

Ford Motor Company's Attempt to Rein- in Personal Jurisdiction

AUTHOR: TYLER SCHWETTMAN

CONTRIBUTOR: TIMOTHY SANSONE, MICHAEL LECINSKI

Introduction and Summary of Decision by U.S. Supreme Court

For any lawsuit to proceed, a court must have “personal jurisdiction” over the defendant. There are two types of personal jurisdiction a court can exercise: general and specific. Recently, the United States Supreme Court decided the case of *Ford Motor Company v. Montana Eighth Judicial District Court*, — S.Ct. — (2021), which further clarified the process a court should follow in reviewing for specific personal jurisdiction over a defendant.

In particular, the Supreme Court held that Ford Motor Company was subject to specific personal jurisdiction in Montana and Minnesota in lawsuits arising out of or relating to accidents with Ford vehicles in those states, even though the vehicles were not manufactured or originally sold in those states.

Factual Background

In 2015, a Montana resident was driving a Ford Explorer on a Montana highway when the tread on one of her tires separated. She lost control of the vehicle and died as a result of it rolling into a ditch. The personal representative of her estate sued Ford Motor Company in Montana state court.

Ford is headquartered in Michigan and is incorporated in Delaware (meaning general jurisdiction did not exist: the accident did not happen in Ford’s “home states”). Ford assembled the vehicle in Kentucky and first sold it to a dealership in the state of Washington. The dealership then sold it to an Oregon resident, who later sold it to a buyer who brought it to Montana. The question for the Court was whether “specific” personal jurisdiction existed over Ford regarding an accident involving a vehicle that it did not sell in Montana.

The district court denied Ford’s motion to dismiss for lack of personal jurisdiction, finding a “connection between the forum and the specific claims at issue.” The Montana Supreme Court affirmed, reasoning that by advertising and selling parts within Montana, Ford had availed itself of the privilege of doing business in that state and was therefore subject to specific personal jurisdiction there.

At the Supreme Court, the Montana case was consolidated with a case from Minnesota involving similar claims and arguments.

The Majority Opinion

Justice Elena Kagan wrote for the Court in its 8-0 decision against Ford (new Justice Amy Coney Barrett did not participate). Justice Kagan explained Ford's massive presence in the States. "By every means imaginable — among them, billboards, TV and radio spots, print ads, and direct mail — Ford urges Montanans and Minnesotans to buy its vehicles," she wrote. "Ford cars ... are available for sale, whether new or used, throughout the States, at 36 dealerships in Montana and 84 in Minnesota. And apart from sales, Ford works hard to foster ongoing connections to its cars' owners."

Ford conceded that it actively seeks to serve the market for automobiles and related products in Montana and Minnesota (*i.e.*, that it has purposefully availed itself of the privilege of conducting activities in both States.) *Hanson v. Denckla*, 78 S.Ct. 1228 (1958). But Ford argued that personal jurisdiction was precluded by the fact that there was a missing causal link between its forum-specific activities and the plaintiffs' claims. Ford argued that jurisdiction would attach only if its forum conduct *gave rise* to the plaintiffs' claims.

The Court did not agree with Ford's suggestion that but-for causation was required for a court to exercise specific personal jurisdiction. Ford's arguments were ultimately out of line with long-standing precedents such as *Daimler*, which demand that to exercise specific personal jurisdiction, the suit must "arise out of or relate to the defendant's contacts with the forum." *Daimler AG v. Bauman*, 134 S.Ct. 746 (2014). In the opinion, Justice Kagan focused on the disjunctive "or" present in the formulation. The first half of the formula – "arise out of" indicates causation. The second half – "or relate to" indicates that specific personal jurisdiction may attach without causation. Ford sought to implement a rule that would *always* require a causal showing, and the Court did not agree.

Ford relied on two of the Court's recent cases – *Bristol-Myers Squibb Company v. Superior Court of California, San Francisco County*, 137 S.Ct. 1773 (2017), and *Walden v. Fiore*, 134 S.Ct. 1115 (2014), in support of its "but-for causation" rule. The Court found *Bristol-Myers* and *Walden* did not apply in Ford's favor. Ford believed that *Bristol-Myers* prevented the trial court's assertion of jurisdiction over it, but the Court reasoned that jurisdiction was lacking in *Bristol-Myers* because the forum state—and the defendant's activities there—lacked connection to the plaintiffs' claims, unlike the present case. Though Ford also relied on *Walden*, the Court felt it had "precious little" to do with the case, in that the *Walden* defendant had no contacts with the forum state and had not "purposefully avail[ed himself] of the privilege of conducting activities" there. *Hanson*, 78 S.Ct. 1228.

Interestingly, in a *Daimler* footnote, the Court used the exact fact pattern present in *Ford* as a paradigm example of how specific jurisdiction works. See *Daimler*, 571 U.S., at 127, n.5, 134 S.Ct. 746.

The Concurring Opinions

Justices Samuel Alito and Neil Gorsuch wrote concurring opinions, with Justice Clarence Thomas joining Justice Gorsuch's opinion. Both concurring opinions agreed with the majority's conclusion but seemed to suggest that members of the Court are becoming concerned with the "muddled" nature of the Court's personal jurisdiction jurisprudence. *Ford*, — S.Ct. — (Gorsuch, J., concurring in judgment.) Though the personal jurisdiction landscape as we know it remains intact, the *Ford* concurring opinions indicate that the Court, or at least some members of the Court, are open to revisiting past personal jurisdiction decisions.

Conclusion

In the end, the "landscape" of personal jurisdiction—more particularly "specific" personal jurisdiction—remains the same for now as before. This decision does, however, provide clarity regarding what courts will look for when plaintiffs attempt to assert specific personal jurisdiction over out-of-state corporate defendants.

In particular, corporate defendants with extensive contacts in forum states may now find it more difficult to escape lawsuits via personal jurisdiction defenses. This decision also makes clear that when an injury occurs and the plaintiff resides in a state that the defendant has extensive connections to, jurisdiction will likely be deemed proper. At the same time, the decision leaves open the case of whether jurisdiction is proper over the following scenario: (1) a defendant has extensive connections to the plaintiff's home state; but (2) an injury occurs out of-state. It is likely that the Court will continue to accept (for review) cases involving personal jurisdiction challenges to further clarify (or attempt to clarify) the somewhat nuanced contours of the doctrine.