

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

EMANUEL DUNAGAN, et al.,

Plaintiffs,

v.

ILLINOIS INSTITUTE OF ART-CHICAGO,  
LLC, et al.,

Defendants.

Case No. 19-cv-809

Honorable Charles R. Norgle

**DEFENDANTS BRENT RICHARDSON,  
CHRIS RICHARDSON, AND SHELLY MURPHY’S REPLY IN SUPPORT OF  
THEIR MOTIONS TO DISMISS FOR  
LACK OF PERSONAL JURISDICTION**

The Court’s April 19, 2021 Order (“Order”) is clear that Plaintiffs must establish facts of individual fraud or intentional misconduct to pierce the shield provided to the corporate actors in this case. Plaintiffs’ Response to Defendants Shelley Murphy, Brent Richardson and Chris Richardson’s Motion to Dismiss (“Plaintiffs’ Response”) fails to show fraud or intentional misconduct. Quite to the contrary, an unbiased reading of deposition testimony cited to by Plaintiffs, shows normal behavior—expected from the officers of a company—not fraudulent or intentional misconduct. Accordingly, Defendants request the Court grant its Motion to Dismiss for lack of personal jurisdiction over Defendants.

**ARGUMENT**

The relevant case law states that when assessing allegations of fraud or intentional misconduct of whether a court has personal jurisdiction over out-of-state defendants, a

court would consider whether defendants are engaged in “(1) intentional conduct (intentional and allegedly tortious conduct); (2) expressly aimed at the forum state; (3) with the defendant’s knowledge that the effect would be felt—that is, the plaintiff would be injured—in the forum state.” *Tamburo v. Dworkin*, 601 F.3d 693,703 (7<sup>th</sup> Cir. 2010); *Calder v. Jones*, 465 783, 790 (1984). In our case, the Court’s Order was clear:

Even though the fiduciary shield doctrine often insulates corporate actors from personal jurisdiction based solely on conduct taken on behalf of the corporation, that doctrine does not extend to cover fraud or other intentional misconduct. *Calder v. Jones*, 465 U.S. 783, 790 (1984) (defendants' "status as employees does not somehow insulate them from jurisdiction."); *In re: RFC & ResCap Liquidating Tr. Litig.*, No. 13-CV-345 1 (SRN/HB), 2017 WL 1483374, at \*10 (D. Minn. Apr. 25, 2017) ("Of more immediate relevance to the facts of this case, several courts have recognized an exception to the fiduciary shield doctrine where the officer or director is alleged to have committed fraud or another intentional tort on behalf of the corporation, or to have acted for his or her own benefit instead of the corporation's,"); *Wolf Designs, Inc. v. OHR Co.*, 322 F. Supp. 2d 1065, 1072 (C.D. Cal. 2004).

Here, Plaintiffs’ Response does not establish facts that Defendants committed fraud or another intentional tort. In fact, in each of the facts listed by Plaintiffs, Plaintiffs distort normal behavior for that of fraud for the purpose of alleging that this Court has jurisdiction over Defendants. The Court should see through this distortion of the facts. As Plaintiffs’ Response shows, any of Defendants’ actions directed at Illinois were normal behaviors as the company’s corporate officers—all insulated by the corporate shield. There is no behavior that can be considered fraudulent and intentional misconduct. Accordingly, this Court does not have jurisdiction over Defendants.

## CONCLUSION

Despite being given the opportunity by the Court in jurisdictional discovery, Plaintiffs failed to uncover any fraud or intentional misconduct as required by the Court's Order. Accordingly, Defendants respectfully request that they be dismissed from this action pursuant to Rule 12(b)(2).

DATED August 2, 2021.

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2021, I caused the forgoing document to be electronically filed using the Court's CM/ECF system, notification of which will be sent all to counsel of record.

By: s/ Michael A. Schern