

The issue of exercising personal jurisdiction over a defendant whose products cause injuries in a state other than its home state has been a question that has long made law students and lawyers wonder. A 2021 U.S. Supreme Court decision has laid much of that issue to rest. *Ford Motor Co. v. Montana Eight Judicial District Court*, 592 U.S., 141 S. Ct. 1017 (2021).

The high court held that because Ford is neither incorporated nor headquartered in the two states at issue, those states lacked “general” jurisdiction over the defendant for claims that arise elsewhere, so the question then turned to whether “specific” jurisdiction existed.

The majority, in agreeing with the high court decisions of those two states, held that imposition of specific jurisdiction requires that the state be sufficiently “related to” a defendant’s forum contacts, even in the absence of a strict causal link. Concurring opinions by Justices Samuel Alito and Neil Gorsuch questioned the meaning of the majority’s “related to” standard.

The Court promulgated a two-prong test to determine if jurisdiction over the defendant exists: (1) the evidence must show the defendant purposefully directed its activities at the forum state, and (2) the cause of action arose out of or related to the defendant’s contacts within the forum state.

The first prong of the test was decided years ago in *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 294-98 (1980), in which the Court laid out the “purposeful availment” test. In the *Ford* decision delivered by Justice Elena Kagan, the court provided further guidance on fulfilling the second prong or the “arises from” part of the test, stating that “the ‘or,’ contemplates that some relationships will support jurisdiction without a causal showing.”

Here, the plaintiffs suffered injuries in Ford vehicles — one accident occurred when the tread separated from the rear tire of the vehicle and the plaintiff filed suit in Montana alleging design defect, failure to warn and negligence. The second occurred in Minnesota when the plaintiff’s air bag failed to deploy during a rear-end collision, and plaintiff filed suit alleging product liability, negligence and breach of warranty claims.

Ford moved to dismiss both lawsuits on the basis of lack of personal jurisdiction, assert-



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By BOB CLIFFORD

ing these states could not exercise personal jurisdiction over these product-liability based claims because Ford did not design or manufacture the vehicles in the forum states. Ford further alleged these vehicles were not purchased in the forum states and, therefore, there was a lack of a connection to the forum states.

In *Ford*, the Supreme Court immediately took note of the fact that the defendant admitted that it purposefully availed itself of the two states in actively marketing and selling cars, as well as regularly maintaining warranties on cars owned in those states, and “they encourage Montanans and Minnesotans to become lifelong Ford drivers.” Kagan wrote, “When a company like Ford serves a market for a product in a State and that product causes injury in the State to one of its residents, the State’s courts may entertain the resulting suit.”

In rejecting Ford’s argument that specific personal jurisdiction was not satisfied, the Court stated that “we have never framed the specific jurisdiction inquiry as always requiring proof of causation — i.e. proof that the plaintiff’s claim came about because of the defendant’s in state conduct.” Instead, the test requires “an affiliation between the forum and the underlying controversy,” and “principally,

[an] activity or occurrence that t[ook] place” in the forum State and is therefore subject to the State’s regulation.

In *Ford*, “the plaintiffs are residents of the forum States, used the allegedly defective products in the forum States, and suffered injuries when those products malfunctioned there.” These are the criteria that a plaintiff must now satisfy when filing a case against a nonresident products liability defendant.

*Ford* has since been cited in Illinois numerous times including *Harding v. Cordis Corp.*, 2021 IL App (1st) 210032, in which the court held that specific personal jurisdiction existed over a nonresident defendant manufacturer of a custom component of a medical device in a strict products liability action.

Too often a defendant has attempted to evade jurisdiction based on technicalities, despite knowing it clearly does business and has many contacts with the forum state. *Ford* clearly is a victory for simple, straightforward common sense, grounded on fairness and reasonable expectations of a consumer. <sup>[CL]</sup>

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