Wilson v. RIU Hotels & Resorts*(100), a hotel guest slipped and fell in a bathtub/shower injuring herself but failed to establish personal jurisdiction over the hotel although she booked the tour through a travel agent/tour operator Apple Vacation's website. The Court noted that "Maintenance of a website which allows users to reserve reservations at Defendant's resorts does not demonstrate that Riusa II (hotel) has had systematic and continuous contact with Pennsylvania. General jurisdiction 'requires more than a recognition that a nonresident corporation has an 'interactive' web site'".

In *Orazi v. Hilton Hotels Corporation*(100.1) the Court stated that "The 'mere operation of a commercially interactive web site' that is accessible in the forum is insufficient to demonstrate the web operator purposefully directed its activities at the forum. The defendant must also either 'intentionally target[]the site to the forum state and/or knowingly conduct[] business with forum state residents via the site...Plaintiffs have not presented any evidence of the extent of online transactions between Hilton...Pennsylvanians".

In *Gianfredi v. Hilton Hotels Corp., Inc.*(100.2) the Court stated that "Plaintiffs have not cited any proof for the amount of income they allege HIPR generates through internet reservations...(and) have not demonstrated the interactivity of the website...Plaintiff's burden at this stage (is) to show how

New Jersey is the suitable forum based on the website. This they have not done".

In *Rosier v. Cascade Mountain, Inc.*(100.3) the Court stated that "The Rosiers contend the Cascade Mountain website 'provide[s] for online purchase[s]' but fails to offer evidence that the website is being used for actual purchases".

Passive Web Sites

If the foreign company maintains an informational Web site accessible to the general public but which can not be used for making reservations then most(101), but not all(102), Courts would find it unreasonable to assert personal jurisdiction. For example, in *Weber v. Jolly Hotels*(103) a New Jersey resident purchased a tour packaged by a Massachusetts travel agent, not an exclusive selling agent, which featured accommodations at a Sicilian hotel owned by an Italian corporation, Itajolly Compagnia Italiana Dei Jolly Hotels [" Jolly Hotels "]. Jolly Hotels conducted no business in New Jersey but had a subsidiary which owned a hotel in New York City which could make reservations at all of its hotels. The plaintiff sustained injuries at defendant's Sicilian hotel and brought suit against Jolly Hotels in New Jersey. Jolly Hotels maintained a Web site accessible in New Jersey which provided "\photographs of hotel

rooms, descriptions of hotel facilities, information about numbers of rooms and telephone numbers. The Web site could not be used to make reservations at any of Jolly Hotels. Finding the Web site to be passive in nature the Court dismissed the complaint for a lack of personal jurisdiction but transferred the case to New York because defendant's subsidiary's New York City hotel could make reservations at all Jolly Hotels.

Passive Web Sites Plus

However, passive Web sites combined with other business activity, e.g., the activities of subsidiary corporations in the forum(104), providing trainees to a company doing business in the forum(105), entering into a licensing agreement with a company in the forum and selling to three companies in the forum(106), entering into a contract with a company in the forum which contained a forum selection clause and multiple e-mail communications to the forum(107), e-mail, fax and telephone communications(108), contracts and various correspondence surrounding those contracts(109), various support services incident to sales(110), e-mail, fax, telephone and regular mail communications(111) and 12 sales in the forum and plans to sell more(112), mortgage loan applications printed out and chats online with mortgage representatives(113), fielding e-mail

questions about products and sending information about orders(114), " the web site contains several interactive pages which allow customers to take and score performance tests, download product demos, and order products on-line (and) provides a registration form whereby customers may obtain product brochures, test demonstration diskettes or answers to questions "(115), may provide a reasonable basis for the assertion of personal jurisdiction.

Interactive Web Sites

If the Web site provides information, e-mail communication, describes the goods or services offered, downloads a printed order form or allows on-line sales(116) with the use of a credit card and sales are, in fact, made(117) in this manner in the forum, particularly by the injured consumer(118), then some Courts(119) but not all(120) have found the assertion of personal jurisdiction reasonable. In addition, some Courts may require that the interactivity be coupled with the transaction of substantial business in the forum(121) or has a "substantial nexus or connection"(121.1) or "targets a particular remote jurisdiction"(122) or is related to the operative facts of the litigation(122.1). This seems to be the trend for the sale of goods and services that are delivered after they are ordered by

the consumer on his or her home computer. As noted above, however, at least one court has made an unwarranted distinction between placing Internet orders for the immediate delivery of goods and services and making reservations for delivery of hotel accommodations some time in the future(123). Although this area of the law is developing it is fair, at this point, to make the following conclusions.

Lowest Level Of Interactivity

First, the lowest level of travel Web site interactivity, involving e-mail communications which allow travelers to request information but not make reservations, would be an insufficient basis for jurisdiction [*Smith v. Basin Park Hotel, Inc.*(124) (although the hotel had a Web site the Court found no basis for asserting jurisdiction since " [t]here is no evidence that any commercial transactions are actually completed on (the hotel's) website. The website merely permits a user to submit an email to (the hotel) requesting reservations information. No reservation is confirmed over the website "); *Cervantes v. Ramparts, Inc.* (125) (" Ramparts' only ' continuous ' contact with this state in that it maintained a Web site which allowed Internet users in California, or anywhere else, to learn about and send e-mails to the Luxor Hotel. That the Ramparts Web site permitted limited

interactivity does not distinguish it from maintenance of an '800' telephone number for purposes of establishing general jurisdiction ")].

Middle Level Of Interactivity

Second, the middle level of travel Web site interactivity, involving the ability to obtain information, communicate by email and, in fact, make hotel reservations has generated cases finding a sufficient basis for jurisdiction [see *Conley v. MLT, Inc.* (126) (slip and fall at Mexican resort; personal jurisdiction; "Defendant's website is a fully interactive one in which customers or travel agents may book stays at the various hotels and resorts owned by Defendants...from 2007 to 2010, 155 guests with Michigan addresses booked hotel or resort reservations through Defendants' website"); *Diem v. Quinn Hotel Praha, A.S.* (127) (slip and fall at Hilton Prague Hotel; no personal jurisdiction based "an intermediate site neither active nor completely passive...there is no indication that Quinn purposely aimed tortious conduct at Texas"); *Brown v. Grand Hotel Eden-A Summit Hotel* (128), a case in which a guest was injured at a Swiss hotel the services of which were marketed through a joint reservation Web site, the Court found that " Hotel Eden's presence on the Summit Hotels website, which also permits

reservations to be confirmed automatically supports our finding that Hotel Eden is ' doing business ' in the State of New York ". Following discovery, *Brown* was modified(129), the Court there finding that, in actuality, neither Summit's Web site nor the Hotel Eden's Web site could confirm reservations. " The only interactivity Hotel Eden's website allows is the opportunity for users to inquire into room availability. Upon receiving these inquiries, the hotel responds, through e-mail or fax, with an offer if a suitable room is available; the user then must respond to the hotel to accept the offer "); *Decker v. Circus Circus Hotel*(130) ("...it is clear that any customer can reserve a room through the Web site...by making reservations available on the Internet, the defendants have effectively placed their hotel and its services into an endless stream of commerce "); *Grutkowski v. Steamboat Lake Guides* (131)(" This site does not permit a reader to purchase or reserve tours over the Internet and thus, does not permit (defendant) to ' transact business ' over the Internet")] and cases finding an insufficient basis for jurisdiction [*Rodriguez v. Circus Circus Casinos, Inc.*(132)(no jurisdiction based upon interactive reservations Web site); *Imundo v. Pocono Palace, Inc*(133) (no jurisdiction based upon interactive reservations Web site); *Snyder v. Dolphin Encounters Limited*(134) (no jurisdiction based on interactive reservations Web site); *Bell v. Imperial Palace Hotel/Casino, Inc.*(135) (no

jurisdiction based upon interactive reservations Web site);
Arriaga v. Imperial Palace, Inc. (136) (no jurisdiction based
upon interactive reservations Web site)].

Highest Level Of Interactivity

Third, the highest level of travel Web site interactivity, involving the purchase of travel services on the Web site together with other business contacts with the forum, would provide a sufficient basis for jurisdiction [See *York v. Tropic Air, Ltd.* (136.1) ("Tropic Air operates an interactive website by which individuals around the world, including Texas, can purchase tickets on the airline... Approximately 33% of Tropic Air's overall business is booked through this website, which allows visitors to search for flights, book fares online, and pay online at the time of purchase via an integrated credit card processing service...Tropic Air sold 7,201 tickets to persons with a credit card that had a Texas billing address during the period September 2006 to August 2010...which equates to an average of 6.58 passengers with a Texas billing address per day...Tropic Air's website falls under the highly interactive category by offering customers the ability to search for flights, book travel and pay fares"; *Conley v. MLT, Inc.* (136.2) (vacationer injured at Mexican hotel when "one of the support poled on the hammock upon which he

was laying broke causing him to fall and suffer serious head injuries... fractur(ing) his skull and was subsequently airlifted from Cozumel, Mexico to Broward County, Florida where he underwent emergency surgery...Here, Defendants' website is a fully interactive one in which customers or travel agents may book stays at the various hotels and resorts owned by Defendants. In fact, from 2007 to 2010, 155 guests with Michigan addresses booked travel or resort reservations from Defendants' website...There is no dispute that Defendants entered into contracts with Michigan residents using their website. Additionally, Plaintiffs submitted significant evidence that Defendants directly focused marketing efforts toward Michigan residents. Allegro representatives attend annual trade shows in Michigan and engage in direct mail and e-mail solicitations to Michigan-based travel agencies and tour operators. Defendants have entered into Cooperative Marketing Agreements with Defendant MLT, a tour operator based out of Minnesota...These agreements describe Defendants' marketing efforts in detail and specifically provide for email, direct mail and radio advertising in Michigan"); *Silk Air v. Superior Court*(136.3) (general jurisdiction over foreign air carrier " based upon (1) Silk Air's continuing and substantial revenue in California, (2) its advertising in California by means of flyers distributed through its parent company's Los Angeles offices and (3) its interactive

internet site allowing Californians to purchase tickets on its airline "); *In re Ski Train Fire in Kaprun, Austria* (136.4) (" Siemens AG conducts substantial and continuous business... conducting sales in New York over the Internet, being listed on the New York Stock Exchange...buying a New York company...employs a press contact here and has sued in New York "). And in *Snowey v. Harrah's Entertainment Inc.* (136.5), the Court found jurisdiction under California long arm state based on advertising, toll-free reservations number and an 'Internet site [that] is interactive. California customers can and do make room reservations online. The site also provides driving directions to the hotels...These features constitute an effort to solicit business from California residents".

