

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION—CIVIL**

---

<b>TD BANK, N.A.,</b>	<b>: April Term, 2011</b>
<b><i>Plaintiff</i></b>	<b>:</b>
<b>v.</b>	<b>: No. 02518</b>
<b>VERNON COYLE and ROSE COYLE a/k/a ROSE MEYERS- COYLE</b>	<b>:</b>
<b><i>Defendants</i></b>	<b>: Commerce Program</b>
	<b>: Control No.</b>
	<b>:</b>
	<b>: 11072492</b>

---

<b>TD BANK, N.A.,</b>	<b>: April Term, 2011</b>
<b><i>Plaintiff</i></b>	<b>:</b>
<b>v.</b>	<b>: No. 02529</b>
<b>VERNON COYLE and ROSE COYLE a/k/a ROSE MEYERS- COYLE</b>	<b>:</b>
<b><i>Defendants</i></b>	<b>: Commerce Program</b>
	<b>: Control No.</b>
	<b>:</b>
	<b>: 11072489</b>

---

**Opinion**

The Preliminary Objections to the Complaints require this Court to determine whether Pennsylvania has specific personal jurisdiction over an individual Defendant who is a member of a Pennsylvania limited liability company which owns real property in Pennsylvania. For the reasons below, this Court holds that Pennsylvania has personal jurisdiction over said Defendant.

**Background**

Plaintiff, TD Bank, N.A. (“TD Bank,”) is a federally chartered savings association.

By way of merger, TD Bank is successor in interest to Commerce Bank, N.A. (“Commerce Bank,”) a lending institution. Defendants Vernon Coyle (“Mr. Coyle,”) and Rose Coyle (“Mrs. Coyle,”) are resident of New Jersey. Mr. and Mrs. Coyle have an interest in Cross Keys Investments, LLC (“CKI,”) a Pennsylvania limited liability company that owns real properties in Philadelphia, Pennsylvania.

On 22 September 2005, CKI executed a promissory note to document a \$48,000 loan from Commerce Bank to CKI.<sup>1</sup> Mrs. Coyle personally guaranteed the loan by executing a Commercial Guaranty.<sup>2</sup> Subsequently, on 10 November 2005, 5 January 2006, 21 February 2006, and 21 August 2006, CKI executed four additional Promissory Notes to document four additional loans, from Commerce Bank to CKI, in the respective amounts of \$48,000, \$40,000, \$52,000, and \$44,000.<sup>3</sup> Mrs. Coyle personally guaranteed each of the four additional loans by executing four separate Commercial Guaranties.<sup>4</sup> All of the above Promissory Notes are secured by mortgages on real properties located in Philadelphia, Pennsylvania.<sup>5</sup>

On 14 April 2006, CKI executed a Promissory Note to document a \$100,000 loan from Commerce Bank to CKI.<sup>6</sup> Mrs. Coyle personally guaranteed this loan by executing a Commercial Guaranty.<sup>7</sup> Subsequently, on 7 July 2008 and 6 August 2009, CKI and Commerce Bank executed two modifications to the \$100,000 loan agreement, and two “Restated Notes” thereto.<sup>8</sup> Mrs. Coyle remained personal guarantor throughout all the

---

<sup>1</sup> Exhibit A to Complaint, Case No. 1104-02518.

<sup>2</sup> Commercial Guaranty to Loan No. 1361720916, Exhibit B to Complaint, Case No. 1104-02518.

<sup>3</sup> Promissory Notes, Exhibits C, F, I, and K to Complaint No. 1104-02518.

<sup>4</sup> Commercial Guaranties, Exhibits B, E, H, and J to Complaint No. 1104-02518.

<sup>5</sup> Open-End Mortgages, Exhibits 3-7 to Plaintiff’s Answer to Defendants’ Preliminary Objections, Case No. 1104-02518.

<sup>6</sup> Promissory Note to Loan No. 1361520970, Exhibit A to Complaint, Case No. 1104-02529.

<sup>7</sup> Commercial Guaranty, Exhibit C to Complaint, Case No. 1104-02529.

<sup>8</sup> Complaint, Case No. 1104-02529: Loan Modification, Exhibits D and F; Restated Notes, Exhibits E and G.

loan modifications. The \$100,000 loan is secured by a mortgage on a real property located in Philadelphia, Pennsylvania.

On 11 January 2011, TD Bank, as successor in interest to Commerce Bank, demanded payment of all of the above loans, including interest and late fees.<sup>9</sup> On 21 April 2011, TD Bank filed against Mr. and Mrs. Coyle the instant two actions, Nos. 1104-02518 and 1104-02529, in the Court of Common Pleas, Philadelphia County. Both actions stem from CKI's alleged defaults on each and every loan. Defendants, Mr. and Mrs. Coyle, filed Preliminary Objections to both Complaints.<sup>10</sup> The Preliminary Objections assert that Pennsylvania Courts lack jurisdiction over Mrs. Coyle.

