

ALERTS AND UPDATES

U.S. Supreme Court Reaffirms Stringent Test for General Jurisdiction over Foreign Manufacturers

June 30, 2011

In *Goodyear Dunlop Tires Operations, S.A. v. Brown*,¹ decided on June 27, 2011, a unanimous U.S. Supreme Court reaffirmed the distinction between general and specific jurisdiction, holding that certain foreign subsidiaries of tire manufacturer Goodyear Tire and Rubber Company ("Goodyear USA") were not subject to personal jurisdiction in North Carolina to defend products liability claims arising from a bus accident in France, allegedly caused by a defective tire manufactured and sold by non-U.S. entities of Goodyear.

In *Goodyear*, the plaintiff's decedents—two 13-year-old boys returning from a trip to France with their soccer team—were killed when their bus overturned in an accident outside of Paris, France, allegedly due to defects in the tires manufactured and sold by the foreign Goodyear entities. Those defendants were incorporated in Luxembourg, Turkey and France; and they were indirect subsidiaries of Goodyear USA, an Ohio corporation also named as a defendant. The foreign entities manufactured tires primarily for sale in European and Asian markets; had no place of business, employees or bank accounts in North Carolina; and did not design, manufacture, advertise, solicit business, or themselves sell or ship tires in or to North Carolina. Nevertheless, a small percentage of the foreign entities' tires—tens of thousands out of tens of millions manufactured between 2004 and 2007—were distributed within North Carolina by other Goodyear affiliates.

Writing for a unanimous court, Justice Ginsburg differentiated the concepts of specific jurisdiction and general jurisdiction, as developed in *International Shoe Co. v. Washington*² and its progeny. Specific jurisdiction involves those cases in which the defendant's forum-related activity gives rise to facts in the suit. In the *Goodyear* case, the foreign Goodyear entities' North Carolina-related activities—*i.e.*, the indirect sales of their tires in North Carolina—did not give rise to the products liability claims asserted by the plaintiffs, which arose out of an accident in France allegedly caused by a defective tire that was manufactured and sold in Europe. Thus, Justice Ginsburg explained, the jurisdictional basis involved in the case was general jurisdiction, which required a different analysis.

General jurisdiction allows the defendant to be sued in the forum state, irrespective of the nature of the cause of action and of its connection with the defendant's forum-related activities. As Justice Ginsburg summarized, "For an individual, the paradigm forum for the exercise of general jurisdiction is the individual's domicile; for a corporation, it is an equivalent place, one in which the corporation is fairly regarded as at home." Only two Supreme Court cases decided since *International Shoe* have addressed whether an out-of-state corporate defendant's in-state contacts were sufficiently "continuous and systematic" to justify the exercise of general jurisdiction over claims unrelated to those contacts: *Perkins v. Benguet Consol. Mining Co.*,³ and *Helicopteros Nacionales de Colombia, S.A. v. Hall*.⁴ As explained by Justice Ginsburg, those cases demonstrate that the assertion of general jurisdiction against a defendant corporation had to be based on a finding that the forum state was the equivalent of the corporation's home.

Justice Ginsburg noted that even a regular flow of the foreign defendants' tires into North Carolina in the "stream-of-commerce" was insufficient to support the assertion of general jurisdiction over the defendants. Accordingly, the Court said there was no reason to differentiate between the ties to Texas held insufficient in *Helicopteros* and the sales of the foreign affiliates' tires that were sporadically made in North Carolina through intermediaries. Justice Ginsburg emphasized that the holding advocated by the plaintiffs would essentially cause "any substantial manufacturer or seller of goods [to] be amenable to suit, on any claim for relief, wherever its products are distributed." The Court concluded that the foreign affiliates

"attenuated connections to the State . . . fall far short of the 'continuous and systematic general business contacts' necessary to empower North Carolina to entertain suit against them on claims unrelated to anything that connects them to the State."

Analysis

If there were any doubts that general jurisdiction requires demonstrating that the forum state essentially constitutes the "home" domicile of a defendant, the unanimous decision in *Goodyear* appears to resoundingly dispel them, and reaffirms the teachings of *International Shoe*, *Perkins*, and *Helicopteros*. Going forward, the primary basis for invoking jurisdiction over a foreign defendant under applicable long-arm statutes will continue to be the "minimum contacts" analysis of *International Shoe* and its progeny—and the invocation of specific jurisdiction in the forum state based on the forum-related contacts giving rise to the claims in litigation.

For Further Information

If you have any questions about this *Alert* or would like more information, please contact [Sharon L. Caffrey](#), [James J. "J." Ferrelli](#), [Paul M. da Costa](#), any [member](#) of the [Products Liability and Toxic Torts Practice Group](#) or the attorney in the firm with whom you are regularly in contact.

Notes

1. *Goodyear Dunlop Tires Operations v. Brown*, 2011 U.S. LEXIS 4801 (U.S. June 27, 2011).
2. *International Shoe Co. v. Washington*, 326 U.S. 310 (1945).
3. *Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437 (1952) (general jurisdiction properly exercised over Philippine corporation sued in Ohio, where the defendant's affairs were handled during World War II).
4. *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408 (1984) (no jurisdiction in Texas over Colombian corporation for wrongful-death action by survivors of U.S. citizens who died in crash in Peru of helicopter owned by corporation; the corporation's purchases and purchase-related activities in Texas were insufficient to subject it to general jurisdiction in Texas).

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