Third Party Websites

In *Elayyan v. Sol Melia, S.A.* (136.6) a hotel's use of third party websites for the placement of reservations was deemed insufficient for jurisdiction over the hotel. "Sol Melia...does pay commissions to third party websites for reservations placed at Sol-brand hotels. This relationship is analogous to the Defendants' relationships with travel agents and tour operators since the third party websites operate as independent sales agent...The Court has already established that 'sales and sales

promotion activities through independent nonexclusive sales representatives are not enough by themselves to subject an out-of-state company to local jurisdiction in actions unrelated to those activities”.

Conclusion

ENDNOTES

81. See e.g., *Grimaldi v Guinn*, 72 A.D. 3d 37 (N.Y.A.D. 2010) (A New Jersey resident who agreed with a New York resident to rebuild the New Yorker’s vintage car in New Jersey was nonetheless subject to New York’s long-arm jurisdiction, where the New Jersey resident not only operated a passive, noninteractive web site on the Internet, but actively pursued and solicited the plaintiff’s business in New York by means of phone calls, faxes, e-mail, and regular mail. The plaintiff purchased engine parts for a vintage Chevrolet Camaro from a Georgia-based dealer. The parts were shipped to the plaintiff at his home in New York, along with documentation that included a certification by Wayne D. Guinn, a New Jersey vintage car expert, to the effect that the parts were authentic. The plaintiff thereafter communicated with Guinn by means of numerous telephone calls,

faxes, and e-mails. He also viewed Guinn's passive internet website. Guinn also mailed, to the plaintiff's home in New York, a book he authored on the subject vintage Camaros, and personally inscribed it to the plaintiff with a suggestion that they "get together" for the purpose of installing the parts. The plaintiff thereafter retained Guinn to install the parts and, according to the plaintiff, Guinn represented on several occasions that he could install the parts and rebuild the engine of the plaintiff's vintage Camaro. In reliance on these representations, the plaintiff personally delivered his Camaro and the engine parts to a Pennsylvania auto mechanic, who accepted those items on Guinn's behalf. Following delivery of the Camaro, Guinn posted information on his website, essentially advertising that plaintiff's Camaro had been delivered to him for reassembly. As the plaintiff recounted it, once he delivered the vehicle, he learned that a different New Jersey auto mechanic would be involved in the project. After paying Guinn and the two mechanics involved in the project a sum of money that, according to the plaintiff, was more than 50% greater than the initial estimate for the project, and receiving vague assurances that the project was being completed, the plaintiff recovered the Camaro and all of the engine parts totally disassembled and not near completion, by which time approximately one year had elapsed since the date he delivered the vehicle and parts for assembly.

The plaintiff commenced this action in New York, asserting causes of action alleging breach of contract, fraudulent misrepresentation, and a course of deceptive business practices in violation of General Business Law § 349. This Court concluded that Guinn was subject to the long-arm jurisdiction of the New York courts. Although Guinn's website was a passive website (i.e., one on which an internet user may only browse) and, thus, insufficient alone to confer personal jurisdiction over Guinn, when passive websites are combined with other activities undertaken in New York, there may be a reasonable basis for the assertion of personal jurisdiction by the New York courts. In addition to the operation of the passive website, Guinn's initiation and transmission to the plaintiff, from New Jersey to New York, of numerous telephone, fax, e-mail, and other written communications constituted sufficient contacts with New York to warrant the assertion of personal jurisdiction over Guinn. Thus, this Court concluded that Guinn engaged in the "purposeful creation of a continuing relationship" with the plaintiff (Fischbarg v Doucet, 9 NY3d 375, 381 [internal quotation marks omitted]) sufficient to warrant the exercise of in personam jurisdiction); Deer Consumer Products, Inc. v. Little, 35 Misc. 3d 374 (N.Y. Sup. 2012) ("There is no indication that Little's internet postings on these websites, which are merely accessible to anyone-in New York and in the entire world-were expressly

targeted at anyone in New York"); *Null v. Phillips*, 29 Misc. 3d 245 (N.Y. Sup. 2010) ("The case at bar involves developing issues of New York long-arm jurisdiction in a defamation action based on statements appearing on an internet website...(Relying on *Best Van Lines, Inc. v. Walker*, 490 F. 3d 239, 250 (2d Cir. 2007) ("posting of defamatory material on a website accessible in New York does not, without more, constitute transact[ing] business' in New York for the purposes of New York's long-arm statutes") the Null court found that the) comments on his personal website does not suggest that they were specifically targeted to New York viewers as opposed to a nationwide audience").

82. See e.g.,

Second Circuit: *Brown v. Grand Hotel Eden*, *2003 WL 21496756 (S.D.N.Y. 2003) (" a hotel is subject to the general jurisdiction of the New York courts...(Where) full confirmation powers (have been granted) to their New York agents "); *In re Ski Train Fire in Kaprun, Austria*, 2002 U.S. Dis. LEXIS 14563 (S.D.N.Y. 2002) (subsidiary qualified as an agent in the forum); *Pavia v. Club Med, Inc.*, *1998 WL 229912 (D. Conn. 1998) (solicitation through travel agents in the forum by agent sufficient basis for jurisdiction over principal); *Sankaran v. Club Mediterranee, S.A.*, *1998 WL 433780 (N.D.N.Y. 1998) (" Defendants' activities through their agents also suffice to show

that they have established the requisite contacts with New York ").

Third Circuit: *Orazi v. Hilton Hotels Corporation*, 2010 WL 4751728 (E.D. Pa. 2010) ("Plaintiffs' agency claims rest principally on the allegation that Allen Stacy has authorized Hilton to make binding reservations on its behalf...this Court agrees that where a forum-state reservation service has the power to not only make reservations on behalf of a non-resident defendant but also to confirm them without need for further authorization from the defendant, the reservation service acts as non-resident's agent. Such a relationship satisfies the traditional elements of agency").

Sixth Circuit: *Catalano v. BRI, Inc.*, 724 F. Supp. 1580 (E.D. Mich. 1989) (Michigan has personal jurisdiction over Las Vegas hotel based upon conducting business through an agent with offices in Michigan).

Seventh Circuit: *Cummings v. Club Meditteranee, S.A.*, *2002 WL 1379128 (N.D. Ill. 2002) (solicitation through travel agents in the forum by agent sufficient basis for jurisdiction over principal).

83. See e.g.,

Sixth Circuit: *Conley v. MLT, Inc.*, *2012 WL 1893509 (E.D. Mich. 2012) (vacationer injured at Mexican hotel when "one of the support poled on the hammock upon which he was laying broke

causing him to fall and suffer serious head injuries...
fractur(ing) his skull and was subsequently airlifted from
Cozumel, Mexico to Broward County, Florida where he underwent
emergency surgery"; jurisdiction over parent of hotel based upon
activities of the subsidiary in the forum; "The Sixth Circuit has
adopted an alter-ego theory of personal jurisdiction. This theory
'provides that a non-resident parent corporation is amenable to
suit in the forum state if the parent company exerts so much
control over the subsidiary that the two do not exist as separate
entities but are one and the same for purposes of
jurisdiction...factors to determine whether the alter-ego theory
of personal jurisdiction applies: (1) sharing the same employees
and corporate officers; (2) engaging in the same business
enterprise; (3) having the same address and phone lines; (4)
using the same assets; (5) completing the same jobs; (6) not
maintaining separate books, tax returns and financial statements
and (7) exerting control over the daily affairs of another
corporation")

Eleventh Circuit: *Meier v. Sun International Hotels*, 288 F.
3d 1264 (11th Cir. 2002) (jurisdiction over foreign parent
corporation based upon activities of subsidiary corporations in
the forum).

State Courts:

Connecticut: *Hersey v. Lonrho, Inc.*, 807 A. 2d 1009 (Conn.

App. 2002) (no jurisdiction over parent hotel based solicitation of subsidiary in the forum).

Florida: Universal Caribbean Establishment v. Bard, 543 So. 2d 447 (Fla. App.

1989) (jurisdiction based upon activities of subsidiary corporations in the forum).

New York: Taca Intl. Airlines v. Rolls-Royce of England, 15 N.Y. 2d 97, 256 N.Y.S. 2d 129, 204 N.E. 2d 329 (1965).

84. See e.g.,

Intermor v. Walt Disney Company, 250 F. Supp. 2d 116, 119-120 (E.D.N.Y. 2003) (the presence of Walt Disney Company in New York insufficient to impose jurisdiction over subsidiary Walt Disney World theme park in Florida); Dorfman v. Marriott International Hotels, Inc., *2002 WL 14363 (S.D.N.Y. 2002) (New York has jurisdiction over Hungarian elevator company which is a mere department of U.S. elevator company); Grill v. Walt Disney Co., 683 F. Supp. 66, 69 (S.D.N.Y. 1988) (" There is nothing in the record which suggests that Disney Co. acts as agent for Disney World Co. or that Disney World Co. is merely a department of Disney Co. Accordingly, the presence of the parent company in New York does not confer jurisdiction over...Disney World Co. ").

