

## **Internet Jurisdiction – Can you Sue from Home?**

If you purchase an item on a small business website, but the product you receive does not conform to the specifications as indicated on the merchants website, what can you do? Can you file litigation in your home state, or must you sue them where the company is headquartered? Moreover, do you even have standing to assert a claim against a small business or individual seller?

In order to bring a suit, as in any other dispute, you as the injured party must be able to demonstrate jurisdiction. The court must have personal jurisdiction and subject matter jurisdiction over the area of law. This is an essential element of a claim because you generally want to be able to sue in your home county, let alone the state to which you're domiciled. The expense of traveling to another state and retaining local counsel can often offset the benefits even if you win your case. More to the point, if you can compel your adversary to travel to your state, the cost to defend the claim may be so cost prohibitive that you can effectuate a settlement over the claim without ever appearing in court.

The key to determine if the court holds the power to bind a decision to the defendant is whether personal jurisdiction attaches. In Internet related cases, personal jurisdiction looks at the minimum contacts the seller has established in your state. The legal standard to consider is whether their commercial conduct has been continuous, voluntary, systematic and intentional.

Pursuant to Massachusetts's law, you can force a seller to litigate the claims in the jurisdiction of Massachusetts if they have filed for a foreign certificate of state, which is required of all businesses conducting commerce in Massachusetts. These companies who do file are also required to record a registered agent, who can be sued within the state. This registered agent can be found on Secretary of the State's website. In addition, Rule 4 of the Massachusetts Rules of Civil Procedure provides additional direction to hail defendants from foreign jurisdictions into the state.

Yet another method to demonstrate minimum contacts is to show that the seller is using geo-targeted pay per click (PPC) Google or Yahoo ads, coupled with a history of generating revenue from your state.

On the other side of the coin, a bad eBay or Craigslist transaction where a seller put his or her item for bid to anyone, anywhere and where you buy the item, would likely be held by a court as a lack of the aforementioned minimum contacts.

The bottom line is that determining the proper Internet Jurisdiction is not a simple matter. It requires some investigation and a knowledge of your state's procedural law. It is always a good idea to consult with an attorney in your area who has a basis of knowledge relating to cyber law.

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