

U.S. Supreme Court Reaffirms That Corporate Defendants Are Subject to General Personal Jurisdiction Only Where They Are “At Home”

May 31, 2017

On May 30, 2017, the U.S. Supreme Court strongly reaffirmed the *Daimler* rule that a corporate defendant is typically subject to general personal jurisdiction only in its place of incorporation and its principal place of business.¹ Ruling 8-1 in *BNSF Railway Co. v. Tyrrell*, the Court also indicated that any exceptions to this rule will be construed very narrowly. The decision sends a strong message to state courts that the exercise of general jurisdiction based on a traditional “doing business” standard will not withstand the more exacting *Daimler* rule. However, the Court left open the question whether a corporation’s registration to do business in a state can constitute consent to general jurisdiction, and corporate defendants should expect continued litigation on this issue until the Court resolves it.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors:

NEW YORK

Jonathan I. Blackman
+1 212 225 2490
jblackman@cgsh.com

Lawrence B. Friedman
+1 212 225 2840
lfriedman@cgsh.com

Howard S. Zelbo
+1 212 225 2452
hzelbo@cgsh.com

Carmine D. Boccuzzi, Jr.
+1 212 225 2508
cboccuzzi@cgsh.com

Inna Rozenberg
+1 212 225 2972
irozenberg@cgsh.com

One Liberty Plaza
New York, NY 10006-1470
T: +1 212 225 2000
F: +1 212 225 3999

WASHINGTON D.C.

Matthew D. Slater
+1 202 974 1930
[mslater@cgsh.com](mailto:m Slater@cgsh.com)

2000 Pennsylvania Avenue, NW
Washington, DC 20006
T: +1 202 974 1500
F: +1 202 974 1999

¹ See *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014).



Background to *BNSF Railway Co. v. Tyrrell*

This case involves two actions against BNSF Railway Co. (“BNSF”) in Montana state court. Plaintiffs, Tyrrell and Nelson, asserted claims under the Federal Employers’ Liability Act (“FELA”) based on injuries sustained while employed by BNSF in states other than Montana. BNSF, which is incorporated in Delaware and has its principal place of business in Texas, sought to dismiss both actions for lack of personal jurisdiction.² Because neither the injuries nor any related conduct occurred in Montana, only general personal jurisdiction could potentially support bringing the claims there.

The Montana Supreme Court held that Montana courts could exercise personal jurisdiction over BNSF because FELA § 56 allows claims to be brought where the defendant is “doing business.”³ In interpreting FELA, the court reasoned that: Congress intended the statute to be liberally construed in favor of injured railroad employees; FELA includes a broad venue provision that also confers personal jurisdiction in a state where the corporate defendant was “doing business”; and Supreme Court precedents in this area established that personal jurisdiction could be exercised over a railroad on the sole basis that it did business in the forum state.⁴ The court distinguished *Daimler* on the grounds that it involved the authority of a court in the United States to hear claims brought by foreign plaintiffs against foreign defendants based on events occurring entirely outside of the United States, and did not involve a FELA claim

or a railroad defendant.⁵ Finally, the court concluded that Montana law provides for general personal jurisdiction over a defendant that is “found within” the state, which the Montana court held was satisfied based on BNSF’s “substantial, continuous, and systematic contacts with Montana.”⁶

The U.S. Supreme Court’s Decision

The U.S. Supreme Court reversed the judgment of the Montana Supreme Court.

Writing for the Court, Justice Ginsburg first analyzed whether FELA itself provides a statutory basis for asserting general personal jurisdiction over BNSF.⁷ *First*, the Court held that the FELA provision on which Tyrrell and Nelson relied addresses only where *venue* is proper, but does not provide for the exercise of personal jurisdiction.⁸ *Second*, the Court held that the same FELA provision’s reference to “concurrent jurisdiction” concerned subject matter jurisdiction, not personal jurisdiction.⁹ *Third*, the Court rejected the argument that its prior FELA precedents held that a “doing business” standard applies to a state court’s exercise of general personal jurisdiction over a FELA defendant.¹⁰

Having held that FELA “does not authorize state courts to exercise personal jurisdiction over a railroad solely on the ground that the railroad does some business in their States,” the Court next considered whether the Montana court’s assertion of personal jurisdiction over BNSF under Montana law is consistent with the Due Process

² See *Tyrrell v. BNSF Ry. Co.*, 373 P.3d 1, 3 (Mont. 2016).

