

VEDDER PRICE

Long-Arm Statutes:
A Fifty-State Survey

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Preface

I Background

One of the first and most important issues a civil defendant faces in any case is whether it is subject to the forum court's jurisdiction and, if a good-faith argument can be made that it is not, whether to challenge the court's assertion of personal jurisdiction. This Handbook addresses the requirements applicable to a state court's exercise of personal jurisdiction over a nonresident party to a lawsuit. Not only must a court have subject-matter jurisdiction over a claim, but it also must have personal jurisdiction over the parties. State long-arm statutes often determine whether a court can exercise personal jurisdiction over a nonresident defendant. Absent personal jurisdiction, a court will not have the power to adjudicate a plaintiff's action against a defendant.

The "minimum contacts" test essentially assesses the extent of a defendant's links with the jurisdiction in which the case is filed in order to determine whether the defendant can be forced to defend against the action in a jurisdiction in which they do not reside. Within the last five decades, the law governing personal jurisdiction has changed substantially. From *Pennoyer v. Neff* to *International Shoe Co. v. Washington*, the U.S. Supreme Court has established many of the basic principles surrounding the "minimum contacts" test for a court's exercise of personal jurisdiction. Variations of the basic test have been legislated through state long-arm statutes, judicial interpretations of those statutes, and federal due process requirements. More recent advancements in commerce and communications have further impacted this issue.

Courts addressing this issue today generally ask two questions: (1) Does a state or federal procedural rule or statute exist that provides for jurisdiction under the alleged facts and circumstances of the case? and (2) If so, are the procedural due process requirements of the respective state and federal constitutions sufficiently met? This Handbook addresses the first question.

With respect to procedural rules governing personal jurisdiction, most states have enacted long-arm statutes that set forth specific grounds upon which state courts may exercise personal jurisdiction over a nonresident defendant. Each long-arm statute has different requirements. Ultimately, whether any of the requirements can be met will be determined based upon the facts of each case. In particular, this Handbook addresses each state's exercise of personal jurisdiction over a nonresident defendant where jurisdiction has been alleged based upon a defendant's breach of contract, its having committed a business tort, or its cyberspace or Internet contacts with the forum state.

II. Using the Handbook

The Handbook is divided by state and then each state is subdivided into two sections, the first setting forth the relevant language of each state's long-arm statute, and the second citing case law applying the statute to specific factual scenarios. Within the second section, we examine four issues. First, we note the seminal case or cases in each state interpreting the extent and constitutionality of the state's long-arm statute. Unless otherwise noted, these cases are from the state's highest court. Second, we set forth key case law addressing the state's long-arm statute in relation to breach of contract actions. Third, we note key case law addressing the state's long-arm statute in relation to tortious activity involving business persons or entities. Finally, we examine key case law addressing how the state's courts treat Internet transactions and contacts in making their personal jurisdiction decisions.

The citations contained herein are reported as of July 2003. Note, however, that long-arm statutes may be amended from time to time, and courts interpreting those statutes may be reversed or later overruled by either subsequent statutory enactment or court decision. Therefore, readers are strongly cautioned to contact their attorney to discuss the specific facts of each case, the applicable long-arm statute and relevant case law that may control.

DISCLAIMER

This Handbook shall not be construed as the rendering of legal advice or services in any jurisdiction by Vedder, Price, Kaufman & Kammholz, P.C. It should not be used or relied upon as a substitute for legal research, advice or analysis. In no event should this Handbook be relied upon in forming any decision regarding the existence of personal jurisdiction over a party with respect to any particular dispute, action or claim.

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Alabama Long-Arm Statute

AL ST RCP 4.2 (2003)

Rule 4.2. Process: Basis for and methods of out-of-state service.

(a) *Basis for Out-of-State Service.*

(1) *When proper.* Appropriate basis exists for service of process outside of this state upon a person in any action in this state when:

(A) the person is, at the time of the service of process, either a nonresident of this state or a resident of this state who is absent from the state, and;

(B) the person has sufficient contacts with this state, as set forth in subdivision (a)(2) of this rule, so that the prosecution of the action against the person in this state is not inconsistent with the constitution of this state or the Constitution of the United States, or, the person is sued in the capacity of executor, administrator, or other personal representative of an estate for the acts of omissions of a decedent or ward, and the person so sued does not otherwise have sufficient contacts with this state in that capacity, but the decedent or ward would have been deemed to have sufficient contacts with this state if the action could have been maintained against the decedent or ward.

(2) *Sufficient contacts.* A person has sufficient contacts with the state when that person, acting directly or by agent, is or may be legally responsible as a consequence of that person's:

(A) transacting any business in this state;

(B) contracting to supply services or goods in this state;

(C) causing tortious injury or damage by an act or omission in this state including but not limited to actions arising out of the ownership, operation or use of a motor vehicle, aircraft, boat or watercraft in this state;

(D) causing tortious injury or damage in this state by an act or omission outside this state if the person regularly does or solicits

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business, or engages in any other persistent course of conduct or derives substantial revenue from goods used or consumed or services rendered in this state;

(E) causing injury or damage in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when the person might reasonably have expected such other person to use, consume, or be affected by the goods in this state, provided that the person also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(F) having an interest in, using, or possessing real property in this state;

(G) contracting to insure any person, property, or risk located within this state at the time of contracting;

(H) living in the marital relationship within this state notwithstanding subsequent departure from this state, as to all obligations arising from alimony, custody, child support, or property settlement, if the other party to the marital relationship continues to reside in this state; or

(I) otherwise having some minimum contacts with this state and, under the circumstances, it is fair and reasonable to require the person to come to this state to defend an action. The minimum contacts referred to in this subdivision (I) shall be deemed sufficient, notwithstanding a failure to satisfy the requirement of subdivisions (A)-(H) of this subsection (2), so long as the prosecution of the action against a person in this state is not inconsistent with the constitution of this state or the Constitution of the United States.

(3) *“Person” defined.* This term “person” as used herein includes an individual, that person’s executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity.

(b) *Methods of out-of-state service.* All service of process outside of this state shall be made as set forth below except when service by publication is

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available pursuant to Rule 4.3. Service outside of this state under this rule shall include service by certified mail and delivery by a process server; and each method shall be deemed to confer in personam jurisdiction. Unless otherwise requested or permitted by these rules, service of process outside this state shall be made by certified mail.

(1) *Certified mail.*

(A) *How Served.* The clerk shall place a copy of the process and complaint or other document to be served in an envelope and shall address the envelope to the person to be served at that person's last known address with instructions to forward. The clerk shall affix adequate postage and place the sealed envelope in the United States mail as certified mail return receipt requested with instructions to the delivering postal employee to show to whom delivered, date of delivery, and address where delivered. When the person to be served is an individual, the clerk shall also request restricted delivery, unless otherwise ordered by the court. The clerk shall forthwith enter the fact of mailing on the docket sheet of the action and make a similar entry when the return receipt is received.

(B) *When Effective.* Service by certified mail shall be deemed complete and the time for answering shall run from the date of delivery of process as evidenced by the return receipt.

(C) *Failure of Delivery.* If the return receipt shows failure of delivery, the clerk shall forthwith notify, by mail, the attorney of record, or if there is no attorney of record, the party at whose instance process was issued. In the event that the return receipt shows failure of delivery, service is complete when the serving party or the serving party's attorney, after notification by the clerk, files with the clerk an affidavit setting forth facts indicating the reasonable diligence utilized to ascertain the whereabouts of the party to be served, and service by publication is made under Rule 4.3(c).