Third Circuit: Weintraub v. Walt Disney World Co., 825 F. Supp. 717 (E.D. Pa. 1993) (Pennsylvania has jurisdiction over

Florida resort Walt Disney World based upon connections of parent corporation Walt Disney Company to Pennsylvania).

85. See *Dorfman v. Marriott International Hotels, Inc.*, *2002 WL 14363 (S.D.N.Y. 2002) (Hungarian and U.S. elevator companies joint venturers).

86. See e.g.,

Second Circuit: *Gelfand v. Tanner Motor Tours, Ltd.*, 385 F. 2d 116 (2d Cir. 1967).

State Courts:

New York: *Guile v. Sea Island Co., Inc.*, 11 Misc. 2d 496, 66 N.Y.S. 2d 467 (1946), *aff'd* 272 App. Div. 881, 71 N.Y.S. 2d 911 (1947).

87. See e.g.,

Second Circuit: *Pavia v. Club Med, Inc.*, *1998 WL 229912 (D. Conn. 1998) (solicitation through travel agents in the forum by agent sufficient basis for jurisdiction over principal);

Third Circuit: *Romero v. Argentinas*, 834 F. Supp. 673 (D.N.J. 1993).

Tenth Circuit: *Afflerbach v. Cunard Line. Ltd.*, 11 F. Supp. 2d 1260 (D. Wyo. 1998).

State Courts:

New York: *Savoleo v. Couples Hotel*, 136 A.D. 2d 692, 524

N.Y.S. 2d 52 (1988).

88. See e.g.,

Sixth Circuit: Hughes v. Cabanas del Caribe Hotel, 744 F. Supp. 788 (E.D. Mich. 1990).

Seventh Circuit: Wilson v. Humphreys, 916 F. 2d 1239 (7th Cir. 1990).

89. See e.g., Intermor v. Walt Disney Company, 250 F. Supp. 2d 116, 119-120 (E.D.N.Y. 2003).

90. See e.g., Orazi v. Hilton Hotels Corp., *2010 WL 4751728 (E.D. Pa. 2010) ("Plaintiffs' agency claims rest principally on the allegation that Allen Stacy has authorized Hilton making binding reservations on its behalf. They rely on a series of hotel reservation service cases applying New York law, wherein the in-state reservation service's authority to make and confirm reservations without consulting the non-resident defendant—that is, the ability to bind the defendant—was a determinative factor in the courts' finding of agency. Courts in this Circuit likewise appear to place weight on the agent's authority, of lack thereof, to commit the non-resident to a reservation...this Court agrees that where a forum-state reservation service has the power to not only make reservations on behalf of a non-resident defendant but also to confirm them without need for further authorization from the defendant, the reservation service acts as non-resident's agent. Such a relationship satisfies the traditional elements of

agency").

91. See e.g.,

First Circuit: *Sigros v. Walt Disney World Co.*, 129 F. Supp. 2d 56 (D. Mass. 2001)(advertising sufficient basis for jurisdiction); *Edwards v. Adventures, Inc.*, 164 F. Supp. 2d 190 (D. Mass. 2001)(solicitation sufficient basis for jurisdiction); *Szafarowicz v. Gotterup*, 68 F. Supp. 2d 38 (D. Mass. 1999)(Massachusetts may have jurisdiction over Cayman Island diving company if a significant amount of business was done in the U.S.); *Nowak v. Tak How Inc. Ltd.*, 899 F. Supp. 25 (D. Mass. 1995).

Second Circuit: *Pavia v. Club Med, Inc.*, *1998 WL 229912 (D. Conn. 1998)(solicitation through travel agents in the forum sufficient basis for jurisdiction); *Sankaran v. Club Mediterranee, S.A.*, *1998 WL 433780 (N.D.N .Y. 1998)(solicitation through travel agents in the forum sufficient basis for jurisdiction); *Mallon v. Walt Disney World Co.*, 42 F. Supp. 2d 143 (D. Conn. 1998)(continuous and extensive advertising in the forum, without contract formation, is sufficient to establish jurisdiction over foreign resort); *Begley v. Maho Bay Camps*, 850 F. Supp. 172 (E.D.N.Y. 1994)(jurisdiction based upon newspaper ads and contact in New York City).

Third Circuit: *Weintraub v. Walt Disney World Co.*, 825 F. Supp. 717 (E.D. Pa. 1993)(advertising, staffing and customer relations activities sufficient to support jurisdiction);

Gavigan v. Walt Disney World, Inc., 646 F. Supp. 786 (E.D. Pa. 1986)(jurisdiction based upon ongoing promotional activities in the forum).

Fifth Circuit: Kervin v. Red River Ski Area, Inc., 711 F. Supp. 1383 (E.D. Tex. 1989)(solicitation of business sufficient for jurisdiction).

Sixth Circuit: Raftery v. Blake's Wilderness Outpost Camps, 950 F. Supp. 196 (E.D. Mich. 1997)(advertising sufficient for jurisdiction).

Seventh Circuit: Wilson v. Humphreys, 916 F. 2d 1239 (7th Cir. 1990)(advertising and contacts with local tour operators sufficient for jurisdiction); Cummings v. Club Mediterranee, S.A., *2002 WL 1379128 (N.D. Ill. 2002)(solicitation through travel agents in the forum sufficient basis for jurisdiction).

State Courts:

Connecticut: Stewart v. Air Jamaica Holdings Ltd., 2000 U.S. Conn. Super. 1107 (Conn. Super. 2000)(plaintiff fails to prove solicitation of business in Connecticut).

92. See e.g.,

First Circuit: Rosich v. Circus & Circus Enterprises, Inc., 3 F. Supp. 2d 148 (D.P.R. 1998)(advertising through travel guide and brochures insufficient contact); Clark v. City of St. Augustine, Florida, 977 F. Supp. 541 (D. Mass. 1997) (advertising in forum insufficient contact).

Second Circuit: Enderby v. Secrets Matoma Beach Riviera Cancun, *2011 WL 6010224 (E.D.N.Y. 2011) (slip and fall accident at Mexican hotel; "When solicitation involves a website, 'the fact that a foreign corporation has a website accessible to New York is sufficient to confer jurisdiction under CPLR 301...A court must 'examine the nature of quality of the activity' on the website, which may range from 'passive websites that display but do not permit an exchange of information' to 'interactive [websites], which permit the exchange of information between the defendant and [website] viewers' to 'cases in which the defendant clearly does business over the internet'"; no jurisdiction; passive website); Brown v. Grand Hotel Eden, 214 F. Supp. 2d 235 (S.D.N.Y. 2002) mod'd, Brown v. Grand Hotel Eden, *2003 WL 21496756 (S.D.N.Y. 2003) (" there is well-developed law addressing jurisdiction over foreign hotels. If a New York agent possesses independent authority to make and confirm reservations on behalf of a hotel, the hotel is considered present...merely soliciting business from prospective customers in New York does not suffice to establish jurisdiction); Dorfman v. Marriott International Hotels, Inc., *2002 WL 14363 (S.D.N.Y. 2002) (no jurisdiction over Marriott Hotel in Budapest, Hungary or Marriott International Hotels, Inc. based upon solicitation without contract formation in the forum; reservations contracts entered into in Nebraska at worldwide reservations system); Ciarcia v.

Venetianm Resort Hotel Casino, *2002 WL 265160 (S.D.N.Y. 2002) (" mere solicitation by mailings and telephone calls does not confer jurisdiction "); Muse v. Vagabond Inn Hotel, *2002 WL 15803 (E.D.N.Y. 2002) (solicitation of business through toll-free telephone number insufficient for assertion of jurisdiction); Hinsch v. Outrigger Hotels Hawaii, 153 F. Supp. 2d 209 (E.D.N.Y. 2001) (placement of ad in publication insufficient for assertion of jurisdiction); Andrei v. DHC Hotels and Resorts, 2000 U.S. Dist. LEXIS 4107 (S.D.N.Y. 2000) (mere solicitation of business insufficient for jurisdiction); Feldman v. Silverleaf Resorts, Inc., 2000 U.S. Dist. LEXIS 1005 (S.D.N.Y. 2000) (solicitation, regardless of how substantial, is insufficient to establish jurisdiction); Swindell v. Florida East Coast Railway Co., 42 F. Supp. 2d 320 (S.D.N.Y. 1999) (railroad ticket sales by travel agents and employees at separately owned train stations insufficient to establish jurisdiction); Weinberg v. Club ABC Tours, Inc., *1997 WL 37041 (E.D.N.Y. 1997) (ticket of ticket insufficient to confer jurisdiction); Lane v. Vacations Charters, Ltd., 750 F. Supp. 120 (S.D.N.Y. 1990) (ads and toll free number insufficient contact).

Third Circuit: Inzillo v. Continental Plaza, 2000 U.S. Dist. LEXIS 20103 (M.D. Pa. 2000) (advertising and selling hotel accommodations through travel agents and 800 number insufficient

basis for jurisdiction); Poteau v. Walt Disney World Company, 1999 U.S. Dist. LEXIS 12459 (E.D. Pa. 1999)(solicitation of business through travel agents insufficient to establish jurisdiction); Romero v. Holiday Inn, Utrecht, 1998 U.S. Dist. LEXIS 19997 (E.D. Pa. 1998)(advertising through franchisor's Worldwide Directory and making reservations through 800 number insufficient for jurisdiction).

Fourth Circuit: Pearson v. White Ski Company, Inc., 228 F. Supp. 2d 705 (E.D. Va. 2002)(solicitation through advertising and Internet in the forum insufficient to establish jurisdiction in the absence of a connection between advertising and the injury sustained).

Sixth Circuit: Stone v. Twiddy & Company of Duck, Inc., 2012 WL 3064103 (S.D. Ohio 2012) ("mere solicitation of business does not constitute transaction business in Ohio for purposes of establishing jurisdiction"); Denham v. Sampson Investments, 997 F. Supp. 840 (E.D. Mich. 1998)(sending brochures to forum and reserving rooms at hotels insufficient contact).

