

U.S. Supreme Court Revisits the Contours of Specific Personal Jurisdiction

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On March 25, 2021, the United States Supreme Court decided *Ford Motor Co. v. Montana Eighth Judicial District Court*, holding that plaintiffs could sue Ford Motor Company (“Ford”) in the states where their injuries occurred because such injuries were sufficiently related to Ford’s extensive business development activities for the relevant products in those states.¹ Interpreting prior case law which established that a suit “must arise out of or relate to” a defendant’s in-state activities for a court to exercise specific jurisdiction, the Supreme Court reasoned that “[w]hen a company like Ford serves a market for a product in a [s]tate and that product causes injury in the [s]tate to one of its residents,” such contacts sufficiently “relate to” plaintiffs’ injuries to be heard in that state.² It was not necessary, as Ford argued, that the specific vehicles involved in the accidents were first sold or manufactured in that state.

In rejecting Ford’s arguments, the Court explained that jurisdiction would not necessarily be permitted over defendants with looser connections than those displayed in *Ford Motor*. The Court reaffirmed its prior decisions rejecting personal jurisdiction in *World-Wide Volkswagen* (1980), where the defendant’s contact with a forum state was insufficiently “related” to plaintiff’s in-state injuries, and in *Bristol-Myers* (2017), where plaintiffs’ out-of-state injuries did not have a sufficient connection to defendant’s in-state business contacts. And the Court highlighted that “traditional notions of fair play and substantial justice” and “interstate federalism” remain as limiting principles.

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¹ *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, No. 19-368, 2021 WL 1132515 at *7 (U.S. Mar. 25, 2021).

² *Id.* at *6.



Background

Plaintiffs brought two separate product liability lawsuits against Ford in Montana and Minnesota state court, each in connection with accidents involving Ford vehicles in the respective states.³ Ford moved to dismiss, arguing that personal jurisdiction could not be exercised because the specific vehicles involved in the accidents were not originally designed or manufactured in Montana or Minnesota or first sold there by Ford (the vehicles were initially sold elsewhere, and entered the Montana and Minnesota markets through secondary sales or relocations).

Affirming lower court decisions, the Montana and Minnesota supreme courts each rejected this argument and held that Ford's conduct supported personal jurisdiction because Ford had extensively marketed and advertised the same vehicle models in these states, as well as engaged in numerous additional activities, such as sales, repair, and recall services for those vehicles, in these markets. In light of Ford's extensive in-state activities, which closely related to the claims at issue, the state supreme courts ruled that whether the particular vehicle involved in an accident was designed, manufactured or first sold in the forum state was "immaterial."⁴

The Supreme Court's Decision

In an 8-0 ruling, the U.S. Supreme Court affirmed the state supreme court decisions and rejected Ford's specific-vehicle argument. Writing for the majority, Justice Kagan reiterated

that courts can exercise specific jurisdiction over a defendant if (i) there is "some act by which [the defendant] purposefully avails itself of the privilege of conducting activities within the forum State" and (ii) the relevant allegations "arise out of or relate to the defendant's contacts."⁵

Noting Ford's concession that it purposefully availed itself of the privilege of conducting extensive business in each state related to the vehicle models at issue, which Justice Kagan recounted, she rejected Ford's argument that plaintiffs' lawsuits did not "arise out of or relate to" its substantial business contacts in these states solely because the specific vehicles involved in the accidents were not manufactured, designed or first sold there.⁶ Rather, Justice Kagan explained that there was a sufficient nexus between Ford's substantial contacts with the forums and plaintiffs' injuries since Ford "systematically served a market in Montana and Minnesota for the very vehicles that the plaintiffs allege malfunctioned and injured them in those States."⁷

While finding that the particular "strict causal relationship" asserted by Ford was not always required for specific jurisdiction, Justice Kagan noted that the majority's ruling "does not mean anything goes."⁸ Instead, "the phrase 'relate to' incorporates real limits," and would not necessarily permit jurisdiction over defendants without the strong connections displayed in *Ford Motor*.⁹ The Court was careful to explain that its holding did not alter the limits on personal jurisdiction established in other Supreme Court decisions, such as *World-Wide Volkswagen Corp.*

³ *Bandemer v. Ford Motor Co.*, No. 77-CV-16-1025, 2017 WL 10185684 (Minn. Dist. Ct. May 25, 2017); *Lucero v. Ford Motor Co.*, No. ADV-18-0247(b) (Mont. Dist. Ct. Oct. 10, 2018).

⁴ *Ford Motor Co.*, 2021 WL 1132515 at *4 (citing *Bandemer v. Ford Motor Co.*, 931 N.W.2d 744, 753 (Minn.

2019); *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 443 P.3d. 407, 416 (Mont. 2019)).

⁵ *Id.* at *4.