(2) *Delivery by a process server.*

(A) *When Proper.* When the plaintiff files a written request with the clerk for service by delivery by a process server, service of the process and accompanying documents may be delivered to a "person"

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continued

as set forth in subparagraph (a) of this rule by a person designated by order of the court to make service of process.

(B) How Served and Returned. Service herein may be made by any person not less than eighteen (18) years of age who is not a party and who has been designated by order of the court. On request, the clerk shall deliver the summons to the plaintiff or the plaintiff's attorney for transmission to the person who will make the service. Proof of service may be made as prescribed by Rule 4.1(b)(3) or by order of the court.

Seminal Case

Keelean v. Central Bank of the South, 544 So. 2d 153 (Ala. 1989) (*overruled on other grounds by Professional Ins. Corp. v. Sutherland*, 700 So. 2d 347 (Ala. 1997)) (holding that Alabama court had jurisdiction over out-of-state guarantors of a loan made at an Alabama bank, even though all negotiations of the loan took place in Florida, due to the fact that the guaranty contained (according to the court) an invalid forum-selection clause. Thus, the guarantors had fair warning of being hauled into court in Alabama).

Contract Case

DeSotacho v. Valnit Industries, Inc., 350 So. 2d 447 (Ala. 1977) (finding that defendant had sufficient contacts with Alabama for the application of Alabama's long-arm statute, where defendant sent its president to Alabama on at least five occasions, which culminated in the parties' entering into a contract).

Business Tort Case

Duke v. Young, 496 So. 2d 37 (Ala. 1986) (holding that Alabama's long-arm statute conferred jurisdiction over six nonresident directors of a Georgia corporation, forcing the nonresidents to defend a fraud claim in Alabama).

Internet Case

Butler v. Beer Across America, 83 F. Supp. 2d 1261 (N.D. Ala. 2000) (finding plaintiff failed to make a prima facie case of personal jurisdiction as to out-of-state defendants who sold beer to their minor over the Internet).

Alaska Long-Arm Statute

AK ST § 09.05.015 (2003)

§ 09.05.015. Personal jurisdiction.

(a) A court of this state having jurisdiction over the subject matter has jurisdiction over a person served in an action according to the rules of civil procedure

(1) in an action, whether arising in or out of this state, against a defendant who, when the action is commenced,

(A) is a natural person present in this state when served;

(B) is a natural person domiciled in this state;

(C) is a domestic corporation; or

(D) is engaged in substantial and not isolated activities in this state, whether the activities are wholly interstate, intrastate, or otherwise;

(2) in an action that may be brought under statutes of this state that specifically confer grounds for personal jurisdiction over the defendant;

(3) in an action claiming injury to person or property in or out of this state arising out of an act or omission in this state by the defendant;

(4) in an action claiming injury to person or property in this state arising out of an act or omission out of this state by the defendant, provided, in addition, that at the time of the injury either

(A) solicitation or service activities were carried on in this state by or on behalf of the defendant; or

(B) products, materials, or things processed, services, or manufactured by the defendant were used or consumed in this state in the ordinary course of trade;

(5) in an action that

(A) arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to perform services in this state or to pay for services to be performed in this state by the plaintiff;

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continued

(B) arises out of services actually performed for the plaintiff by the defendant in this state, or services actually performed for the defendant by the plaintiff in this state if the performance in this state was authorized or ratified by the defendant;

(C) arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to deliver or receive in this state or to ship from this state goods, documents of title, or other things of value;

(D) relates to goods, documents of title, or other things of value shipped from this state by the plaintiff to the defendant on the order or direction of the defendant; or

(E) relates to goods, documents of title, or other things of value actually received by the plaintiff in this state from the defendant without regard to where delivery to the carrier occurred;

(6) in an action that arises out of

(A) a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or to protect, acquire, dispose of, use, rent, own, control, or possess by either party real property situated in this state;

(B) a claim to recover a benefit derived by the defendant through the use, ownership, control, or possession by the defendant of tangible property situated in this state either at the time of the first use, ownership, control, or possession or at the time the action is commenced; or

(C) a claim that the defendant return, restore, or account to the plaintiff for an asset or thing of value that was in this state at the time the defendant acquired possession or control over it;

(7) in an action to recover a deficiency judgment upon a mortgage note or conditional sales contract or other security agreement executed by the defendant or a predecessor of the defendant to whose obligations the defendant has succeeded and the deficiency is claimed

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continued

(A) in an action in this state to foreclose upon real property situated in this state;

(B) following sale of real property in this state by the plaintiff;
or

(C) following resale of tangible property in this state by the plaintiff;

(8) in an action against a defendant who is or was an officer or director of a domestic corporation where the action arises out of the defendant's conduct as such officer or director or out of the activities of the corporation while the defendant held office as a director or officer;

(9) in an action for the collection of taxes or assessments levied, assessed, or otherwise imposed by a taxing authority after April 10, 1968;

(10) in an action that arises out of a promise made to the plaintiff or some third party by the defendant to insure upon or against the happening of an event if

(A) the person insured was a resident of this state when the event out of which the cause of action is claimed to arise occurred;

(B) the event out of which the cause of action is claimed to arise occurred in this state; or

(C) the promise to insure was made in the state;

(11) in an action against a personal representative to enforce a claim against the deceased person represented if one or more of the grounds stated in (2) – (10) of this subsection would have furnished a basis for jurisdiction over the deceased if living, and it is immaterial under this paragraph whether the action was commenced during the lifetime of the deceased;

(12) in an action for annulment, divorce, or separate maintenance when a personal claim is asserted against the nonresident party, if

(A) the parties resided in this state in a marital relationship for not less than six consecutive months within the six years preceding the commencement of the action;

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continued

(B) the party asserting the personal claim has continued to reside in this state; and

(C) the nonresident party receives notice as required by law.

(b) In an action brought in reliance upon jurisdictional grounds stated in (a)(2) – (10) of this subsection, there cannot be joined in the same action any other claim or cause against the defendant unless grounds exist under this section for personal jurisdiction over the defendant as to the claim or cause to be joined.

(c) The jurisdictional grounds stated in (a)(2) – (10) of this section are cumulative and in addition to any other grounds provided by the common law.

Seminal Case

Kennecorp Mortgage & Equities, Inc. v. First National Bank of Fairbanks, 685 P.2d 1232 (Ala. 1984) (holding a subsidiary subject to Alaska’s long arm statute where its actions caused injury in the state, and by causing plaintiff bank’s funds to be transferred from Alaska to Ohio).

Contract Case

Alaska Telecom, Inc. v. Schafer, 888 P.2d 1296 (Ala. 1995) (applying the “catch-all” provision [subsection (c)] of Alaska’s long-arm statute to extend jurisdiction over a Pennsylvania business consultant for the alleged breach of a noncompetition agreement, which was signed and partially performed in Alaska).

Business Tort Case

Glover v. Western Air Lines, Inc., 745 P.2d 1365 (Ala. 1987) (holding nonresident franchisor subject to personal jurisdiction under state’s long-arm statute in an action for unfair trade practices, fraud and other claims, where a defendant licensed its name to Alaskan franchisees, received substantial income from its licensing activities in Alaska and maintained a toll-free number by which Alaskan residents could call defendant in Oklahoma).

Internet Case

No reported decisions to date.

Arizona Long-Arm Statute

AZ ST RCP R 4.2 (2003)

Rule 4.2. Service of process outside the state.

(a) ***Extraterritorial jurisdiction; personal service out of state.***

A court of this state may exercise personal jurisdiction over parties, whether found within or outside the state, to the maximum extent permitted by the Constitution of this state and the Constitution of the United States. Service upon any such party located outside the state may be made as provided in this Rule 4.2, and when so made shall be of the same effect as personal service within the state.