On 26 October 2011, this Court held a hearing on the matter raised by the Preliminary Objections. At the hearing, Mrs. Coyle testified that the proceeds from all of the pertinent loans herein had been used by CKI to buy properties in Philadelphia, Pennsylvania. Mrs. Coyle also stipulated that she is co-guarantor of all the loans herein, and a member of CKI.

### **Discussion**

Under the Pennsylvania Rules of Civil Procedure, lack of jurisdiction over the “the person of the defendant” is properly raised by preliminary objections.<sup>11</sup> In Pennsylvania,

All material facts set forth in the complaint as well as all inferences reasonably deducible therefrom are admitted as true.... The question presented by the demurrer is whether, on the facts averred, the law says with certainty that no recovery is possible.... Where a doubt exists as to whether a demurrer should be sustained, this doubt should be resolved

---

<sup>9</sup> Demand Letters, Exhibit H to Complaint, Case No. 1104-02529; Exhibit N to Complaint, Case No. 1104-02518.

<sup>10</sup> Preliminary Objection No. 11072492 to Complaint, Case No. 1104-02518; Preliminary Objections No. 11072489 to Complaint, Case No. 1104-02529.

<sup>11</sup> Pa. R.C.P. 1028(a)(1)

in favor of overruling it.<sup>12</sup>

Issues embraced in the preliminary objections will frequently be resolved only by the presentation of facts outside the record, as is often the case with jurisdiction.... In such cases if an issue of fact is raised, the court shall take evidence by depositions or otherwise.<sup>13</sup>

Once the moving party supports its objections to personal jurisdiction, the burden of proving personal jurisdiction is upon the party asserting it.<sup>14</sup>

The two sets of Preliminary Objections assert that Pennsylvania Courts lack personal jurisdiction over Mrs. Coyle, a member of CKI and a guarantor to its loans. Defendants argue that Pennsylvania Courts lack personal jurisdiction because Mrs. Coyle resides in New Jersey and has no contacts with the Commonwealth of Pennsylvania.<sup>15</sup>

In Pennsylvania—

specific jurisdiction may be asserted over non-resident defendants to the fullest extent allowed under the Constitution of the United States and may be based on the most minimum contacts with this Commonwealth allowed under the Constitution of the United States....

The standard which must be met by a state in asserting specific personal jurisdiction over a non-resident defendant ... is clear:

- (1) the non-resident defendant must have sufficient minimum contacts with the forum state and
- (2) the assertion of *in personam* jurisdiction must comport with fair play and substantial justice...

The determination of whether this standard has been met is not susceptible of any talismanic jurisdictional formula: the

---

<sup>12</sup> Emplrs. Ins. Of Wausau v. DOT, 581 Pa. 381, 389; 865 A.2d 825, 830, (Pa. 2005).

<sup>13</sup> Telstar Corp. v. Berman, 281 Pa. Super. 443, 448; 422 A.2d 551, 554 (Pa. Super. 1980).

<sup>14</sup> Barr v. Barr, 749 A.2d 992, 994 (Pa. Super. 2000).

<sup>15</sup> Preliminary Objections to Complaint No. 1104-02529, ¶ 33; Preliminary Objections to Complaint No. 1104-02518, ¶ 33.

facts of each case must always be weighed in determining whether jurisdiction is proper....

Critical to the analysis of whether a defendant should reasonably anticipate being haled into court in the forum state is the determination that defendant purposefully ... availed himself of the privilege of conducting activities within the forum state, thus invoking the benefits and protection of its laws.<sup>16</sup>

In this case, stipulated evidence shows that CKI is a Pennsylvania limited liability company. Over the years, CKI took-out various loans. Mrs. Coyle testified that the proceeds from the loans were used by CKI to buy real properties in Pennsylvania. Stipulated evidence shows that all the loans are secured by mortgages on CKI's properties, and are personally guaranteed by Mrs. Coyle, a member of CKI. Mrs. Coyle, as a member of CKI, "availed" herself "of the privilege of conducting activities within" Pennsylvania, and thus invoked "the benefits and protection of its laws."

The Preliminary Objections of Defendants Vernon and Rose Coyle are overruled. The Court shall issue a simultaneous Order consistent with this Opinion.

**By The Court,**

---

**Arnold L. New, J.**

Dated: 10/28/11

---

<sup>16</sup> Kubik v. Letteri, 532 Pa. 10, 16-18; 614 A.2d 1110, 1113-1114 (Pa. 1992) (citing Burger King Corporation v. Rudzewicz, 471 U.S. 462 (1985)).