

January 15, 2014

## Personal Jurisdiction

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### U.S. Supreme Court Limits General Personal Jurisdiction Over Out-of-State and Foreign Corporations

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#### SUMMARY

In *Daimler AG v. Bauman*, No. 11-965 (Jan. 14, 2014), the U.S. Supreme Court limited the scope of general personal jurisdiction over out-of-state and foreign corporations. It held that a corporation is subject to general jurisdiction only in a State where its contacts are so “continuous and systematic,” judged against the corporation’s national and global activities, that it is essentially “at home” in that State. As a result, aside from “exceptional cases,” a corporation will be subject to general jurisdiction only in a State that is the corporation’s formal place of incorporation or its principal place of business.

#### BACKGROUND

In *Daimler AG*, residents of Argentina brought suit in California federal court against DaimlerChrysler (“Daimler”), a corporation headquartered in Germany that manufactures Mercedes-Benz vehicles there. Plaintiffs claimed that they were the victims of certain human-rights abuses by an Argentinian subsidiary of Daimler during the late 1970s and early 1980s. The case thus was brought by foreign plaintiffs against a foreign defendant based on conduct alleged to have occurred entirely outside the United States.

Plaintiffs did not contend that Daimler was subject to *specific* personal jurisdiction in California, *i.e.*, that their suit arose out of Daimler’s particular activities in California. Rather, plaintiffs argued that Daimler was subject to *general* personal jurisdiction in California based on the activities there of one of its subsidiaries, Mercedes-Benz USA, LLC (“MBUSA”). MBUSA is incorporated in Delaware and has its principal place of business in New Jersey. It distributes Mercedes-Benz vehicles to independent dealerships throughout the United States, including California. Plaintiffs argued that MBUSA was subject to general jurisdiction in California as a result—and that its contacts could be imputed to Daimler for jurisdictional purposes because MBUSA was an agent of Daimler.

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A panel of the Ninth Circuit initially rejected plaintiffs' agency theory, but then withdrew its opinion and issued a new opinion accepting that theory. The panel held that Daimler was subject to general jurisdiction in California because MBUSA was Daimler's agent and its contacts with California could be imputed to Daimler for jurisdictional purposes. The panel's agency test required consideration of whether the subsidiary "performs services that are sufficiently important to the foreign corporation that if it did not have a representative to perform them, the corporation's own officials would undertake to perform substantially similar services." Over the dissent of eight judges, the Ninth Circuit denied rehearing en banc. The Supreme Court subsequently granted review.

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### SUPREME COURT'S OPINION

The Supreme Court's decision is notable because it limits general jurisdiction over out-of-state and foreign corporations, and does so on a ground that was not the focus of the parties' briefing. As the case came to the Court, Daimler had not contested that MBUSA was subject to general jurisdiction in California. Instead, Daimler argued that MBUSA's contacts with California could not be attributed to Daimler as a matter of agency law. At the outset, however, the Court questioned whether MBUSA's contacts with California were so extensive as to subject it to general jurisdiction there. The Court made clear that, only for purposes of its decision in the case, it would assume general jurisdiction over MBUSA in California courts because Daimler had not contested the point. The Court's analysis thus suggests that defendants should be particularly careful about conceding the existence of general jurisdiction, even in States where they conduct extensive business.

The Supreme Court then turned to the issue on which the parties had focused: whether MBUSA's contacts could be imputed to Daimler on an agency theory. The Court ultimately did not decide that question. It disapproved of the Ninth Circuit's agency test, which allowed a subsidiary's contacts with a forum State to be imputed if the subsidiary performed "important" services for its parent corporation. The Court explained that this test would "always yield a pro-jurisdiction answer," because "[a]nything a corporation does through an independent contractor, subsidiary, or distributor is presumably something that the corporation would do 'by other means' if the independent contractor, subsidiary, or distributor did not exist." Ultimately, however, the Court found it unnecessary to decide whether a subsidiary's contacts with a forum State can ever be imputed to a parent corporation for purposes of general jurisdiction.

Rather, the Supreme Court held that—even if MBUSA were subject to general jurisdiction in California and even if its contacts were imputable to Daimler—"there would still be no basis to subject Daimler to general jurisdiction in California, for Daimler's slim contacts with the State hardly render it at home there." The Court explained that a corporation is only subject to general jurisdiction if its "affiliations with the State are so continuous and systematic as to render it essentially at home in the forum State." The Court further explained that the corporation's contacts with the forum State must be evaluated in the context of its "activities in their entirety, nationwide and worldwide." That test will typically mean, the Court

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concluded, that a corporation is subject to general jurisdiction in the States where it is formally incorporated or has its principal place of business. But the Court did not foreclose the possibility that in “an exceptional case,” a corporation’s operations in another State could “be so substantial and of such a nature” as to give rise to general jurisdiction there.

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### IMPLICATIONS OF THE SUPREME COURT’S OPINION

The Court’s decision substantially narrows the ability of plaintiffs to bring lawsuits against out-of-state or foreign corporations based upon conduct unrelated to the forum State. As a result of the decision, it will be more difficult to show that a corporation—whether domestic or foreign—is subject to general jurisdiction in States other than where it is formally incorporated or has its principal place of business. In those other States, plaintiffs will likely have to show specific jurisdiction over the defendant, *i.e.*, that the defendant has certain minimum contacts with the forum State and the claims at issue relate to those contacts. The Court’s decision in *Daimler AG* thus continues the recent trend favoring specific jurisdiction over general jurisdiction.

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