(b) ***Direct service.***

Service of process may be made outside the state but within the United States in the same manner provided in Rule 4.1(d)–(1) of these Rules by a person authorized to serve process under the laws of the state where such service is made. Such service shall be complete when made and time for purposes of Rule 4.2(m) shall begin to run at that time, provided that before any default may be had on such service, there shall be filed an affidavit of service showing the circumstances warranting the utilization of this procedure and attaching an affidavit of the process server showing the fact and circumstances of the service.

(c) ***Service by mail; return.***

When the whereabouts of a party outside the state is known, service may be made by depositing the summons and a copy of the pleading being served in the post office, postage prepaid, to be sent to the person to be served by any form of mail requiring a signed and returned receipt. Service by mail pursuant to this subpart and the return thereof may be made by the party procuring service or by the party's attorney. Upon return through the post office of the signed receipt, the serving party shall file an affidavit with the court stating (1) that the party being served is known to be located outside the state; (2) that the summons and a copy of the pleading were dispatched to the party being served; (3) that such papers were in fact received by the party as evidenced by the receipt, a copy of which shall be attached to the affidavit; and (4) the date of receipt by the party being served and the date of the return of the receipt to the sender. This affidavit shall be prima facie evidence of personal service of the summons and the pleading and service shall be deemed complete and time shall begin to run for the purposes of Rule 4.2(m) of these Rules from the date of receipt by the party being served,

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continued

provided that no default may be had on such service until such an affidavit has been filed.

(d) ***Waiver of service; duty to save costs of service; request to waive.***

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of such defendant.

(2) An individual, corporation or association that is subject to service under paragraph (b), (c), (h), (i) or (k) of this Rule 4.2 and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of the summons. The notice and request:

(A) shall be in writing and shall be addressed directly to the defendant in accordance with paragraph (b), (c), (h), (i) or (k) of this Rule 4.2, as applicable;

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84, of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date the notice is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as prepaid means of compliance in writing.

Arizona

continued

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after the date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proofs of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under paragraph (b), (c), (h), (i) or (k) of this Rule 4.2, together with the costs, including reasonable attorney's fees, of any motion required to collect the costs of service.

(e) ***Service under nonresident motorist act.***

A.R.S. §§ 28-501 through 28-503 for service upon a nonresident in such cases as if that person were *sui juris*. When service of a copy of the summons and complaint is made pursuant to A.R.S. § 28-503, the service shall be deemed complete thirty days after filing defendant's return receipt and plaintiff's affidavit of compliance, as required by A.R.S. § 28-503, subsection A, paragraph 1, or, in case of personal service out of the state under A.R.S. § 28-503, subsection A, paragraph 2, thirty days after filing the officer's return of such personal service. The defendant shall appear and answer within thirty days after completion of such service in the same manner and under the same penalties as if the defendant had been personally served with a summons within the county in which the action is pending.

(f) ***Service by publication; return.***

Where the person to be served is one whose present residence is unknown but whose last known residence was outside the state, or has avoided service of process, and service by publication is the best means practicable under the

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circumstances for providing notice of institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons, and of a statement as to the manner in which a copy of the pleading being served may be obtained, at least once a week for four successive weeks in a newspaper published in the county where the action is pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication. When the residence of the person to be served is known, the party or officer making service shall also, on or before the date of the first publication, mail the summons and a copy of the pleading being served, postage prepaid, directed to that person at that person's place of residence.

Service by publication and the return thereof may be made by the party procuring service or that party's attorney in the same manner as though made by an officer. The party or officer making service shall file an affidavit showing the manner and dates of publication and mailing, and the circumstances warranting utilization of the procedure authorized by this subpart which shall be prima facie evidence of compliance herewith. A printed copy of the publication shall accompany the affidavit. If the residence of the person to be served is unknown, and for that reason no mailing was made, the affidavit shall so state.

(g) *Service by publication; unknown heirs in real property actions.*

When in an action for the foreclosure of a mortgage on real property or in any action involving title to real property, it is necessary for a complete determination of the action that the unknown heirs of a deceased person be made parties, they may be sued as the unknown heirs of the decedent, and service of a summons may be made on them by publication in the county where the action is pending, as provided in subpart (e) of this Rule.

(h) *Service of summons upon corporations, partnerships unincorporated associations located outside Arizona but within the United States.*

In case of a corporation or partnership or unincorporated association located outside the state but within the United States, service under this Rule shall be made on one of the persons specified in Rule 4.1(k).

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continued

(i) *Service upon individuals in a foreign country.*

Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the party to be served personally of a copy of the summons and of the pleading; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(j) *Service of summons upon minors and incompetent persons in a foreign country.*

Service upon a minor, a minor with a guardian or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (i) of this Rule 4.2, or by such means as the court may direct.

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continued

(k) *Service of summons upon corporations and associations in a foreign country.*

Unless otherwise provided by federal law, service upon a corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (i) of this Rule 4.2, except personal delivery as provided in paragraph (2)(C)(i) thereof.

(l) *Service of summons upon a foreign state or political subdivision thereof.*

Service of a summons upon a foreign state or a political subdivision, agency or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

(m) *Time for appearance after service outside state.*

Where service of the summons and of a copy of a pleading requiring service by summons is made outside the state by one of the means authorized by this Rule 4.2, other than subsection (d), the person served shall appear and answer within thirty days after completion thereof in the same manner and under the same penalties as if that person had been personally served with a summons within the county in which the action is pending.

Seminal Cases

Meyers v. Hamilton Corp., 693 P.2d 904 (Ariz. 1985) (noting that Arizona’s long-arm statute has a broad remedial purpose and allows for an Arizona court to exercise jurisdiction over a nonresident defendant who “has caused an event to occur in [Arizona] out of which the claim arose,” and holding that statute’s requirements were met where the alleged breach of contract claim “touched Arizona”); *Aries v. Palmer Johnson, Inc.*, 735 P.2d 1373 (Ariz. Ct. App. 1987) (observing that when applying Arizona’s long-arm statute, courts must remember that individuals must have fair warning that a particular activity may subject them to the jurisdiction of a foreign court, and that this fair warning requirement is satisfied if the defendant has purposefully directed its activities at residents of the forum and the litigation results from alleged injuries that arise out of or relate to those activities).

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Contract Case

Batton v. Tennessee Farmers Mut. Ins. Co., 736 P.2d 2 (Ariz. 1987) (refusing to exercise jurisdiction over a defendant who had no offices in Arizona, was not licensed to do business in Arizona and had never, aside from the instant action, conducted any business in Arizona and observing the need for sufficient minimum contacts between a forum state and a defendant).

Business Tort Case

MacPherson v. Taglione, 762 P.2d 596 (Ariz. Ct. App. 1988) (exercising jurisdiction over a Massachusetts corporation and its president and requiring them to defend a fraud and breach of contract claim there because the company solicited business in, and shipped its products to, Arizona).

Internet Case

No reported decisions to date.

Arkansas Long-Arm Statute

AR ST § 16-4-101 (2003)

§ 16-4-101. Personal jurisdiction of Arkansas courts.

A. *Definition of “Person”*. As used in this section, “person” includes an individual or his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, whether or not a citizen or domiciliary of this state and whether or not organized under the laws of this state.

B. *Personal Jurisdiction*. The courts of this state shall have personal jurisdiction of all persons, and all causes of action or claims for relief, to the maximum extent permitted by the due process of law clause of the Fourteenth Amendment of the United States Constitution.

C. *Service*. When the exercise of personal jurisdiction is authorized by this section, service may be made either within or outside this state.

