

Recent Developments in Federal Personal Jurisdiction

Recent Cases Addressing Personal Jurisdiction

Over the last decade, the United States Supreme Court has considered five cases which have for the most part restricted the exercise of personal jurisdiction over non-resident defendants. A sixth case in this area is currently pending before the Supreme Court with oral argument being held November 8, 2022. While the outcome of the most recent case is not yet known, the overall trend has been to deny the existence of personal jurisdiction under both specific and general jurisdiction analyses. The practical result of these opinions is that it is more challenging for Plaintiffs to establish personal jurisdiction over non-resident corporate defendants.

Brief Overview of Personal Jurisdiction

- “Canonical” case is *International Shoe v. Washington*, 326 US 310 (1945)
- **General Jurisdiction** exists where the defendant's affiliations with the forum state are so “continuous and systematic” as to render the defendant “essentially at home in the Forum state.”
- **Specific Jurisdiction** depends on an affiliation between the forum state and the underlying controversy, principally, an activity or occurrence that takes place in the state and is therefore subject to state regulation.
- “The Due Process Clause of the Fourteenth Amendment sets the outer boundaries of a state tribunal’s authority to proceed against a defendant
- Since *International Shoe*, most United States Supreme Court cases dealing with personal jurisdiction focused on specific as opposed to general jurisdiction.

Goodyear Dunlop Tires Operations, S.A v. Brown, 564 U.S. 915 (2011)

- This case involved a lawsuit in North Carolina against foreign subsidiaries of a US parent corporation arising out of an accident that occurred in France.
- Court reaffirmed rule that general jurisdiction requires affiliations with the forum state which are “so continuous and systematic” as to render them essentially at home in the forum state.
- Importantly, the parent corporation did not contest the existence of general jurisdiction over it
- Court held that continuous activity of some sort within a state is not enough to subject the corporation to general jurisdiction within that state unrelated to that activity.

Walden v. Fiore, 571 U.S. 277 (2014)

- Involved the seizure of money outside the forum state by an agent with knowledge that the impact would be received in the forum state.
- Supreme Court analyzed whether specific jurisdiction existed
- Court held that the inquiry turns on the relationship between the Defendant, the forum and the litigation
- Relationship with the forum must arise out of contacts that the Defendant himself creates with the forum state
- The significance of the Plaintiff's contacts with the forum cannot be decisive in determining whether the Defendant's rights are violated due process.

Daimler Ag v. Bauman, 571 U.S. 117 (2014)

- Another general jurisdiction case
- Plaintiffs and all conduct at issue occurred outside the forum state
- Reaffirmed rule, from *Goodyear* – general jurisdiction exists only where contacts are so continuous and systematic that corporation is at home in the forum state
- Court defined what the term at home means – for an individual it means the state of domicile; for a corporation it means both the state of incorporation and principal place of business
- Clear holding about what constitutes sufficient basis for general jurisdiction for a corporate Defendant

Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County, 137 S. Ct. 1773 (2017)

- Viewed as the specific jurisdiction companion to *Daimler*
- BMS which is headquartered in New York and incorporated under Delaware law was sued in California by non-California residents who claimed specific jurisdiction based on BMS's contacts in the state
- BMS had significant contacts including research facilities and hundreds of employees in the state
- BMS sold \$900 million worth of the drug at issue in California between 2006 and 2012
- To assert specific jurisdiction the suit must arise out of or relate to the Defendant's contacts with the forum
- Specific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy establishing jurisdiction
- Court rejects argument that strength of unrelated contacts reduces need for contacts related to claims in the case
- Prior to *Daimler* and *Goodyear*, this would likely have been an easy case for general jurisdiction

Ford Motor Company v. Montana Eight Judicial District Court, 141 S. Ct. 1017 (2021)

- Considered scope of specific jurisdiction
- Avoiding the conclusion that could have resulted from prior restrictive pronouncements on specific jurisdiction
- Involved two accidents and resulting lawsuits – one in Montana, one in Minnesota
- Ford moved to dismiss on the basis of a lack of jurisdiction arguing none of its suit related conduct occurred in Minnesota or Michigan
- Court reinforced purposeful availment principle and requirement that the claims asserted be related to the defendants conducts in the state arise from or
- Ford did not dispute substantial contacts and purposeful availment
- It argued that the dispute did not arise from its in state activities
- Court rejects Ford's causation based requirement and finds that the suits relate to Ford's activities within the forum
- Court distinguishes other cases on the basis that the Plaintiffs here are residents of the forum state

Mallory v. Norfolk Southern Railway Corporation, 21-1168

- Oral argument held November 8, 2022
- Involves consent to jurisdiction as a function of registering to do business in Pennsylvania
- No other basis for supporting jurisdiction – either general or specific
- Challenge before the Supreme Court is the constitutionality of the Pennsylvania statute requiring consent