Seventh Circuit: Ruddy v. Wilmot Mountain, Inc., *2011 WL 3584418 (N.D. Ill. 2011) (skier injured after falling from chairlift; no personal jurisdiction; "Wilmot's website permits anyone, not just Illinois residents, willing to travel to Wisconsin to purchase season passes, lift tickers, gift certificates and sign up for rentals. The only portion of the

website that is directed towards Illinois residents is a page that provides links to Google Maps directions to Wilmot from four Illinois cities...Providing directions to the ski resort from Illinois is simply a component of advertising...virtually all of defendant's contacts with Illinois involve the solicitation of business. Illinois courts consistently reject mere solicitation of business as a basis for the exercise of general personal jurisdiction"); Dresden v. Treasure Island, LLC, 2001 U.S. Dist. LEXIS 13928 (N.D. Ill. 2001)(indirect advertising in the forum insufficient contact).

Tenth Circuit: Rainbow Travel Service, Inc. v. Hilton Hotels Corp., 896 F. 2d 1233 (10th Cir. 1990)(jurisdiction based upon solicitation and contract formation in the forum); Afflerbach v. Cunard Line, Ltd., 14 F. Supp. 2d 1260 (D. Wyo. 1998) (national advertising and selling tours through travel agents insufficient contact).

State Courts:

California: Silk Air v. Superior Court, *2003 WL 40818 (Cal. App. 2003)(" It is true that case law holds jurisdiction cannot be assumed over a foreign corporation based solely upon sales by independent non-exclusive agents ").

Connecticut: Hersey v. Lonrho, Inc., 807 A. 2d 1009 (Conn. App. 2002)(no jurisdiction over parent hotel based on solicitation of subsidiary in the forum).

Illinois: *Stein v. Rio Parismina Lodge*, 296 Ill. App. 3d 520, 521, 695 N.E. 2d 518, 231 Ill. Dec. 1 (1998)(transaction of business through travel agents insufficient contact); *Kadala v. Cunard Lines, Ltd.*, 226 Ill. App. 3d 302, 304, 589 N.E. 2d 802, 168 Ill. Dec. 402 (1992) (solicitation of business in the forum insufficient contact).

New York: *Sedig v. Okemo Mountain*, 204 A.D. 2d 709, 612 N.Y.S. 2d 643 (1994)(mere solicitation insufficient).

Texas: *M.G.M. Grand Hotel, Inc. v. Lee Castro*, 8 S.W. 3d 403 (Tex. App. 1999)(solicitation plus doctrine followed in Texas).

93. See e.g.,

Second Circuit: *Brown v. Grand Hotel Eden*, 214 F. Supp. 2d 235 (S.D.N.Y. 2002)

mod'd, *Brown v. Grand Hotel Eden*, *2003 WL 21496756 (S.D.N.Y. 2003); *Rodriquez v. Circus Circus Casinos, Inc.*, 2001 U.S. Dist. LEXIS 61 (S.D.N.Y. 2001); *In re Ski Train Fire in Kaprun, Austria*, 2002 U.S. Dist. LEXIS 14929 (S.D.N.Y. 2002).

Third Circuit: *Imundo v. Pocono Palace, Inc.*, *2002 WL 31006145 (D.N.J. 2002); *Snyder v. Dolphin Encounters Limited*, 2003 WL 31771189 (E.D. Pa. 2002) ; *Decker v. Circus Hotels*, 49 F. Supp. 2d 743, 748 (D.N.J. 1999); *Romero v. Holiday Inn, Utrecht*, 1998 U.S. Dist. LEXIS 19997 (E.D. Pa. 1998); *Weber v. Jolly Hotels*, 977 F. Supp. 327 (D.N.J. 1997)..

Fourth Circuit: Pearson v. White Ski Company, Inc., 228 F. Supp. 2d 705 (E.D. Va. 2002).

Fifth Circuit: York v. Tropic Air, Ltd., 2012 WL 1077198 (S.D. Tex. 2012); Diem v. Quinn Hotel Praha, A.S., 2012 WL 524182 (S.D. Tex. 2012); Arriaga v. Imperial Palace, Inc., 252 F. Supp. 2d 380 (S.D. Texas 2003).

Sixth Circuit: Stone v. Twiddy & Company of Duck, Inc., 2012 WL 3064103 (S.D. Ohio 2012); Conley v. MLT, Inc., 2012 WL 1893509 (E.D. Mich. 2012); Caldwell v. CheapCaribbean.Com, Inc., 2010 WL 3603778 (E.D. Mich. 2010).

Seventh Circuit: Ruddy v. Wilmot Mountain, Inc., 2011 WL 3584418 (N.D. Ill. 2011).

Eighth Circuit: Bell v. Imperial Palace Hotel/Casino, Inc., 200 F. Supp. 2d 1082, 1087-1088 (E.D. Mo. 2001).

Ninth Circuit: Chan v. ResortQuest Park City, LLC, 2011 WL 3555624 (E.D. Cal. 2011).

Tenth Circuit: Smith v. Basin Park Hotel, Inc., 178 F. Supp. 2d 1225 (N.D. Okla. 2001).

State Courts:

California: Silk Air v. Superior Court, *2003 WL 40818 (Cal. App. 2003); Cervantes v. Ramparts, Inc., 2003 WL 257770 (Cal. App. 2003).

Illinois: Rosier v. Cascade Mountain, Inc., 855 N.E. 2d 243

(Ill. App. 2006).

Louisiana: Hensgens v. Pelican Beach Resort, 2012 WL 4794601 (La. App. 2012).

Massachusetts: Berry v. Cook, 2011 WL 5841768 (Mass. Super. 2011).

Texas: Wet-A-Line, LLC v. Amazon Tours, Inc., 315 S.W. 3d 180 (Tex. App. 2010).

94. Zippo Manufacturing Co. v. Zippo Dot Com, Inc., 952 F. Supp. 1119 (W.D. Pa. 1997).

95. Id at 952 F. Supp. 1121 (" Dot Com's Web Site contains information about the company, advertisements and an application for its Internet news service...A customer who wants to subscribe ...fills out an on-line application...Payment is made by credit card over the Internet or the telephone. The application is then processed and the subscriber is assigned a password which permits the subscriber to view and/or download Internet newsgroup messages that are stored on the defendant's server in California ").

96. Compare Hinnens v. Robey, 336 S.W. 3d 891 (Ky. Sup. 2011) (a single sale of a car over the Internet through an eBay transaction insufficient to establish personal jurisdiction) with Grimaldi v. Guinn, 72 A.D. 3d 37, 895 N.Y.S. 2d 156 (2d Dept. 2010) (A New Jersey resident who agreed with a New York resident to rebuild the New Yorker's vintage car in New Jersey was

nonetheless subject to New York's long-arm jurisdiction, where the New Jersey resident not only operated a passive, noninteractive web site on the Internet, but actively pursued and solicited the plaintiff's business in New York by means of phone calls, faxes, e-mail, and regular mail).

97. See e.g.,

First Circuit: *Signazon v. Nickelson*, 2013 WL 3168372 (D. Mass. 2013) (follows *Zippo* "sliding scale" standard).

Second Circuit: *Enderby v. Secrets Matoma Beach Riviera Cancun*, *2011 WL 6010224 (E.D.N.Y. 2011) (slip and fall accident at Mexican hotel; no jurisdiction; passive website); *Heidle v. The Prospects Reef Resorts, Ltd.*, 364 F. Supp. 2d 312 (W.D.N.Y. 2005) (slip and fall into cistern in time share facility in Tortola, British West Indies; no personal jurisdiction).

Third Circuit: *Bell v. Fairmont Raffles Hotel International*, 2013 WL 1291005 (W.D. Pa. 2013) ("This Court's analysis in *Zippo* has met with some measure of success, and even has been applied to issues of general jurisdiction. However, more recently, the application of *Zippo* to such cases has been treated with disfavor. 'In the wake of *Zippo*, courts have been reluctant to find general jurisdiction based on internet contacts only, even in those case where the websites are highly interactive"); *Stinnett v. Atlantic City Showboat, Inc.*, *2008 WL 1924125 (E.D. Pa. 2008) (slip and fall in Atlantic City casino; case

transferred to D.N.J.); *Wilson v. Stratosphere Corp.*, 2006 WL 11344169 (W.D. Pa. 2006) (class of consumers seek recovery of “a hidden resort fee” charged by hotel/casino in Las Vegas; no personal jurisdiction).

Fourth Circuit: *Manley v. Air Canada*, 753 F. Supp. 2d 551, 558, n. 2 (E.D.N.C. 2010) (“This is not to say that a court could not exercise personal jurisdiction based on internet sales...but rather that something more than the de minimus sales presented here would be necessary to satisfy the rigors of constitutional due process”).

Fifth Circuit: *Gatte v. Ready 4 A Chance, LLC*, W.D. La. 2013) (follows Zippo “sliding scale” standard); *York v. Tropic Air, Ltd.*, 2012 WL 1077198 (S.D. Tex. 2012) (follows Zippo “sliding scale” standard); *Diem v. Quinn Hotel Praha, A.S.*, 2012 WL 524182 (S.D. Tex. 2012) (follows Zippo “sliding scale” standard).

Sixth Circuit: *Twiddy & Company of Duck, Inc.*, 2012 WL 3064103 (S.D. Ohio 2012) (follows Zippo “sliding scale” standard); *Lauren Eirk Enterprises, LLC v. Bryant Cunea*, 2013 WL 163433 (W.D. Ky. 2013) (follows Zippo “sliding scale” standard); *Conley v. MLT, Inc.*, 2012 WL 1893509 (E.D. Mich. 2012) (follows Zippo “sliding scale” standard); *Caldwell v. CheapCaribbean.Com, Inc.*, 2010 WL 3603778 (E.D. Mich. 2010) (follows Zippo “sliding scale” standard).