D. *Inconvenient Forum*. When the court finds that in the interest of substantial justice the action should be heard in another forum, the court may stay or dismiss the action in whole or in part on any conditions that may be just.

Seminal Case

Pennsalt Chemical Corp. v. Crown, Cork & Seal Co., 426 S.W.2d 417 (Ark. 1968) (applying Arkansas’ long-arm statute and holding that there need not be a relationship between the cause of action claimed by plaintiff and the contacts that the defendants had with the forum state, so long as the contacts are systematic and continuous. In this regard, the high court went on to rule that the long-arm statute recognizes that one who pursues a persistent course of conduct, or otherwise derives substantial revenue in Arkansas, will be liable for acts committed outside of the state that result in injury in Arkansas).

Contract Case

MSI, Inc. v. Botello, 2001 WL 1134741 (Ark. Ct. App. 2001) (dismissing breach of contract and nonsolicitation agreement due to plaintiff’s failure to plead facts showing that Georgia corporation availed itself of the privilege of conducting business in Arkansas).

Arkansas

continued

Business Tort Case

Ritchie Grocer Co. v. Byrd, 1988 WL 134050 (Ark. Ct. App. 1988) (in an action against a bank for its purported negligence in allowing an embezzler to utilize the bank to deposit and disburse assets without enforcing adequate safeguards, the court held that the bank's actions met the requirements of Arkansas' long-arm statute, given that the bank systematically and continuously did business with Arkansas banks, even though such contacts were not related to the plaintiff's cause of action).

Internet Case

Smith v. Hobby Lobby Stores, 968 F. Supp. 1356 (W.D. Ark. 1997) (manufacturer's advertisement on the Internet was insufficient contact with the state to subject it to personal jurisdiction.)

California Long-Arm Statute

CA CIV PRO § 410.10 (2003)

§ 410.10. Basis.

A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

Seminal Case

Abbott Power Corp. v. Overhead Elec. Co., 131 Cal. Rptr. 508 (Cal. Ct. App. 1976) (holding that Code Civ. Proc., § 410.10, which provides that a court may exercise jurisdiction on any basis not inconsistent with the state or federal constitutions, authorizes the broadest possible exercise of judicial jurisdiction).

Contract Case

Neadeau v. Foster, 180 Cal. Rptr. 806 (Cal. Ct. App. 1982) (finding, in an action for breach of contract, evidence that defendant was involved in business throughout the United States, that 5 percent of his business consisted of merchandise sold within California, and that he made frequent visits to California, apparently in connection with his business enterprise, was sufficient to establish that defendant did extensive and wide-ranging business in California and was thus subject to the court's jurisdiction as to all causes of action asserted against him. Furthermore, even if defendant's activities in the forum were not so pervasive as to justify the exercise of general jurisdiction, the action was directly related to defendant's business activities within the state. The agreement in question was intended to affect and facilitate defendant's business interests both in California and throughout the United States, and it was defendant who first contacted plaintiff with the idea of revamping his business. Defendant came to California to meet with plaintiff, and the contract was signed in California).

Business Tort Case

TPS Utilicom Servs. v. AT&T Corp., 223 F. Supp. 2d 1089 (C.D. Cal. 2002) (court did not have personal jurisdiction over a wireless communications company in the bidder's action for unfair trade practices and interference with prospective economic advantage arising from the wireless company's allegedly improper participation in an auction of wireless telecommunication spectrum licenses as a designated entity where the company was a Delaware company with its headquarters in Alaska, did no business in California, and did not solicit business in the state).

California

continued

Internet Case

Pavlovich v. Superior Court, 58 P.3d 2 (Cal. 2002) (under the effects test, the trial court did not have jurisdiction over a foreign resident in a corporation's suit alleging the resident misappropriated its trade secrets by posting the corporation's program's source code on his Internet web site; the web site was accessible to any person with Internet access; and the resident merely posted information and had no interactive features. As the resident could not have known that his tortious conduct would hurt the corporation in California when the misappropriated code was first posted, his knowledge of the existence of a licensing entity could not establish express targeting of California).

Colorado Long-Arm Statute

CO ST 13-1-124

§ 13-1-124. Jurisdiction of courts.

(1) Engaging in any act enumerated in this section by any person, whether or not a resident of the state of Colorado, either in person or by an agent, submits such person and, if a natural person, such person's personal representative to the jurisdiction of the courts of this state concerning any cause of action arising from:

- (a) the transaction of any business within this state;
- (b) the commission of a tortious act within this state;
- (c) the ownership, use, or possession of any real property situated in this state;
- (d) contracting to insure any person, property, or risk residing or located within this state at the time of contracting;
- (e) the maintenance of a matrimonial domicile within this state with respect to all issues relating to obligations for support to children and spouse in any action for dissolution of marriage, legal separation, declaration of invalidity of marriage, or support of children if one of the parties of the marriage continues without interruption to be domiciled within the state;
- (f) the engaging of sexual intercourse in this state as to an action brought under article 4 or article 6 of title 19, C.R.S., with respect to a child who may have been conceived by that act of intercourse, as set forth in verified petition; or
- (g) the entering into of an agreement pursuant to part 2 or 5 of article 22 of this title.

Seminal Case

Waterval v. District Court, 620 P.2d 5 (Colo. 1980) (establishing criteria, which, if met, will render defendants amenable to suit in Colorado: (1) whether the defendants purposely avail themselves of the privilege of "causing important consequences" in the forum; (2) whether the plaintiff's claim for relief arises from the defendants' conduct; and (3) whether the defendants' activities have substantial

Colorado

continued

enough connection with the forum to make reasonable the exercise of long-arm jurisdiction).

Contract Case

Classic Auto Sales, Inc. v. Schocket, 832 P.2d 233 (Colo. 1992) (even though the “last act,” such as the signing of a contract, may have occurred outside the geographical confines of the forum state, nevertheless, the statutory test of a claim arising out of the transaction of any business within the state may still be met by the showing of other “purposeful acts,” performed within the forum state by the defendant in relation to the contract, even though such acts were preliminary, or even subsequent, to the execution of the contract itself).

Business Tort Case

Amax Potash Corp. v. Trans-Resources, Inc., 817 P.2d 598 (Colo. Ct. App. 1991) (finding jurisdiction could not be exercised over a nonresident defendant for tortious conduct outside the state unless the injury itself occurred in Colorado. Further, the injury in the forum state was required to be direct, not consequential or remote, and loss of profits in the state of plaintiff’s domicile was insufficient to sustain long-arm jurisdiction over a nonresident defendant. Hence, when both the tortious conduct and the injury occurred in another state, plaintiff’s Colorado residency and economic consequences in Colorado were insufficient to confer jurisdiction on a Colorado court).

Internet Case

No reported decisions to date.

Connecticut Long-Arm Statute

CT ST § 52-59b

§ 52-59b. Jurisdiction of courts over nonresidents and foreign partnerships.

(a) As to a cause of action arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident individual, foreign partnership or over the executor or administrator of such nonresident individual or foreign partnership, who in person or through an agent: (1) Transacts any business within the state; (2) commits a tortious act within the state, except to a cause of action for defamation of character arising from the act; (3) commits a tortious act outside the state causing injury to person or property within the state, except as to a cause of action for defamation of character arising from the act, if such person or agent (A) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or (B) expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce; (4) owns, uses or possesses any real property situated within the state; or (5) uses a computer, as defined in subdivision (1) of subsection (a) of section 53-451, or a computer network, as defined in subdivision (3) of subsection (a) of said section, located within the state.