⁶ *Id.* at *5.

⁷ *Id.* at *7.

⁸ *Id.* at *5.

⁹ *Id.*

v. Woodson, 444 U. S. 286, 297 (1980), which “held that an Oklahoma court could not assert jurisdiction over a New York car dealer just because a car it sold later caught fire in Oklahoma.”¹⁰ Unlike a manufacturer or distributor that deliberately made efforts to target the market for vehicle sales in the particular jurisdiction where the injury occurred, the New York car dealer’s contacts with Oklahoma were non-deliberate, and thus plaintiff’s injuries in Oklahoma were insufficiently related to those contacts. The Court also distinguished *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S. Ct. 1773 (2017), where, as in *Ford Motor*, the defendant systematically served the forum market for the very product that injured plaintiffs, but the alleged injuries occurred and arose from purchases and use in other states. In that scenario, the Court found that the requisite nexus was lacking.¹¹

Justices Alito, Gorsuch, and Thomas concurred with the judgment and wrote separately to discuss the framing of the issues. While agreeing that jurisdiction over Ford easily met the “arise out of or relate to” test, Justice Alito rejected any potential implication that “no causal link of any kind is needed,” and suggested that, properly understood, “‘arise out of’ and ‘relate to’ overlap and are not really two discrete grounds for jurisdiction.”¹² Justice Gorsuch, joined by Justice Thomas, questioned the overall development of personal jurisdiction law since the nineteenth century, but pointed to the fact that courts have traditionally interpreted “arise out of or relate to” as requiring “a but-for causal link between the defendant’s local activities and the plaintiff’s

injuries,” noting this standard was sufficient to establish specific jurisdiction in *Ford Motor*.¹³

Implications of the Case

It remains to be seen what practical implications, if any, may develop in future cases from the Court’s ruling. As evidenced by the Court’s analysis of its own precedent, the decision to allow the exercise of personal jurisdiction where Ford made deliberate efforts to sell a product in the forum state and the plaintiff was injured in that state by that type of product (albeit one that was not made or first sold in the state) does not necessarily expand the scope of personal jurisdiction.

This is underscored by the Court’s characterization of the *Ford Motor* facts as a “paradigm example”¹⁴ of specific personal jurisdiction, and its caution in distinguishing contexts in which the same analysis may not be suited. The Court’s discussion of *World-Wide Volkswagen* and *Bristol-Myers* confirms that where a defendant has not engaged in concerted activity to market and support a product in the forum state, or where the defendant has engaged in such activity but the plaintiff used the product and was injured outside of the forum, specific jurisdiction may be lacking. This accords with *J. McIntyre Machinery, Ltd. v. Nicastro*, 564 U.S. 873 (2011), which held that businesses that place their products in the stream of commerce are not subject to specific jurisdiction simply because it is reasonably foreseeable that these products may end up in any number of forum states and instead requires that the defendant has taken further steps to deliberately avail itself of the particular forum.

¹⁰ *Id.* at *6.

¹¹ *Id.* at *8. The Court further drew attention to a distinction made in *Bristol-Myers* as to *Keeton v. Hustler Magazine, Inc.* 465 U.S. 770 (1984) on the basis of in-state injury to residents of the forum state in that case. *Id.*

¹² *Id.* at *10 (Alito, J., concurring).

¹³ *Id.* at *11 (Gorsuch, J., concurring).

¹⁴ *Id.* at *7.

The majority in *Ford Motor* did not discuss *McIntyre*, but noted that its decision may have been different if Ford had deliberately marketed the specific vehicle models at issue only in other states.¹⁵ It also declined to address whether selling products over the internet would support specific jurisdiction in any state where the product harms an individual.¹⁶

Finally, as the *Ford Motor* majority stressed, the exercise of specific jurisdiction must comport with the limitations set forth in *International Shoe Co. v. Washington*, 326 U. S. 310 (1945), which held that the “contacts” necessary for “the maintenance of the suit” must be “reasonable, in the context of our federal system of government” and must “not offend traditional notions of fair play and substantial justice.”¹⁷ These limiting principles prevent a defendant from being haled into court in cases involving “out-of-state parties, an out-of-state accident, and out-of-state injuries,” because jurisdiction should be allocated to “[t]hose States [that] have significant interests at stake.”¹⁸ They also provide that defendants cannot be subject to specific jurisdiction based on “isolated or sporadic” transactions in a forum state, as opposed to a more continuous, relevant engagement that benefits from the protections of the forum state.¹⁹

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¹⁵ *Id.*

¹⁶ *Id.* at *7 n.4.

¹⁷ *Int’l Shoe Co. v. Wash.*, 326 U.S. at 316–317.

¹⁸ *Ford Motor Co.*, 2021 WL1132515 at *8.

¹⁹ *Id.* at *7 n.4.