Seventh Circuit: Elayyan v. Sol Melia, S.A., 571 F. Supp. 2d 886 (N.D. Ind. 2008)(accident in hotel swimming pool in Spain; no personal jurisdiction).

Ninth Circuit: Zherebko v. Reutskyy, 2013 WL 4407485 (N.D. Cal. 2013)(follows Zippo "sliding scale" standard); Focht v. Sol Melia, S.A., *2012 WL 162564 (N.D. Cal. 2012)(fall from hotel zip-line; no jurisdiction); Chan v. ResortQuest Park City, LLC, 2011 WL 3555624 (E.D. Cal. 2011)(follows Zippo "sliding scale" standard).

Eleventh Circuit: Sterling Currency Group, LLC v. Maurer, 2013 WL 4011064 (N.D. Ga. 2013)(follows Zippo "sliding scale" standard); Baker v. Carnival Corporation, *2006 WL 3360418 (S.D. Fla. 2006)(sexual assault and rape on cruise ship; no personal jurisdiction).

State Law:

California: T. James v. T.H. Continental Limited Partnership, 2010 WL 1170977 (Cal. App. 2010)(follows Zippo "sliding scale" standard); Snowney v. Harrah's Entertainment, Inc., 116 Cal. App. 4th 996, aff'd 35 Cal. 4th 1054, 112 P. 3d 28, 29 Cal. Rptr. 3d 33 (2005)(putative class action seeking recovery for energy surcharges imposed on hotel guests and asserting unfair competition law, breach of contract, unjust enrichment and false advertising claims; personal jurisdiction); Aguilar v. Honolulu Hotel Operating Corporation, *2009 WL 466144

(Cal. App. 2009)(trip and fall at hotel in Hawaii provided as part of time share presentation; no personal jurisdiction).

Connecticut: DelBuono v. The Imperial Palace Hotel & Casino, LLC, *2007 WL 4634260 (Conn. Super. 2007)(slip and fall in Las Vegas casino; no personal jurisdiction).

Hawaii: Norris v. Six Flags Theme Parks, Inc., 102 Hawaii 203, 74 P. 3d 26 (2003)(accident at amusement park in Hawaii; no personal jurisdiction).

Nebraska: Abdough v. Lopez, 829 N.W. 2d 662 (Nev. Sup. 2013) ("the Eighth Circuit as well as a majority of circuit has adopted the analytical framework set forth in *Zippo*").

New York: Kaloyeva v. Apple Vacations, 21 Misc. 3d 840, 866 N.Y.S. 2d 488 (2008)(resort in Dominican Republic advertised as having " white sandy beaches, crystal water, fresh fish and a superb international cuisine " but in fact " the waters were murky, the beach was swarming with insects, the hotel rooms were infested with bed bugs and the restaurant's food made them ill with intestinal poisoning "); personal jurisdiction over New Jersey based tour operator).

98. See e.g.,

Second Circuit: Eternal Asia Supply Chain Management v. Chen, 2013 WL 1775440 (S.D.N.Y. 2013) ("The Second Circuit, however, had noted that 'while analyzing a defendant's conduct under the Zippo sliding scale of interactivity may help frame the

jurisdictional inquiry in some cases...traditional statutory and constitutional principals remain the touchstone of the inquiry...The Second Circuit is thus alligned with other circuits skeptical of calls for major doctrinal innovation while applying settled principals of personal jurisdiction to the Internet").

Fourth Circuit: *Tamarian Carpets, LLC v. Ahmadi & Sons, Inc.*, 2012 WL 3771375 (D. Md. 2013) ("Although Zippo Mfg. is persuasive it is not binding on this Court")

Seventh Circuit: *Collazo v. Enterprise Holdings, Inc.*, 823 F. Supp. 2d 865 (N.D. Ind. 2011) ("The Seventh Circuit has declined to adopt Zippo's approach for cases involving Internet contacts...including by declining to decide 'what level of 'interactivity' is sufficient to establish personal jurisdiction based on the operation of an interactive website'...The maintenance of a public Internet website, without more, will not establish general jurisdiction...the question is not how interactive those sites are, but whether Defendants, through those sites, some way targeted Indiana's market").

Eighth Circuit: *Fraserside IP LLC v. Hammy Media, Ltd.*, *2012 WL 124378 (N.D. Iowa 2012) ("The Eighth Circuit Court of Appeals concluded that, while the Zippo model is an appropriate approach when considering specific jurisdiction, it is insufficient in and of itself, for determining whether a defendant's contacts are both substantial and continuous for

purposes of general jurisdiction”).

Ninth Circuit: *Mavrix Photo, Inc. V. Brand Technologies, Inc.*, 647 F. 3d 1218 (9th Cir. 2011) (“We have followed *Zippo*...But *Zippo*’s sliding scale test was formulated in the context of a specific jurisdiction inquiry...The level of interactivity of a nonresident defendant’s website provides limited help (in establishing general jurisdiction)”).

Tenth Circuit: *Gofit LLC v. Gofit LLC*, 2013 WL 1566908 (N.D. Okla. 2013) (“The Tenth Circuit has not expressly adopted the *Zippo* sliding scale test for internet jurisdictional analysis”); *Robbins v. Flightstar, Inc.*, *2011 WL 61189 (D. Utah 2011) (“Although helpful, this district has found that the *Zippo* analysis, by itself, is incomplete”).

State Law:

Massachusetts: *Berry v. Cook*, 2011 WL 5841768 (Mass. Super. 2011) (“Massachusetts courts have moved away from a personal jurisdiction analysis based on a website’s interactivity level as established in (*Zippo*) toward considering web-based contacts with a forum state as a factor in the personal jurisdictional analysis, if such contacts are directed at the forum state”).

98.1 *Hensgens v. Pelican Beach Resort*, 2012 WL 4794601 (La. App. 2012).

99. *Matthews v. Kerzner International Limited*, *2011 WL 5122641 (N.D. Ohio 2011).

100. Wilson v. RIU Hotels & Resorts, *2011 WL 3241386 (E.D. Pa. 2011).

100.1 Orazi v. Hilton Hotels Corporation, 2010 WL 4751728 I (E.D. Pa. 2010).

100.2 Gianfredi v. Hilton Hotels Corp., Inc., 2010 WL 1381900 (D.N.J.).

100.3 Rosier v. Cascade Mountain, Inc., 855 N.E. 2d 243 (Ill. App. 2006).

101. See e.g.,

Second Circuit: Enderby v. Secrets Matoma Beach Riviera Cancun, *2011 WL 6010224 (E.D.N.Y. 2011) (slip and fall accident at Mexican hotel; "When solicitation involves a website, 'the fact that a foreign corporation has a website accessible to New York is sufficient to confer jurisdiction under CPLR 301...A court must 'examine the nature of quality of the activity' on the website, which may range from 'passive websites that display but do not permit an exchange of information' to 'interactive [websites], which permit the exchange of information between the defendant and [website] viewers' to 'cases in which the defendant clearly does business over the internet'"; no jurisdiction; passive website); American Homecare Federation, Inc. v. Paragon Scientific Corp., 27 F. Supp. 2d 109 (D. Conn. 1998) (" The Website does not list...products which are sold nor does it provide any process for ordering..No sales..occur through the

Website and an individual accessing the site cannot order..It does not provide anyone with files to download nor does it link to anyone else's Website "); Edberg v. Neogen Corp., 17 F. Supp. 2d 104 (D. Conn. 1998)(" there is no evidence that any user in Connecticut accessed Neogen's Web site or purchased products based upon the Web site advertisement...Internet users could not order products directly from the Web site...it required them to call an ` 800 ` number in Michigan or write Neogen in Michigan or Kentucky "); Hearst Corp. v. Goldberger, *1997 WL 97097 (S.D.N.Y. 1997)(Web site with E-mail contact); Benusan Restaurant Corp. v. King, 937 F. Supp. 295, 301 (S.D.N.Y. 1996), aff'd 126 F. 3d 25 (2d Cir. 1997)(Missouri nightclub's passive web site).

Third Circuit: Piano Wellness, LLC c. Williams, *2011 WL 6722520 (D.N.J. 2011)("To the extent Plaintiff bases jurisdiction on Defendant's operation of a website, the Court finds that such conduct does not provide the Court with personal jurisdiction over Defendant...the website is not interactive...(no) evidence ...that New Jersey individuals have visited Defendant's website"); Remich v. Manfredy, 52 F. Supp. 2d 452 (E.D. Pa. 1999)(passive web site offering general information and advertising insufficient contact with forum); Molnlycke Health Care AB v. Dumex Medical Surgical Products Ltd., 64 F. Supp. 2d 448 (E.D. Pa. 1999)(passive website does not confer jurisdiction);

Grutkowski v. Steamboat Lake Guides & Outfitters, Inc., 1998 U.S. Dist. LEXIS 20255 (E.D. Pa. 1998)(web site contains information, photographs, map and e-mail connection; reservations can not be made on the web site).

Fourth Circuit: American Information Corp. v. American Infometrics, Inc., 2001 U.S. Dist. LEXIS 4534 (D. Md. 2001)(" A visitor (to Web site) may not enter into a contract, purchase goods or services or transact business on the Web site "); Roche v. Worldwide Media, Inc., 90 F. Supp. 2d 714 (E.D. Va. 2000)(pornographic web site can only be described as passive); Esab Group, Inc. v. Centricut, LLC, 34 F. Supp. 2d 323 (D.S.C. 1999)(web page which provides information but requires customer to place an order through an 800 telephone number is insufficient for assertion of personal jurisdiction).

Fifth Circuit: Mink v. AAAA Development, L.L.C., 190 F. 3d 333 (5th Cir. 1999)(no long arm jurisdiction based upon printable mail-in order form and toll free number and e-mail address); Amazon Tours, Inc. v. Wet-A.Line Tours, LLC, 2002 U.S. Dist. LEXIS 1649 (N.D. Tex. 2002)(tour operator's Web site " provides information about tours offered by the company. It includes a bulletin board that allows customers to post messages...a fishing report...a form to request a brochure...If a user wants further information about a tour, he or she must contact the company at its offices in Georgia "); Lofton v.