³ See *id.* at 7.

⁴ See *id.* at 4-7.

⁵ See *id.* at 5-6.

⁶ See *id.* at 7-9 (internal quotations omitted).

⁷ *BNSF Ry. Co. v. Tyrrell*, No. 16-405, slip op. at 4-9 (May 30, 2017).

⁸ See *id.* at 5-7 (citing 45 U.S.C. § 56 (“[A]n action may be brought in a district court of the United States ... in which the defendant shall be doing business at the time of commencing such action.”)).

⁹ See *id.* at 7-8 (citing 45 U.S.C. § 56 (“The jurisdiction of the courts of the United States under this chapter shall be concurrent with that of the courts of the several States.”)).

¹⁰ See *id.* at 8-9.

Clause of the Fourteenth Amendment.¹¹ The Court reiterated the standard set forth in *Daimler*: that the “paradigm” forums in which a corporate defendant is “at home,” and thus subject to general personal jurisdiction, are “the corporation’s place of incorporation and its principal place of business.”¹² The Court also stated that, in an “exceptional case,” a corporate defendant may be subject to general jurisdiction in another forum. However, the only example of such an exceptional case that the Court gave was the same it one noted in *Daimler*, involving a corporation that had relocated from the Philippines to Ohio during the Second World War, which the Court addressed in *Perkins v. Benguet Consol. Mining Co.*¹³

The Court held that the *Daimler* standard “does not vary with the type of claim asserted or business enterprise sued,” and, therefore, the Montana Supreme Court erred in applying a more lenient standard to railroad defendants in FELA actions.¹⁴ The Court concluded that BNSF’s more than 2,000 employees and more than 2,000 miles of railroad tracks in Montana, in comparison to the vast scope of its national business, did not warrant an exception to the *Daimler* rule.¹⁵ Finally, the Court declined to consider whether BNSF consented to personal jurisdiction because the Montana Supreme Court did not address that question.¹⁶

Justice Sotomayor dissented from the majority’s holding that the Montana court’s exercise of general personal jurisdiction over BNSF violated the Due Process Clause, adhering to her prior concurrence in *Daimler*. She emphasized that by engaging in little analysis of BNSF’s Montana

contacts, the Court was transforming the general jurisdiction analysis for corporate defendants into a rote inquiry concerning the defendant’s place of incorporation and principal place of business, and that the Court was effectively limiting the “exceptional case” to the extreme facts of *Perkins*.¹⁷

Conclusion

The Court’s opinion in *BNSF Railway* makes clear that *Daimler*’s holding applies broadly to the exercise of general jurisdiction over corporate defendants, regardless of the nature of the claim asserted. Further, the opinion suggests that the Court will construe narrowly the exceptional circumstances in which a corporate defendant may be subject to general personal jurisdiction in places other than its place of incorporation or principal place of business. Finally, the Court’s refusal to consider whether BNSF had consented to personal jurisdiction by registering to do business in Montana leaves the issue open and increases the likelihood that it will be the focus of repeated and vigorous debate in future cases in which plaintiffs seek to avoid the effect of *Daimler*’s holding.

...

CLEARY GOTTLIB

¹¹ *Id.* at 9-12.

¹² *Id.* at 10.

¹³ *See id.* at 10-11.

¹⁴ *Id.* at 11.

¹⁵ *See id.*

¹⁶ *See id.* at 12.

¹⁷ *See BNSF Ry. Co. v. Tyrrell*, No. 16-405, slip op. at 3-5 (May 30, 2017) (Sotomayor, J., concurring in part and dissenting in part).