(b) Where personal jurisdiction is based solely upon this section, an appearance does not confer personal jurisdiction with respect to causes of action not arising from an act enumerated in this section.

(c) Any nonresidential individual, foreign partnership or the executor or administrator of such nonresident individual or foreign partnership, over whom a court may exercise personal jurisdiction, as provided in subsection (a), shall be deemed to have appointed the Secretary of the State as its attorney and to have agreed that any process in any civil action brought against the nonresident individual or foreign partnership, or the executor or administrator of such nonresident individual or foreign partnership, may be served upon the Secretary of the State and shall have the same validity as if served upon the nonresident individual or foreign partnership personally. The process shall be served by the officer to whom the same is directed upon the Secretary of the State by leaving with or at the office of the Secretary of the State, at least twelve days before the return day of such process, a true and attested copy thereof, and by sending to the defendant at the defendant's last-known address, by registered or certified mail, postage prepaid, return receipt requested, a like true and attested copy with an

Connecticut

continued

endorsement thereon of the service upon the Secretary of the State. The officer serving such process upon the Secretary of the State shall leave with the Secretary of State, at the time of service, a fee of twenty-five dollars, which fee shall be taxed in favor of the plaintiff in the plaintiff's costs if the plaintiff prevails in any such action. The Secretary of the State shall keep a record of each such process and the day and hour of service.

Seminal Case

Standard Tallow Corp. v. Jowdy, 459 A.2d 503 (Conn. 1983) (holding all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe Machine Corp. v. U.S.* and its progeny. Those standards require that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he must have certain minimum contacts with it such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice").

Contract Case

Pro Performance Corporate, Inc. v. Goldman, 804 A.2d 248 (Conn. Super. Ct. 2002) (nonresident buyer, who allegedly entered into contract with ticket provider to obtain Super Bowl tickets and services and then did not pay for them, had sufficient minimum contacts with state to allow state to exercise personal jurisdiction over buyer consistent with due process; provider alleged injury arising out of or relating to the buyer's activities in procuring provider's services, which included several phone communications to provider at in-state office).

Business Tort Case

Center Capital Corp. v. Hall, 1993 Conn. Super. LEXIS 1442 (Conn. Super. Ct. 1993) (finding one who caused fraudulent misrepresentations to be communicated to Connecticut, either in person or through their agent, in order to induce a Connecticut corporation to act thereon could not claim surprise when called upon to answer in a Connecticut court).

Connecticut

continued

Internet Case

Gates v. Royal Palace Hotel, 1998 Conn. Super. LEXIS 3740 (Conn. Super. Ct. 1998) (holding that the combination of a concentrated advertising effort within the state, active booking of reservations for Connecticut citizens through state travel agents, and an invitation to Connecticut citizens to make reservations through the Internet, constituted the transaction of business within the state such that exercise of personal jurisdiction was proper).

Delaware Long-Arm Statute

DE ST TI 10 § 3104

§ 3104. Personal jurisdiction by acts of nonresidents.

(a) The term “person” in this section includes any natural person, association, partnership or corporation.

(b) The following acts constitute legal presence within the State. Any person who commits any of the acts hereinafter enumerated thereby submits to the jurisdiction of the Delaware courts and is deemed thereby to have appointed and constituted the Secretary of State of this State the person’s agent for the acceptance of legal process in any civil action against such nonresident person arising from the following enumerated acts. The acceptance shall be an acknowledgement of the agreement of such nonresident that any process when so served shall have the same legal force and validity as if served upon such nonresident personally within the State, and that such appointment of the Secretary of State shall be irrevocable and binding upon the personal representative.

(c) As to a cause of action brought by any person arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident, or a personal representative, who in person or through an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply services or things in this State;

(3) Causes tortious injury in the State by an act or omission in this State;

(4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if the person regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from services, or things used or consumed in the State;

(5) Has an interest in, uses or possesses real property in the State;
or

(6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation or agreement located, executed or to be

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continued

performed within the State at the time the contract is made, unless the parties otherwise provide in writing.

(d) Service of the legal process provided for in this section with the fee of \$2 shall be made upon the Secretary of State of this State in the same manner as is provided by law for service of writs of summons, and when so made shall be as effectual to all intents and purposes as if made personally upon the defendant within this State; provided, that not later than 7 days following the filing of the return of services of process in the court in which the civil action is commenced or following the filing with the court of the proof of the nonreceipt of notice provided for in subsection (g) of this section, the plaintiff or a person acting in the plaintiff's behalf shall send by registered mail to the nonresident defendant, or to the defendant's executor or administrator, a notice consisting of a copy of the process and complaint served upon the Secretary of State and the statement that service of the original of such process has been made upon the Secretary of State of this State, and that under this section such service is as effectual to all intents and purposes as if it had been made upon such nonresident personally within this State.

(e) Proof of the defendant's nonresidence and of the mailing and receipt or refusal of the notice shall be made in such manner as the court, by rule or otherwise, shall direct.

(f) The return receipt or other official proof of delivery shall constitute presumptive evidence that the notice mailed was received by the defendant or the defendant's agent; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or the defendant's agent.

(g) The plaintiff or the plaintiff's counsel of record in the action may within 7 days following the return of any undelivered notice mailed in accordance with subsection (d) of this section other than a notice, delivery of which is shown by the notation of the postal authorities on the original envelope to have been refused by the defendant or the defendant's agent, file with the court in which the civil action is commenced proof of the nonreceipt of the notice by the defendant or the defendant's agent, which proof shall consist of the usual receipt given by the post office at the time of mailing to the person mailing the registered article containing the notice, the original envelope of the undelivered registered article and an affidavit made by or on behalf of plaintiff specifying:

(1) The date upon which the envelope containing the notice was mailed by registered mail;

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(2) The date upon which the envelope containing the notice was returned to the sender;

(3) That the notice provided for in subsection (d) of this section was contained in the envelope at the time it was mailed; and

(4) That the receipt, obtained at the time of mailing by the person mailing the envelope containing the notice, is the receipt filed with the affidavit.

(h) The time in which defendant shall serve an answer shall be computed from the date of the mailing of the registered letter which is the subject of the return receipt or other official proof of delivery or the notation of refusal of delivery; provided, however, that the court in which the action is pending may, at any time before or after the expiration of the prescribed time for answering, order such continuance as may be necessary to afford the defendant therein reasonable opportunity to defend the action.

(i) Nothing herein contained limits or effects the rights to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the rights otherwise existing of service of legal process upon nonresidents.

(j) When jurisdiction over a person is based solely upon this section, only a cause of action arising from any act enumerated in this section may be asserted against the person.

(k) This section does not invalidate any other section of the Code that provides for service of summons on nonresidents. This section applies only to the extent that the other statutes that already grant personal jurisdiction over nonresidents do not cover any of the acts enumerated in this section.

(l) In any cause of action arising from any of the acts enumerated in this section, the court may provide for a stay or dismissal of action if the court finds, in the interest of justice, that the action should be heard in another forum.

Seminal Case

Eudaily v. Harmon, 420 A.2d 1175 (Del. 1980) (holding the long-arm statute, which provides personal jurisdiction over nonresidents whose acts cause injury within the state, is not a consent statute, but, rather, is a “single act” statute, which

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continued

establishes jurisdiction over nonresidents on the basis of a single act done or a transaction engaged in by a nonresident within the state).

Contract Case

Greenly v. Davis, 486 A.2d 669 (Del. 1984) (finding the negotiation of a contract for sale of stock by residents of Pennsylvania did not amount to a transaction of business in Delaware under subsection (c)(1) even though a part of the negotiations included a proposed sale of stock of a Delaware corporation that does transact business in Delaware; the contract also did not involve the supplying of “services or things in this State” under subsection (c)(2) even though settlement was to be held in a Delaware law office).

