Domestic Violence Protective Orders: sometimes phone calls to plaintiff in NC can establish 'minimum contacts'

****UPDATE TO THIS POST: The North Carolina Supreme Court reversed the decision of the Court of Appeals discussed below. See Mucha v. Wagner, N.C. (August 13, 2021).

I wrote about personal jurisdiction requirements in Chapter 50B civil domestic violence protection cases in these two earlier blog posts: Domestic Violence: DVPOs Require Personal Jurisdiction, September 9, 2016 and Domestic Violence: More on *Mannise* and Personal Jurisdiction, September 16, 2016.

The NC Court of Appeals recently revisited the issue of minimum contacts in the context of a civil domestic violence protection proceeding in Mucha v. Wagner (N.C. App., June 2, 2020). The court of appeals held that at least under the specific circumstances of that case, phone calls to plaintiff in North Carolina alone were sufficient to support the exercise of personal jurisdiction over an out-of-state defendant .

Mucha v. Wagner

Defendant Wagner and Plaintiff Mucha were in a dating relationship. Mucha ended the relationship and asked Wagner not to contact her again. At the time, Mucha was a college student in South Carolina and Wagner lived in Connecticut. Mucha later moved to North Carolina and, the day she moved, Wagner called her 28 times on her cell phone.

In one of the early calls, Mucha answered and told Wagner not to call her again. In a later call, Wagner left a voice message. When Mucha listened to the message, she suffered a panic attack. The next day, she filed a complaint for a domestic violence protective order in North Carolina. Wagner appeared solely to contest personal jurisdiction. The trial court denied his motion to dismiss and entered a protective order. Wagner appealed.

The court of appeals concluded that the trial court properly determined that it could exercise personal jurisdiction over Wagner, stating:

"Although Wagner did not know at the time of the calls that Mucha moved from South Carolina to North Carolina that day, he knew that her semester of college had ended and she may no longer be residing there. Thus, his conduct—purposefully directed at Mucha—was sufficient for him to reasonably anticipate being haled into court wherever Mucha resided when she received the calls.

Applying the due process factors established by the Supreme Court—the nature and context of Wagner's contacts within our State; our State's interest in protecting its residents from this sort of harmful interpersonal interaction; and the convenience to the parties, including Mucha's need to call witnesses of the events who were with her in North Carolina at the time—we hold that a North Carolina court properly could exercise personal jurisdiction over Wagner in this action."

The court of appeals stressed that this was "a close case" and that the result is based primarily on the fact that defendant knew Mucha could have been "in many different possible locations." Citing to an earlier decision in *Mannise v. Harrell*, 249 N.C. App. 322 (2016) wherein the court held defendant's contacts were not sufficient to support jurisdiction, the court in *Mucha* explained "[i]n another case, on different facts, phone calls to a cell phone of a person in an unknown location may not be sufficient to meet the due process requirements of personal jurisdiction."