Turbine Design, Inc., 100 F. Supp. 2d 404 (N.D. Miss. 2000)(" the primary purpose of the website is for advertising. The website does not contain a price list for services, contract for engagement of services, or order form. It is not suited for shopping or ordering online "); Nutrition Physiology Corp. v. Enviros Ltd., 87 F. Supp. 2d 648 (N.D. Tex. 2000)(passive web site does not confer jurisdiction); Broussard v. Deauville Hotel Resorts, Inc., *1999 WL 62152 (E.D. La. 1999)(slip and fall in Florida hotel; no long arm jurisdiction based upon passive website); Mid-City Bowling Lanes & Sports Palace, Inc. v. Ivercrest, Inc., 35 F. Supp. 507 (E.D. La. 1999)(no personal jurisdiction based upon passive website).

Sixth Circuit: Bailey v. Turbin Design, Inc., 86 F. Supp. 2d 790 (W.D. Tenn. 2000)(" there is no indication whatsoever that TDI's website is anything other than wholly passive ").

Seventh Circuit: MJC-A World v. Wishpets Co., 2001 U.S. Dist. LEXIS 13178 (N.D. Ill. 2001)(passive Web site and sale of 90 toys insufficient basis for jurisdiction); (Dow v. Abercrombie & Kent International, Inc., 2000 U.S. Dist. LEXIS 7290 (N.D. Ill. 2000)(passive web site touting quality of services); First Financial Resources v. First Financial Resources, Corp., 2000 U.S. Dist. LEXIS 16866 (N.D. Ill. 2000)(web " site does not allow customers to enter into contracts or receive financial planning services over the Internet ").

Eighth Circuit: *Clearpractice, LLC v. Nimble, LLC*, 819 F. Supp. 2d 892 (E.D. Mo. 2011) (trademark infringement; no personal jurisdiction; "The viewer (of the website) can exchange information with Nimble but cannot make purchases, share files or perform business with Nimble").

Ninth Circuit: *Cybersell, Inc. v. Cybersell, Inc.*, 130 F. 3d 414, 419 (9th Cir. 1997) (" conducted no commercial activity over the Internet in Arizona. All that it did was post an essentially passive home page on the Web "); *McDonough v. Fallon McElligott, Inc.*, 40 U.S.P.Q. 2d 1826 (S.D. Cal. 1996) (" fact that (defendant) has a web site used by (forum state residents) cannot establish jurisdiction by itself ").

Tenth Circuit: *Soma Med. Int'l v. Standard Chartered Bank*, 196 F. 3d 1292 (10th Cir. 1999) (no jurisdiction based on web site that only provided information); *Robbins v. Flightstar, Inc.*, *2011 WL 61189 (D. Utah. 2011) (plane crash; no personal jurisdiction; "Airplane's West's website fits squarely within the 'passive' category. Perhaps in anticipation of such a finding, Plaintiffs advanced the novel argument before the court that the subsequent communications between the two parties discussing and ultimately contracting for the airplane acted as a substitute for the typical 'shopping cart' feature, making the process sufficiently interactive for jurisdictional purposes. Such an argument must be rejected because it seeks to change the nature

of the website"); SF Hotel Company, L.P. v. Energy Investments, Inc., 985 F. Supp. 1032, 1035 (D. Kan. 1997)(" Boto's advertisement in a trade publication appears on the Internet. Boto did not contract to sell any goods or services...over the Internet site ").

Eleventh Circuit: JB Oxford Holdings, Inc., 76 F. Supp. 2d 1363 (S.D. Fla. 1999)(web site providing connections to Internet, listing of national toll free telephone number and a pending application to do business in Florida provided insufficient contacts with Florida to permit exercise of personal jurisdiction).

District of Columbia Circuit: GTE New Media Serv. Inc. v. Bellsouth Corp., 199 F. 3d 1343 (D.C. Cir. 2000)(Yellow Pages accessibility insufficient for long arm jurisdiction); Mallinckrodt Medical, Inc. v. Sonus Pharmaceuticals, Inc., 989 F. Supp. 265, 272 (D.C.D.C. 1998)(" The act of posting a message on an AOL electronic bulletin board-which certain AOL subscribers may or may not choose to access (is not sufficient for personal jurisdiction) ").

State Courts:

California: Jewish Defense Organization, Inc. v. Superior Court, 85 Cal. Rptr. 2d 611 (Cal. App. 1999)(defamation action; a passive web site delivering only information insufficient contact with forum for assertion of personal

jurisdiction).

New Jersey: *Ragonese v. Gaston Rosenfeld*, 318 N.J. Super. 63, 722 A. 2d 991 (1998) (foreign air carrier's passive web site insufficient for jurisdiction).

New York: *Nationwide Insurance Co. v. Holiday Inn*, New York Law Journal, Jan. 27, 2000 (N.Y. Sup.) (passive web site and 800 number insufficient for jurisdiction; *Messelia v. Costa*, New York Law Journal, Feb. 14, 2000 (N.Y. Civ.) (passive web site providing information insufficient for assertion of personal jurisdiction).

Oregon: *Millenium Enterprises v. Millenium Music*, 49 USPQ2d 1878 (Oregon Jan. 4, 1999).

102. See e.g.,

Second Circuit: *Inset Systems, Inc. v. Instruction Set, Inc.*, 937 F. Supp. 161, 164 (D. Conn. 1996) (Web site and toll free number; " advertising via the Internet is solicitation of a sufficient repetitive nature ").

Fourth Circuit: *Bochan v. La Fontaine*, 68 F. Supp. 2d 692 (E.D. Va. 1999) (posting of libelous messages on the Internet by Texas and New Mexico residents sufficient grounds for the assertion of personal jurisdiction in Virginia where web site was accessed).

Ninth Circuit: *Panavision Int'l, L.P. v. Toeppen*, 938 F. Supp. 616 (C.D. Cal. 1996) (fraud claims; jurisdiction based

upon Web site contact alone).

District of Columbia Circuit: *Heroes, Inc. v. Heroes Found*, 958 F. Supp. 1 (D.C.D.C. 1996)(Web site, toll free number and local newspaper ad).

State Law:

Massachusetts: *Berry v. Cook*, 2011 WL 5841768 (Mass. Super. 2011) (passive website plus; "Cook's continuous contact with the Berrys was instrumental in the negotiation and formation of the Lease Agreement with the Berry's and as such distinguishable from the out-of-state defendant's isolated contacts with...passive buyers").

103. *Weber v. Jolly Hotels*, 977 F. Supp. 327 (D.N.J. 1997).

104. See *Meier v. Sun International Hotels*, 288 F. 3d 1264, 1274 (11th Cir. 2002).

105. See *Hasbro, Inc. v. Clue Computing, Inc.*, 994 F. Supp. 34, 38 (D. Mass. 1997).

106. See *Digital Equipment Corp. v. Altavista Tech*, 960 F. Supp. 456 (D. Mass 1997).

107. See *CompuServe, Inc. v. Patterson*, 89 F. 3d 1257 (6th Cir. 1996).

108. See *EDIAS Software Int'l v. BASIS Int'l Ltd.*, 947 F. Supp. 413 (D. Ariz. 1996).

State Law:

Massachusetts: *Berry v. Cook*, 2011 WL 5841768 (Mass. Super.

2011) (passive website plus; "When viewed together with his traditional contacts, including Cook's numerous telephone calls and emails, Cook's mailing of the partially executed Lease Agreement to the Berry's in Massachusetts, the Berry's execution and return of that document via mail and Cook's acceptance of a damage deposit check drawn from a Massachusetts bank account").

109. See *Catalytic Combustion Corp. v. Vapor Extraction Technology, Inc.*, 2000 Wisc. App. LEXIS 774 (Wisc. App. 2000).

110. See *Amazon Tours, Inc. v. Wet-A-Line Tours, LLC.*, 2002 U.S. Dist. LEXIS 1649 (N.D. Tex. 2002) (presence of booking agent in the forum who booked no tours in the forum insufficient contact); *American Eyewear, Inc. v. Peeper's Sunglasses And Accessories, Inc.*, 2000 U.S. Dist. LEXIS 6875 (N.D. Texas 2000).

111. See *Resuscitation Tech., Inc. v. Continental Health Care Corp.*, *1997 WL 148567 (S.D. Ind. 1997).

112. See *Gary Scott International, Inc. v. Baroudi*, 981 F. Supp. 714 (D. Mass. 1997).

113. See *Citigroup Inc. v. City Holding Co.*, 97 F. Supp. 2d 549 (S.D.N.Y. 2000).

114. See *TY, Inc. v. Max Clark*, 2000 U.S. Dist. LEXIS 383 (N.D. Ill. 2000) (no jurisdiction; " However, at the same time, the defendants do not clearly do business over their web site, for they do not take orders nor enter into contracts over the web site ").

115. See *People Solutions, Inc. v. People Solutions, Inc.*, 2000 U.S. Dist. LEXIS 10444 (N.D. Tex. 2000).

116. See e.g.,

Second Circuit: *Andrei v. DHC Hotels*, 2000 U.S. Dist. LEXIS 4107 (S.D.N.Y. 2000)

(tourist injured at Aruba hotel made reservations through American Airlines website but actual hotel reservations were confirmed when tour operator GoGo Tours contacted Aruba hotel; no jurisdiction over Aruba hotel).

Tenth Circuit: *Smith v. Basin Park Hotel, Inc.*, 178 F. Supp. 2d 1225 (N.D. Okla. 2001)(slip and fall at Arkansas hotel; no jurisdiction found; " The website merely permits a user to submit an email to BPH requesting reservation information. No reservation is confirmed over the website ").