Business Tort Case

Moore v. Little Giant Indus., Inc., 513 F. Supp. 1043 (D.Del. 1981) (holding the subsection of the Delaware long-arm statute allowing the court to exercise personal jurisdiction over any nonresident who contracts to supply services or things in the state conferred personal jurisdiction over foreign corporation that sold ladder that allegedly caused state resident’s personal injuries, despite the fact that foreign corporation had no employees, agents or offices in Delaware, did no advertising there and made no other shipments to the state other than the ladder).

Internet Case

Kane v. Coffman, 2001 WL 914016 (Del. Super. Ct. 2001) (finding an Internet posting made from outside the state and received by a party inside the state failed to provide sufficient minimum contacts to allow the court to exercise jurisdiction).

District of Columbia Long-Arm Statute

D.C. CODE § 13-423 (2003)

§ 13-423. Personal jurisdiction based upon conduct.

A District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising from the person –

(a) transacting any business in the District of Columbia;

(b) contracting to supply services in the District of Columbia;

(c) causing tortious injury in the District of Columbia by an act or omission in the District of Columbia;

(d) causing tortious injury in the District of Columbia by an act or omission outside the District of Columbia if he regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed, or services rendered, in the District of Columbia;

(e) having an interest in, using, or possessing real property in the District of Columbia;

(f) contracting to insure or act as surety for or on any person, property, or risk, contract, obligation, or agreement located, executed, or to be performed within the District of Columbia at the time of contracting, unless the parties otherwise provide in writing; or

(g) marital or parent and child relationship in the District of Columbia if:

(1) the plaintiff resides in the District of Columbia at the time the suit is filed;

(2) such person is personally served with process; and

(3) in the case of a claim arising from a marital relationship:

(A) the District of Columbia was the matrimonial domicile of the parties immediately prior to their separation, or

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continued

(B) the cause of action to pay spousal support arose under the laws of the District of Columbia or under an agreement executed by the parties in the District of Columbia; or

(4) in the case of a claim affecting the parent and child relationship:

(A) the child was conceived in the District of Columbia and such person is the parent or alleged parent of the child;

(B) the child resides in the District of Columbia as a result of the acts, directives, or approval of such person; or

(C) such person has resided with the child in the District of Columbia.

(5) Notwithstanding the provisions of subparagraphs (A) through (D), the court may exercise personal jurisdiction if there is any basis consistent with the United States Constitution for the exercise of personal jurisdiction.

When jurisdiction over a person is based solely upon this section, only a claim for relief arising from acts enumerated in this section may be asserted against him.

Seminal Case

Envtl. Research Int'l, Inc. v. Lockwood Greene Engineers, Inc., 355 A.2d 808 (D.C. 1975) (holding Congress intended to provide the District of Columbia with a long-arm statute similar to those of Maryland and Virginia and in interpreting the statute, the court must look for guidance to background of Uniform Act and Maryland and Virginia statutes as interpreted by their courts).

Contract Case

Unidex Sys. Corp. v. Butz Eng'g Corp., 406 F. Supp. 899 (D.D.C. 1976) (holding that nonresident defendant against whom a judgment in personam is sought in the forum state must have certain minimum contacts with the forum state such that maintenance of the suit does not offend traditional notions of fair play and substantial justice; thus, in cases involving breach of contract, courts have held that, even though the actual consummation or final execution of a contract may not have occurred within the forum state, the test of “transacting any business”

District of Columbia

continued

is satisfied by evidence of purposeful activities both preliminary and subsequent to the execution of the contract).

Business Tort Case

Stabilisierungsfonds fur Wein v. Kaiser Stuhl Win Distributors Pty., Ltd., 647 F.2d 200 (D.C. Cir. 1981) (in a trademark infringement case, plaintiffs, German wine producers, appealed an order of the U.S. District Court for the District of Columbia that held that it lacked personal jurisdiction over defendants, Australian wine producer, its subsidiary, domestic importer and store, declared them indispensable parties, and dismissed the case under Fed. R. Civ. P. 19(b). The district's long-arm statute authorized the exercise of personal jurisdiction over defendants. Defendants shipped goods to an intermediary, who had the exclusive authority to sell, with the expectation that they would distribute goods within the district. Defendants transacted business within the district. Under D.C. Code § 13-423(a)(4)(1973), defendants derived substantial revenue from district sales when the locally derived revenues exceeded the state's per capita share of substantial nationally derived revenue).

Internet Case

GTE New Media Servs. Inc. v. Ameritech Corp., 44 F. Supp. 2d 313 (D.D.C. 1999) (finding the quality and nature of the defendants' Internet website, which involved an interactive website with no other contacts with the District of Columbia, favored the exercise of personal jurisdiction in the District of Columbia).

Florida Long-Arm Statute

FL ST § 48.193 (2003)

§ 48.193. Acts subjecting person to jurisdiction of courts of state.

(1) Any person, whether or not a citizen or resident of this state, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself or herself and, if he or she is a natural person, his or her personal representative to the jurisdiction of the courts of this state for any cause of action arising from the doing of any of the following acts:

(a) Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.

(b) Committing a tortious act within this state.

(c) Owning, using, possessing, or holding a mortgage or other lien on any real property within this state.

(d) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(e) With respect to a proceeding for alimony, child support, or division of property in connection with an action to dissolve a marriage or with respect to an independent action for support of dependents, maintaining a matrimonial domicile in this state at the time of the commencement of this action or, if the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not. This paragraph does not change the residency requirement for filing an action for dissolution of marriage.

(f) Causing injury to persons or property within this state arising out of an act or omission by the defendant outside this state, if, at or about the time of the injury, either:

1. The defendant was engaged in solicitation or service activities within this state; or

2. Products, materials, or things processed, serviced, or manufactured by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade, or use.

Florida

continued

(g) Breaching a contract in this state by failing to perform acts required by the contract to be performed in this state.

(h) With respect to a proceeding for paternity, engaging in the act of sexual intercourse within this state with respect to which a child may have been conceived.

(2) A defendant who is engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity.

(3) Service of process upon any person who is subject to the jurisdiction of the courts of this state as provided in this section may be made by personally serving the process upon the defendant outside this state, as provided in s. 48.194. The service shall have the same effect as if it had been personally served within this state.

(4) If a defendant in his or her pleadings demands affirmative relief on causes of action unrelated to the transaction forming the basis of the plaintiff's claim, the defendant shall thereafter in that action be subject to the jurisdiction of the court for any cause of action, regardless of its basis, which the plaintiff may by amendment assert against the defendant.

(5) Nothing contained in this section limits or affects the right to serve any process in any other manner now or hereinafter provided by law.

Seminal Case

Homeway Furniture Co. of Mount Airy, Inc. v. Horne, 822 So. 2d 533 (Fla. Dist. Ct. App. 2002) (in Florida, a case-specific determination of long-arm jurisdiction requires a two-step inquiry: (1) whether the complaint alleges sufficient facts to bring the action within the ambit of the long-arm statute, and (2) whether sufficient minimum contacts exist between the defendant and the forum state to satisfy constitutional due process requirements).

Contract Case

Moltz v. Seneca Balance, Inc., 606 F. Supp. 612 (S.D. Fla. 1985) (finding individual guarantors had sufficient "minimum contacts" with Florida to permit

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continued

federal district court to exercise in personam jurisdiction under section of Florida long-arm statute governing breaches of contract, where payee was a party to the guaranty and not a gratuitous beneficiary of that agreement, individual guarantors, who neither owned property nor had business agents in Florida, executed guaranty for underlying promissory note that secured payments on stock transfer with payee, a Florida citizen, and required payments to be made in Florida, and guaranty was executed for consideration and presumably required payment to payee in Florida).

