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Daimler AG v. Bauman, et al., 134 S. Ct. 746 (2014)

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On January 14, 2014, the U.S. Supreme Court issued its opinion in *Daimler AG v. Bauman, et al.*, No. 11-965, 134 S. Ct. 746 (2014). *Daimler* addressed the question of whether the Due Process Clause of the 14th Amendment precluded the district court from exercising jurisdiction over the defendant, given the absence of any California connection to the parties and events described in the complaint. Plaintiffs invoked only the court's general or all-purpose jurisdiction. California, they urged, is a place where the foreign defendant may be sued on any and all claims against it, wherever in the world the claims may arise. The Supreme Court disagreed, holding that a court may not exercise jurisdiction over a foreign corporation for conduct that took place entirely outside of the United States, unless the corporation's affiliations with the state in which the suit is brought are so constant and pervasive as to render it essentially at home in the forum state.

Background

Twenty-two Argentinian residents filed a complaint in the Northern District of California against DaimlerChrysler Aktiengesellschaft (Daimler), a German company that manufactures Mercedes-Benz vehicles in Germany. The complaint alleged that during Argentina's 1976–1983 "Dirty War," Daimler's Argentinian subsidiary collaborated with state security forces to kidnap, detain, torture, and kill certain Mercedes-Benz Argentinian workers, among them the

plaintiffs or persons closely related to the plaintiffs. Jurisdiction over the lawsuit was predicated on the California contacts of a Daimler subsidiary in the United States that distributes automobiles in California.

Daimler moved to dismiss the action for want of personal jurisdiction. The plaintiffs argued that under the court's general or all-purpose jurisdiction, California was a place where Daimler may be sued on any and all claims against it, wherever in the world the claims might arise. The plaintiffs further argued that jurisdiction over Daimler could be founded on California contacts made by Mercedes-Benz USA (MBUSA), the Daimler subsidiary that distributes automobiles in California. Plaintiffs asserted MBUSA should be treated as Daimler's agent for jurisdictional purposes. The district court granted Daimler's motion to dismiss; the court declined to attribute MBUSA's California contacts to Daimler on an agency theory, concluding that the plaintiff failed to demonstrate that MBUSA acted as Daimler's agent.

The Ninth Circuit affirmed, reasoning that plaintiffs had not shown the existence of an agency relationship of the kind that might warrant attributing MBUSA's contacts to Daimler. The plaintiffs petitioned for rehearing; the panel then withdrew its initial opinion and instead ruled that the agency test was satisfied and considerations of "reasonableness" did not bar the exercise of jurisdiction. Daimler petitioned for certiorari.

The Supreme Court's Decision

The Supreme Court granted certiorari and held that exercises of personal jurisdiction, like the one asserted in this case, are barred by due process constraints on the assertion of adjudicatory authority. The Court distinguished between general or all-purpose jurisdiction, and specific or conduct-linked jurisdiction. Only general jurisdiction was at issue in this case. The Court previously held in *Goodyear Dunlop Tires Operations, S.A. v. Brown*, ___ U.S. ___, 131 S. Ct. 2846 (2011), that a court may assert jurisdiction over a foreign corporation "to hear any and all claims against [it]" only when the corporation's affiliations with the state in which suit is brought are so constant and pervasive "as to render [it] essentially at home in the forum State." Examples of such affiliations include the corporation's place of incorporation and principal place of business. The Court noted that the place of incorporation and principal place of business offer predictability, as each is only a single locale, and thus is easily ascertainable.

The *Daimler* Court clarified *Goodyear*, however, noting that *Goodyear* did not hold that a corporation may be subject to general jurisdiction only in a forum where it is incorporated or has its principal place of business. Instead, *Goodyear* included those places as examples of all-purpose forums. Nonetheless, the Court rejected plaintiffs' argument that general jurisdiction should be found in all states where a corporation

engages in substantial, continuous, and systematic business. Instead, general jurisdiction is found only where a corporation's affiliations with the state are so continuous and systematic as to render it essentially at home in the forum state.

Applying *Goodyear*, the Court concluded that Daimler is not "at home" in California, and cannot be sued there for injuries the plaintiffs attributed to Mercedes-Benz Argentina's conduct in Argentina. Neither Daimler nor MBUSA is incorporated in California, nor does either entity have its principal place of business there. As the Court noted, "[i]f Daimler's California activities sufficed to allow adjudication of this Argentina-rooted case in California, the same global reach would presumably be available in every other state in which MBUSA's sales are sizable. Such exorbitant exercises of all-purpose jurisdiction would scarcely permit out-of-state defendants "to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit."

The Court further rejected the Ninth Circuit's reliance on an agency theory. The

Ninth Circuit's agency analysis derived from circuit precedent considering principally 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. The Ninth Circuit thus reasoned that MBUSA's services were "important" to Daimler, as gauged by Daimler's hypothetical readiness to perform those services itself if MBUSA did not exist. The Supreme Court criticized this approach, noting that this inquiry "stacks the deck," for it will always yield a pro-jurisdiction answer: anything 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. Thus, the Ninth Circuit's rationale was inconsistent with *Goodyear*. The Supreme Court left open, however, whether other exercises of agency theory can form a basis for general jurisdiction. Specifically, the Court noted, but did not opine on whether a subsidiary's contacts can be imputed to its

parent when the former is so dominated by the latter as to be its alter ego.

Impact

This case should provide some assurance to large corporate entities that a lawsuit based on entirely foreign activities will not be permitted in a state other than the corporation's principal place of business or place of incorporation, or other state where the corporation is "at home." Attorneys should look to the district and circuit courts for guidance on where, in addition to an entity's place of incorporation and principal place of business, an entity will be amenable to general jurisdiction.

This decision leaves open important questions, including whether agency theory, in general, is a proper means to general jurisdiction, and whether general jurisdiction may be found where a subsidiary is a parent's alter ego.

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