117. See e.g.,

First Circuit: *Dagesse v. Plant Hotel, N.V.*, 113 F. Supp. 2d 211 (D.N.H. 2000)(although hotel had interactive reservations Web site plaintiff failed to show that any reservations were actually made using the Web site).

Third Circuit: *Hurley v. Cancun Playa Oasis Hotel*, 1999 U.S. Dist. LEXIS 13716 (E.D. Pa. 1999)(Mexican hotel's Georgia booking agent had 800 number and interactive reservations Web site but plaintiff used neither and failed to show that any actual reservations were made using Web site).

Tenth Circuit: D.J.'s Rock Creek Marina v. Imperial Foam, 2002 U.S. Dist. LEXIS 13470 (D. Kan. 2002). Defendant's Web site had the capacity for accepting orders but there was no evidence of sales or other activity in Kansas. " CW has had no actual Internet-based contacts with residents of Kansas: no sales, no inquiries, no requests for quotes, no emails, nor any phone calls, letters or contacts emanating from the web site information...CW has never made a sale to a Kansas resident."); Smith v. Basin Park Hotel, Inc., 178 F. Supp. 2d 1225 (N.D. Okla. 2001)(" There is no evidence that any commercial transactions are actually completed on BPH's website. No reservation is confirmed over the website ").

State Law:

Illinois: Rosier v. Cascade Mountain, Inc., 855 N.E. 2d 243 (Ill. App. 2006) ("The defendant(s)...have created a website which is a potential means of transacting business in Illinois, but the record does not disclose any transactions with Illinois residents").

118. See e.g.,

First Circuit: Martino-Valdes v. Renaissance Hotel Management Company LLC, 2011 WL 5075658 (D.P.R. 2011) ("while...it is possible to book reservations at the Worthington Hotel via Marriott's web site...the amended complaint gives no indication that plaintiff did so in this case").

Second Circuit: *Rodriguez v. Circus Circus Casinos, Inc.*, *2001 WL 21244 (S.D.N.Y.2001) (" Even if Rodriguez has made his hotel reservations over CCC's website-and it is not alleged that he did-the personal injuries at the heart of this lawsuit arose, if at all, from the allegedly negligent conduct of the defendants in Nevada rather than from the making of a hotel reservation. Absent the requisite nexus, there is no basis for long-arm jurisdiction over CCC ").

Sixth Circuit: *Caldwell v. CheapCaribbean.Com, Inc.*, *2010 WL 3603778 (ED. Mich. 2010) ("The Court finds that the interactive website is sufficient to establish personal jurisdiction over the defendants, even though the Caldwells did not use the interactive features of the website and therefore, as to them, the website functioned as a passive website providing information").

Eighth Circuit: *Bell v. Imperial Palace Hotel/Casino, Inc.*, 200 F. Supp. 2d 1082 (E.D. Mo. 2001) (" The central reason why plaintiffs fail to establish the necessary minimum contacts for specific jurisdiction, however, is because they have failed to demonstrate that their cause of action has any relation to Imperial Palace's contacts with Missouri. From the record before the Court, the defendant's only contact with Missouri is a website that is accessible to residents in Missouri. The subject matter of plaintiff's suit is a slip and fall accident that occurred on the hotel premises in Las Vegas. That event is

entirely unrelated to the defendant's website. While the Court is not suggesting that these facts would necessarily change the analysis, the plaintiffs do not maintain that they used the website to make reservations with the Imperial Palace, that their travel agent used the website to secure their reservations, or that they were enticed by the website to visit the Imperial Palace. In fact, they do not claim to have ever viewed the website prior to their visit to the defendant's hotel. The Court can see no causal link or connection between Mr. Bell's accident and the sole forum contact by Imperial Palace, its website ").

State Law:

Louisiana: *Hensgen v. Pelican Beach Resort*, 2012 WL 4794601 (La. App. 2012) (the Courts stated that "While customers have the option of booking their reservations line...Hensgens only used the Internet site to view pictures of the property...Hensgen has not met his initial burden of showing sufficient minium contacts with the State of Louisiana").

119. See e.g.,

Second Circuit: *American Network, Inc. v. Access America/Connect Atlanta, Inc.*, 975 F. Supp. 494 (S.D.N.Y. 1997) (subscriptions for Internet services sold to customers in the forum through contracts entered into on Web site).

Third Circuit: *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 (W.D. Pa. 1997).

Fourth Circuit: *Easb Group, Inc. v. Centricut, LLC*, 34 F. Supp. 2d 323 (D.S.C. 1999) (web page which provides information but requires customer to place an order using an 800 telephone number is insufficient to confer jurisdiction).

Fifth Circuit: *Origin Instruments v. Adaptive Computer Systems*, 1999 U.S. Dist. LEXIS 1451 (N.D. Texas 1999) (no jurisdiction; failure to show sales in forum through interactive Web site); *Thompson v. Handa-Lopez, Inc.*, 998 F. Supp. 738 (W.D. Tex. 1998) (corporation subject to personal jurisdiction in Texas based upon entering into contracts to play casino games with Texas citizens); *Mieczkowski v. Masco Corp.*, 997 F. Supp. 782, 785 (E.D. Texas 1998) (" Web site lists various categories...individuals can view various furniture selections..individual pieces of furniture can be viewed..as well as price information..an order form can be printed..(customers may) check the status of their purchases.. information is available regarding freight costs..communicate directly with ` on-line ` sales representatives ").

Eighth Circuit: *Uncle Sam's Safari Outfitters, Inc. v. Uncle Sam's Army Navy Outfitters*, 96 F. Supp. 2d 919 (E.D. Mo. 2000) (inoperable interactive web site still under construction insufficient for jurisdiction).

Ninth Circuit: *Mavrix Photo, Inc. V. Brand Technologies, Inc.*, 647 F. 3d 1218 (9th Cir. 2011) (personal jurisdiction; "we

conclude that Brand 'expressly aimed at the forum state'...On the one hand, we have made clear that 'maintenance of a passive website alone cannot satisfy the express aiming prong'...On the other, we have held that 'operating even a passive website in conjunction with 'something more'-conduct directly targeting the forum-is sufficient...In determine whether a nonresident defendant has done 'something more' we have considered several factors, including the interactivity of the defendant's website...the geographical scope of the defendant's commercial ambitions...and whether the defendant 'individual targeted' a plaintiff known to be a forum resident"); *Stomp, Inc. v. NeatO*, 61 F. Supp. 2d 1074 (C.D. Cal. 1999) (web site functioned as a " virtual store " where " consumers [could] view descriptions, prices and pictures of various products [and could] add items to their " virtual shopping cart " and " check out " by providing credit card and shipping information); *Park Inns International v. Pacific Plaza Hotels, Inc.*, 5 F. Supp. 2d 762, 764-65 (D. Ariz. 1998) (interactive Web site accepted seven hotel reservations from customers in the forum).

Tenth Circuit: *Del Sol, LC v. Caribongo LLC*, *2012 WL 530093 (D. Utah 2012) (personal jurisdiction; "Caribongo's sites provides a retail link that seamlessly allows a user to purchase Caribongo products on the Tarpon Springs website...The purchase procedure allows a user to create an account or proceed as a guest...allows

an established wholesaler to complete and submit purchase orders and has a contact page that allows inquiries regarding orders... Caribongo has purposefully set up a website providing a high level of interactivity, which encourages customers to access its website to purchase products").

District of Columbia Circuit: *Gorman v. Ameritrade Holding Corp.*, 293 F. 3d 506 (D.C. Cir. 2002) (continuous and systematic sale of securities on Internet Web site sufficient basis for personal jurisdiction); *Blumenthal v. Drudge*, 992 F. Supp. 44, 56 (D.C.D.C. 1998) (" The Drudge Report's web site allows browsers..to directly e-mail defendant..thus allowing an exchange of information..browsers who access the website may request subscriptions to the Drudge Report, again by directly e-mailing their requests to Drudge's host computer..the Drudge Report is..sent..to every e-mail address on his subscription list..constant exchange of information and direct communication ").

State Courts:

Connecticut: *Gates v. Royal Palace Hotel*, 1998 Conn. Super. LEXIS 3740 (Conn. Super. 1998) (jurisdiction based upon concentrated advertising, bookings through travel agents and " invitation to Connecticut citizens to make reservations and other arrangements directly through the Internet ").

Oregon: *Millunium Enterprises v. Millenium Music*, 49 USPQ2d

1878 (Oregon, Jan. 4, 1999).

120. See e.g.,

Seventh Circuit: Ruddy v. Wilmot Mountain, Inc., *2011 WL 3584418 (N.D. Ill. 2011) (skier injured after falling from chairlift; no personal jurisdiction; "Wilmot's website permits anyone, not just Illinois residents, willing to travel to Wisconsin to purchase season passes, lift tickers, gift certificates and sign up for rentals. The only portion of the website that is directed towards Illinois residents is a page that provides links to Google Maps directions to Wilmot from four Illinois cities...Providing directions to the ski resort from Illinois is simply a component of advertising...virtually all of defendant's contacts with Illinois involve the solicitation of business. Illinois courts consistently reject mere solicitation of business as a basis for the exercise of general personal jurisdiction").

Eleventh Circuit: Butler v. Beer Across America, 83 F. Supp. 2d 1261 (N.D. Ala. 2000) (interactive web site allowing consumers to purchase beer by using a credit card does not confer jurisdiction; " Beer Across America's site does not even anticipate the regular exchange of information across the Internet...Rather it is closer to an electronic version of a postal reply card ").

121. See e.g.,

Third Circuit: *Bell v. Fairmont Raffles Hotel International*, 2013 WL 1291005 (W.D. Pa. 2013) ("Plaintiffs allege that they were able to book their hotel room and other activities related to their stay and pay for same through Defendant FRHI's website...this website will allow them to book rooms and services at a variety of Fairmount hotels, join a rewards program and even apply for a job. However...there simply is not enough here to find that Defendant FRHI, through its website alone, has established 'contacts with this forum which approximate physical presence'"); *Orazi v. Hilton Hotels Corp.*, *2010 WL 4751728 (E.D. Pa. 2010) ("The 'mere operation of a commercially interactive web site' that is accessible in the forum is insufficient to demonstrate the website operator purposefully directed its activities at the forum. The defendant must also either 'intentionally target the site to the forum, state and/or knowingly conduct business with forum state residents via the site' to satisfy the purposeful availment requirement").

Fourth Circuit: *Manley v. Air Canada*, 753 F. Supp. 2d 551, 558, n. 2 (E.D.N.C. 2010) ("This is not to say that a court could not exercise personal jurisdiction based on internet sales...but rather that something more than the *de minimus* sales presented here would be necessary to satisfy the rigors of constitutional due process").

Fifth Circuit: *York v. Tropic Air, Ltd.*, 2012 WL 1077198

(S.D. Tex. 2012)Tropic Air operates an interactive website by which individuals around the world, including Texas, can purchase tickets on the airline... Approximately 33% of Tropic Air's overall business is booked through this website, which allows visitors to search for flights, book fares online, and pay online at the time of purchase via an integrated credit card processing service...Tropic Air sold 7,201 tickets to persons with a credit card that had a Texas billing address during the period September 2006 to August 2010...which equates to an average of 6.58 passengers with a Texas billing address per day...Tropic Air's website falls under the highly interactive category by offering customers the ability to search for flights, book travel and pay fares").

Sixth Circuit: Stone v. Twiddy & Company of Duck, Inc., 2012 WL 3064103 (S.D. Ohio 2012) ("website and short term rental contracts do not create personal jurisdiction"); Matthews v. Kerzner International Limited, *2011 WL 4071850 (N.D. Ohio. 2011) ("Atlantis does business through the website www.atlantis.com. These websites allow users to 'Book Now', select travel dates, select a number of travelers, choose a room, add dining plans, choose flights, choose shuttle transfers and confirm reservations...Users provide contact information, credit cards, and receive e-mail notifications of Atlantis travel packages"), *on reconsideration* 2011 WL 5122641 (N.D. Ohio

2011) (no jurisdiction found; "While Plaintiff asserts that (defendant) sends e-mails to former customers and allows customers to book trips and stays at the Atlantis, Plaintiffs fails to provide facts that (defendant) specifically targets advertising to the Ohio market").

Ninth Circuit: *Chan v. ResortQuest Park City, LLC*, *2011 WL 3555624 (E.D. Cal. 2011) ("in cases involving interactive websites, courts must analyze the 'the level of interactivity and commercial nature of the exchange of information that occurs on the Web site' to determine their jurisdictional effect"; jurisdictional discovery allowed); *Focht v. Sol Melia, S.A.*, *2012 WL 162564 (N.D. Cal. 2012) ("While Ms. Focht points out that hundreds of thousands of California residents have in fact accessed the website for one or two million page views...she has failed to explain why those numbers have any real significance absent an indication that, e.g., SM was targeting a California audience with its website (as opposed to an international one, especially given the nine languages available on the website) or that the interactive website produced a substantial portion of its revenue...the number of bookings (via interactive website) is not that significant—approximately 4,000 each year").

State Law:

California: *T. James v. T.H. Continental Limited*, 2010 WL 1170977 (Cal. App. 2010).

Massachusetts: *Berry v. Cook*, 2011 WL 5841768 (Mass. Sup. 2011).

121.1 See e.g., *T. James v. T.H. Continental Limited*, 2010 WL 1170977 (Cal. App. 2010).

122. See e.g.,

Third Circuit: *Surface Preparation Technologies v. Jamaco Industries, LLC*, *2012 WL 1192068 (M.D. Pa. 2012) ("First, 'something more' than simply having a website accessible to individuals in the forum state must be shown...Something more can be established if a plaintiff can show a defendant had 'non-internet contacts [with the forum state], advertised] in local publications [or had] business records of sales in the state'...'A website that has only information and a generic contact information input form falls at the passive end of the Zippo spectrum...for web sites in the 'interactive' category, it must be shown ' a web site targets a particular remote jurisdiction'"); *Wilson v. RIU Hotels & Resorts*, *2011 WL 3241386 (E.D. Pa. 2011) ("Plaintiff needs to demonstrate that Riusa II specifically targeted this forum, which she has not done"); *Diem v. Quinn Hotel Praha*, 2012 WL 524182 (S.D. Tex. 2012).

Sixth Circuit: *Conley v. MLT., Inc.*, *2012 WL 1893509 (E.D. Mich. 2012) (¹(vacationer injured at Mexican hotel when "one of the support poled on the hammock upon which he was laying broke causing him to fall and suffer serious head injuries...

fractur(ing) his skull and was subsequently airlifted from Cozumel, Mexico to Broward County, Florida where he underwent emergency surgery...Here, Defendants' website is a fully interactive one in which customers or travel agents may book stays at the various hotels and resorts owned by Defendants. In fact, from 2007 to 2010, 155 guests with Michigan addresses booked travel or resort reservations from Defendants' website...There is no dispute that Defendants entered into contracts with Michigan residents using their website. Additionally, Plaintiffs submitted significant evidence that Defendants directly focused marketing efforts toward Michigan residents. Allegro representatives attend annual trade shows in Michigan and engage in direct mail and e-mail solicitations to Michigan-based travel agencies and tour operators. Defendants have entered into Cooperative Marketing Agreements with Defendant MLT, a tour operator based out of Minnesota...These agreements describe Defendants' marketing efforts in detail and specifically provide for email, direct mail and radio advertising in Michigan").

Seventh Circuit: Stat Imaging v. Medical Specialists, 2013 WL 3811643 (N.D. Ill. 2013); Collazo v. Enterprise Holdings, Inc., 823 F. Supp. 2d 865 (N.D. Ind. 2011) ("The Seventh Circuit has declined to adopt Zippo's approach for cases involving Internet contacts...including by declining to decide 'what level

of 'interactivity' is sufficient to establish personal jurisdiction based on the operation of an interactive website'...The maintenance of a public Internet website, without more, will not establish general jurisdiction...the question is not how interactive those sites are, but whether Defendants, through those sites, some way targeted Indiana's market").

State Law:

Texas: Wet-A-Line LLC v. Amazon Tours, Inc., 315 S.W. 3d 180 (Tax. App. 2010).

123. See e.g., Bell v. Imperial Palace Hotel/Casino, Inc., 200 F. Supp. 2d 1082, 1087-1088(E.D. Mo. 2001)(" Although reservations can be made over the internet this case is clearly distinguishable from those where goods may be ordered over the internet...In internet cases involving the sale of goods, the entire transaction (order, payment and confirmation) can be completed online. The resident can bring about the transmission of the goods into the forum state through the order alone. Hotels, on the other hand, are somewhat unique in the internet context. Neither party anticipates that goods, services or information of intrinsic value will be transmitted or provided in the forum state as a result of the interest exchange of information. To the contrary, both parties recognize that the internet exchange is simply preliminary to the individual traveling outside the forum state to use the service. In this

respect, the exchange of information over the internet is not unlike a toll-free reservation hotline. The purpose of the internet interaction is not achieved until the resident customer leaves the forum state and arrives at the hotel destination. ").

124. *Smith v. Basin Park Hotel, Inc.*, 175 F. Supp. 2d 1225 (N.D. Okla. 2001).

125. *Cervantes v. Ramparts, Inc.*, *2003 WL 257770 (Cal. App. 2003).

126. *Conley v. MLT, Inc.*, *2012 WL 1893509 (E.D. Mich. 2012).

127. *Diem v. Quinn Hotel Praha, A.S.*, *2012 WL 524182 (S.D. Tex. 2012).

128. *Brown v. Grand Hotel Eden-A Summit Hotel*, 2002 U.S. Dist. LEXIS 7773 (S.D.N.Y. 2002).

129. *Brown v. Grand Hotel Eden-A Summit Hotel*, *2003 WL 21496756 (S.D.N.Y. 2003)(" Hotel Eden withholds from Summit the right to book rooms during time periods of Hotel Eden's choosing and thus Summit's power to reserve rooms is subject to the hotel's grant of authority. Absent an outright grant of authority to confirm reservations, an agent is not ' doing business ' on behalf of a hotel ").

130. *Decker v. Circus Circus Hotel*, 49 F. Supp. 2d 743, 748 (D.N.J. 1999).

131. *Grutkowski v. Steamboat Lake Guides*, 1998 U.S. Dist. LEXIS

20255 (E.D. Pa. 1998).

132. *Rodriguez v. Circus Circus Casinos, Inc.*, *2001 WL 21244 (S.D.N.Y. 2001).

133. *Imundo v. Pocono Palace, Inc.*, *2002 WL 31006145 (D.N.J. 2002).

134. *Snyder v. Dolphin Encounters Limited*, 235 F. Supp. 2d 433 (E.D. Pa. 2002).

135. *Bell v. Imperial Palace Hotel/Casino, Inc.*, 200 F. Supp. 2d 1082 (E.D. Mo. 2001).

136. *Arriaga v. Imperial Palace, Inc.*, 252 F. Supp. 2d 380 (S.D. Texas 2003).

136.1 *York v. Tropic Air, Ltd.*, 2012 WL 1077198 (S.D. Tex. 2012).

136.2 *Conley v. MLT, Inc.*, *2012 WL 1893509 (E.D. Mich. 2012).

136.3 *Silk Air v. Superior Court*, *2003 WL 40818 (Cal. App. 2003).

136.4 *In re Ski Train Fire in Kaprun, Austria*, 2002 U.S. Dist. LEXIS 14563 (S.D.N.Y. 2002).

136.5 *Snowey v. Harrah's Entertainment, inc.*, 11 Cal. Rptr. 3d 35 (Cal. App. 2004).

136.6 *Elayyan v. Sol Melia, S.A.*, 571 F. Supp. 2d 886 (N.D. Ind. 2008).