Business Tort Case

Posner v. Essex Ins. Co., Ltd., 178 F.3d 1209 (Fla. Dist. Ct. App. 1999) (under Florida long-arm statute, the court may assert personal jurisdiction over nonresident for tortious act committed outside the state that causes injury inside the state. For example, the court had personal jurisdiction over nonresident corporation on a claim that the corporation tortiously interfered with plaintiff's contractual relationship with his foreign insurer, resulting in nonpayment of claim for property damage in Florida, as any injury occurred in Florida, even though tortious act was committed elsewhere).

Internet Case

No reported decisions to date.

Georgia Long-Arm Statute

GA ST § 9-10-91 (2003)

§ 9-10-91. Personal jurisdiction over nonresidents of state.

A court of this state may exercise personal jurisdiction over any nonresident or his executor or administrator, as to a cause of action arising from any of the acts, omissions, ownership, use, or possession enumerated in this Code section, in the same manner as if he were a resident of the state, if in person or through an agent, he:

- (1) Transacts any business within this state;
- (2) Commits a tortious act or omission within this state, except as to a cause of action for defamation of character arising from the act;
- (3) Commits a tortious injury in this state caused by an act or omission outside this state if the tort-feasor regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (4) Owns, uses, or possesses any real property situated within this state; or
- (5) With respect to proceedings for alimony, child support, or division of property in connection with an action for divorce or with respect to an independent action for support of dependents, maintains a matrimonial domicile in this state at the time of the commencement of this action or, if the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not. This paragraph shall not change the residency requirement for filing an action for divorce.

Seminal Case

Beasley v. Beasley, 396 S.E.2d 222 (Ga. 1990) (finding if defendant has established minimum contacts required by Due Process Clause, court may then evaluate other factors that impact on reasonableness of asserting jurisdiction, such as burden on defendant, forum state's interest in adjudicating dispute, plaintiff's interest in obtaining convenient and effective relief, interstate judicial system's interest in obtaining most efficient resolution of controversies, and shared interest of states in furthering substantive social policies).

Georgia

continued

Contract Case

Dana Augustine, Inc. v. Parkman, 487 S.E.2d 697 (Ga. Ct. App. 1997) (holding execution of contract in Georgia may give jurisdiction to Georgia for breach of that contract even if breach occurred outside Georgia).

Business Tort Case

H.K. Corp. v. Lauter, 336 F. Supp. 79 (N.D. Ga. 1971) (where nonresident defendant derived \$19,000 over a year's time from sales to 15 Georgia customers and action for alleged trademark infringement and unfair competition arose almost directly from those sales, application of Georgia's long-arm statute pertaining to commission of tortious injury in state caused by act or omission outside the state, if tortfeasor regularly does or solicits business or engages in any other persistent course of conduct or derives substantial revenue from goods used or consumed or services rendered in state, was not consistent with constitutional due process).

Internet Case

No reported decisions to date.

Hawaii Long-Arm Statute

HI ST § 634-35 (2002)

§ 634-35. Acts submitting to jurisdiction.

(a) Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits such person, and, if an individual, the person's personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any of the acts:

- (1) The transaction of any business within this State;
- (2) The commission of a tortious act within this State;
- (3) The ownership, use, or possession of any real estate situated in this State;
- (4) Contracting to insure any person, property, or risk located within this State at the time of contracting.

(b) Service of process upon any person who is subject to the jurisdiction of the courts of this State, as provided in this section, may be made as provided by section 634-36, if the person cannot be found in the State, with the same force and effect as though summons had been personally served within this State.

(c) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over the defendant is based upon this section.

(d) Nothing herein contained limits or affects the right to serve any process in any other manner now or hereafter provided by law.

Seminal Case

Cowan v. First Ins. Co., 608 P.2d 394 (Haw. 1980) (holding the long-arm statute was adopted to expand the jurisdiction of the state's courts to the extent permitted by the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution).

Hawaii

continued

Contract Case

Shaw v. North Am. Title Co., 876 P.2d 1291 (Haw. 1994) (finding although defendant signed escrow documents, received facsimile transmissions and telephone calls, and received and signed checks in Hawaii, these dealings, based on a California contract, were merely incidental to the escrow transaction conducted in California between California residents and did not establish a prima facie showing that defendant transacted business in Hawaii).

Business Tort Case

Pure, Ltd. v. Shasta Beverages, Inc., 691 F. Supp. 1274 (D. Haw. 1988) (noting where plaintiff's complaint alleged that defendant caused plaintiff economic injury and the injury occurred in Hawaii as a result of defendant's intentional interference with contract, complaint alleged facts sufficient to subject defendant to jurisdiction of the federal district court under this section).

Internet Case

No reported decisions to date.

Idaho Long-Arm Statute

ID ST § 5-514 (2002)

§ 5-514. Acts subjecting persons to jurisdiction of courts of state.

Any person, firm, company, association or corporation, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits said person, firm, company, association or corporation, and if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

The transaction of any business within this state which is hereby defined as the doing of any act for the purpose of realizing pecuniary benefit or accomplishing or attempting to accomplish, transact or enhance the business purpose or objective or any part thereof of such person, firm, company, association or corporation;

The commission of a tortious act within this state;

The ownership, use or possession of any real property situate within this state;

Contracting to insure any person, property or risk located within this state at the time of contracting;

The maintenance within this state of matrimonial domicile at the time of the commission of any act giving rise to a cause of action for divorce or separate maintenance;

The engaging in an act of sexual intercourse within the state, giving rise to a cause of action for paternity under chapter 11, title 7, Idaho Code. The provisions of this subsection shall apply retroactively, and for the benefit of any dependent child, whether born before or after the effective date [July 1, 1988] of this act, and regardless of the past or current marital status of the parents of the child.

Seminal Case

Schneider v. Sverdsten Logging Co., 657 P.2d 1078 (Idaho 1983) (holding in order for jurisdiction to be obtained over an out-of-state defendant, the act giving rise to the cause of action must fall within the scope of this state's long-arm jurisdiction and the constitutional standards of due process must be met).

Idaho

continued

Contract Case

Houghland Farms, Inc. v. Johnson, 803 P.2d 978 (Idaho 1990) (finding the trial court did not have personal jurisdiction over Utah loan broker in breach of contract action brought by Idaho corporation, as broker did not purposely avail himself of privilege of conducting activities within Idaho; although broker acquired statistical information about corporation from Idaho banks and visited corporation's Idaho properties, security for loan was corporation property that was located in Arizona).

Business Tort Case

Duignan v. A.H. Robins Co., 559 P.2d 750 (Idaho 1977) (noting where plaintiff alleged that she had an intrauterine device inserted in California that resulted in an infection after she had moved to Idaho and necessitated the removal of a fallopian tube, the operation having been performed in Idaho, the facts alleged were sufficient to bring the manufacturer of the intrauterine device within the jurisdiction of the Idaho courts on the grounds that it had allegedly committed a tortious act within the state).

Internet Case

No reported decisions to date.

Illinois Long-Arm Statute

735 ILCS 5/2-209 (2003)

§ 2-209. Act submitting to jurisdiction – Process.

(a) Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits such person, and, if an individual, his or her personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any of such acts:

- (1) The transaction of any business within this State;
- (2) The commission of a tortious act within this State;
- (3) The ownership, use, or possession of any real estate situated in this State;
- (4) Contracting to insure any person, property or risk located within this State at the time of contracting;
- (5) With respect to actions of dissolution of marriage, declaration of invalidity of marriage and legal separation, the maintenance in this State of a matrimonial domicile at the time this cause of action arose or the commission in this State of any act giving rise to the cause of action;
- (6) With respect to actions brought under the Illinois Parentage Act of 1984, as now or hereafter amended [750 ILL. COMP. STAT. 45/1 et seq.], the performance of an act of sexual intercourse within this State during the possible period of conception;
- (7) The making or performance of any contract or promise substantially connected with this State;
- (8) The performance of sexual intercourse within this State which is claimed to have resulted in the conception of a child who resides in this State;
- (9) The failure to support a child, spouse or former spouse who has continued to reside in this State since the person either formerly resided with them in this State or directed them to reside in this State;

Illinois

continued

(10) The acquisition of ownership, possession or control of any asset or thing of value present within this State when ownership, possession or control was acquired;

(11) The breach of any fiduciary duty within this State;

(12) The performance of duties as a director or officer of a corporation organized under the laws of this State or having its principal place of business within this State;

(13) The ownership of an interest in any trust administered within this State; or

(14) The exercise of powers granted under the authority of this State as a fiduciary.

(b) A court may exercise jurisdiction in any action arising within or without this State against any person who:

(1) Is a natural person present within this State when served;

(2) Is a natural person domiciled or resident within this State when the cause of action arose, the action was commenced, or process was served;

(3) Is a corporation organized under the laws of this State; or

(4) Is a natural person or corporation doing business within this State.

(c) A court may also exercise jurisdiction on any other basis now or hereafter permitted by the Illinois Constitution and the Constitution of the United States.

(d) Service of process upon any person who is subject to the jurisdiction of the courts of this State, as provided in this Section, may be made by personally serving the summons upon the defendant outside this State, as provided in this Act, with the same force and effect as though summons had been personally served within this State.

(e) Service of process upon any person who resides or whose business address is outside the United States and who is subject to the jurisdiction of the courts of this State, as provided in this Section, in any action based upon product

Illinois

continued

liability may be made by serving a copy of the summons with a copy of the complaint attached upon the Secretary of State. The summons shall be accompanied by a \$5 fee payable to the Secretary of State. The plaintiff shall forthwith mail a copy of the summons, upon which the date of service upon the Secretary is clearly shown, together with a copy of the complaint to the defendant at his or her last known place of residence or business address. Plaintiff shall file with the circuit clerk an affidavit of the plaintiff or his or her attorney stating the last known place of residence or the last known business address of the defendant and a certificate of mailing a copy of the summons and complaint to the defendant at such address as required by this subsection (e). The certificate of mailing shall be prima facie evidence that the plaintiff or his or her attorney mailed a copy of the summons and complaint to the defendant as required. Service of the summons shall be deemed to have been made upon the defendant on the date it is served upon the Secretary and shall have the same force and effect as though summons had been personally served upon the defendant within this State.

(f) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him or her is based upon subsection (a).

(g) Nothing herein contained limits or affects the right to serve any process in any other manner now or hereafter provided by law.

Seminal Case

Baltimore & O. R. Co. v. Mosele, 368 N.E.2d 88 (Ill. 1977) (holding long-arm statute extends personal jurisdiction of the Illinois courts to the extent permitted by the due process clause as interpreted in *International Shoe*).

Contract Case

E.A. Cox Co. v. Road Savers Int'l Corp., 648 N.E.2d 271 (1st Dist. 1995) (finding when the defendant entered into a contract that required part performance in Illinois and then subsequently entered the state to perform acts in furtherance of that contract, it availed itself of the privilege of doing business in Illinois and invoked the benefits and protections of its laws; the record amply demonstrated the defendant's minimum contacts with Illinois in the performance of acts in furtherance of its contract obligations with the plaintiff so as to satisfy due process and subject the defendant to the in personam jurisdiction of the Illinois courts in an action for breach of contract).

Illinois

continued

Business Tort Case

McGowen ex rel. McGowen v. Woodsmall Benefit Servs., Inc., 554 N.E.2d 704 (5th Dist. 1990) (in suit alleging deceptive business practices under the Consumer Fraud and Deceptive Business Practices Act (815 ILL. COMP. STAT. 505/1 et seq.), a finding as to personal jurisdiction over the defendant was proper where defendant, an unregistered foreign corporation, had sufficient minimum contacts and where defendant initiated the transaction of business in the state and availed itself of its laws by registering as a third-party insurance administrator).

Internet Case

Aero Prods. Int'l, Inc. v. Intex Corp., 2002 U.S. Dist. LEXIS 17948 (N.D. Ill. 2002) (in action alleging violations of federal patent and trademark statutes, the Illinois Uniform Deceptive Trade Practices Act, 815 ILL. COMP. STAT. 510/1 et seq., the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILL. COMP. STAT. 505/1 et seq., and the common law, federal district court sitting in Illinois held that it had personal jurisdiction over corporations that allegedly sold the plaintiffs' product to Illinois residents over the Internet or at stores located in Illinois, but not over an out-of-state corporation that exercised control over an Internet site that provided links to the offending websites but did not offer the plaintiffs' product for sale).

Indiana Long-Arm Statute

IN ST TRIAL P Rule 4.4 (2003)

Rule 4.4. Service upon persons in actions for acts done in this state or having an effect in this state.

(A) Acts Serving as a Basis for Jurisdiction. Any person or organization that is a nonresident of this state, a resident of this state who has left the state, or a person whose residence is unknown, submits to the jurisdiction of the courts of this state as to any action arising from the following acts committed by him or her or his or her agent:

- (1) doing any business in this state;
- (2) causing personal injury or property damage by an act or omission done within this state;
- (3) causing personal injury or property damage in this state by an occurrence, act or omission done outside this state if he regularly does or solicits business or engages in any other persistent course of conduct, or derives substantial revenue or benefit from goods, materials, or services used, consumed, or rendered in this state;
- (4) having supplied or contracted to supply services rendered or to be rendered or goods or materials furnished or to be furnished in this state;
- (5) owning, using, or possessing any real property or an interest in real property within this state;
- (6) contracting to insure or act as surety for or on behalf of any person, property or risk located within this state at the time the contract was made;
- (7) living in the marital relationship within the state notwithstanding subsequent departure from the state, as to all obligations for alimony, custody, child support, or property settlement, if the other party to the marital relationship continues to reside in the state; or
- (8) abusing, harassing, or disturbing the peace of, or violating a protective or restraining order for the protection of, any person within the state by an act or omission done in this state, or outside this state if the act or omission is part of a continuing course of conduct having an effect in this state.

Indiana

continued

In addition, a court of this state may exercise jurisdiction on any basis not inconsistent with the Constitutions of this state or the United States.

Seminal Case

Anthem Ins. Cos., Inc. v. Tenent Healthcare Corp., 730 N.E.2d 1227 (Ind. 2000) (general personal jurisdiction existed over nonresident parent corporation of a chain of psychiatric hospitals in action brought by health insurer to recover allegedly fraudulent payments for psychiatric services where corporation sent its employees on several trips to Indiana to conduct business with four psychiatric hospitals that were operated by its subsidiaries, transacting substantial business with Indiana businesses, including law firm, storage companies and computer companies and defending a lawsuit in Indiana, operating a web page and other business listing in the State and regular contact with Indiana regulatory agencies).

Contract Cases

Ogden Engineering Corp. v. St. Louis Ship, Div. of Pott Indus., Inc., 568 F. Supp. 49 (N.D. