

SUPREME COURT REJECTS FORD'S PROPOSED CAUSATION-ONLY STANDARD FOR CONFERRING PERSONAL JURISDICTION IN PRODUCT LIABILITY SUITS

Hodgson Russ Torts, Insurance and Products Liability Alert
March 25, 2021

In a much-anticipated opinion, the U.S. Supreme Court further articulated the basis for establishing specific jurisdiction over a defendant in a products liability case. In *Ford Motor Co. v. Montana Eighth Judicial District Court*, consolidated with *Ford Motor Co. v. Bandemer*, the Court held that exercising specific jurisdiction over a non-resident defendant does not require that such defendant's activities in the forum state actually cause a plaintiff's personal injury or death. Nos. 19-368, 19-369 (U.S. Mar. 25, 2021) (slip op.).

The consolidated cases involved similar facts: used Ford vehicles were sold with allegedly defective components outside the states of Minnesota and Montana. Those vehicles malfunctioned and were involved in separate accidents in Minnesota and Montana, and the plaintiffs who were injured and resided in those respective states sued their cases there. The two Ford vehicles were not designed, manufactured, or first sold in either Minnesota or Montana. But Ford did sell other vehicles of the same or similar type to dealerships in those states, and Ford advertised those same model vehicles there through both national and state-specific advertising campaigns. *Id.* at 3-4.

As a refresher: the personal jurisdiction inquiry focuses on notions of fundamental fairness under the Due Process Clause of the Fourteenth Amendment that limit the power of state courts to render judgments against non-resident defendants. In many respects, the analysis boils down to the "defendant's relationship to the forum State." *Bristol-Myers Squibb Co. v. Superior Court of Cal., San Francisco Cty.*, 137 S.Ct. 1773, 1779 (2017). For conferring specific jurisdiction, this means that: (1) the foreign defendant purposefully availed itself of the privilege of conducting activities in the forum state; (2) the plaintiff's claim "arises out of or relates to" the defendant's forum-related activities; and (3) the exercise of personal jurisdiction is reasonable. See *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 463 (1985). The *Ford* case focused on the "arises out of or relates to" prong of the analysis, which looks to the connections between the chosen forum and the claims at issue.

Attorneys

William Ciszewski III
Ryan Cummings
Emily Florczak
Julia Hilliker
Patrick Hines
Ryan Lucinski
Jason Markel
Christopher Massaroni
Michael Maxwell
Michael O'Neill
Alexandria Rowen
Hugh Russ III
Peter Sahasrabudhe
Christian Soller

Practices & Industries

Manufacturing
Product Liability & Complex Tort

SUPREME COURT REJECTS FORD'S PROPOSED CAUSATION-ONLY STANDARD FOR CONFERRING PERSONAL JURISDICTION IN PRODUCT LIABILITY SUITS

Ford admitted that it conducted substantial business in Minnesota and Montana; in other words, that its activities constituted “purposeful availment” under the jurisdictional analysis. The crux of the dispute, however, was whether the plaintiffs’ claims *arose out of or related to* Ford’s specific activities in those states. The state courts held that they did—relying on the fact that Ford advertised and sold the same model vehicles within the forum states. Ford disagreed, focusing on the “arising out of” language to argue that specific jurisdiction did not exist because Ford’s business activities in these states were not the actual cause of the plaintiffs’ injuries. In other words, Ford argued that being haled to Minnesota and Montana courts violated due process because its advertisement and sale of the same model vehicles in those states did not result in the second-hand sales of the vehicles involved in the accidents; thus, Ford’s Minnesota- and Montana-specific activities were not the proximate cause of the plaintiffs’ injuries. *Id.* at 3-4.

The Supreme Court rejected this narrow interpretation, and found that Ford’s connection to Minnesota and Montana was “close enough to support specific jurisdiction.” *Id.* at 18. The Court held that the causation-only test urged by Ford was inconsistent with existing precedent, including the paradigmatic case of *World-Wide Volkswagen Corp. v. Woodson*, 444 U. S. 286, 293 (1980), which also involved an accident with a vehicle that malfunctioned in a foreign forum, where the automaker created a market for the product but did not design, make, or sell it there. *Id.* at 8-10. The Court also corrected Ford’s interpretation of *Bristol-Myers Squibb*, where the Court found that the exercise of specific jurisdiction over a drug-maker defendant in California violated the Due Process Clause under the Fourteenth Amendment because the plaintiffs were engaged in forum shopping. The *BMS* plaintiffs’ claims lacked any connection or relation to the defendant’s activities in the forum state. *Id.* at 15-17. For example, the *BMS* plaintiffs were not residents of or injured in the forum state, and did not use the product there. By contrast, the *Ford* plaintiffs were residents of Minnesota and Montana and were injured there as a result of the use and alleged malfunction of Ford’s vehicles.

In his concurring opinion, Justice Alito joined the majority’s rejection of Ford’s proposed causation-only requirement for specific jurisdiction, and he agreed that Ford’s contacts with Minnesota and Montana created a sufficient causal link to the plaintiffs’ claims to support jurisdiction, noting that local advertising may have given rise to the out-of-state purchases. But Justice Alito expressed concern that the majority may have permitted a new category of cases allowing for the exercise of jurisdiction where the alleged claims have no actual causal link to a defendant’s contacts with the forum, but are otherwise deemed to “relate to” those contacts in a not-very-defined way. Justice Alito maintained that some sort of causal connection between a defendant’s activities and the plaintiff’s claims should be required. *Ford Motor*, Nos. 19-368, 19-369, slip op. at 3 (Alito, J., concurring).

Takeaways: This decision does not change the fact that specific jurisdiction requires a meaningful connection or relationship between a non-resident defendant, the forum, and the alleged claims. But the bounds of that relationship are not as limited as Ford would have hoped. It is something broader than an exclusive showing that a defendant’s contacts with the forum were a direct cause of the alleged injuries. How much broader only time will tell. In some regard, the Court has opened the door for plaintiffs to define the relationship between a chosen forum and a foreign defendant’s contacts so ambiguously as to erode the connection requirement established by earlier precedent.

If you have questions regarding whether this recent decision impacts any of your organization’s operations and activities, please contact Ryan J. Lucinski (716.848.1343) or David A. Short (716.848.1609).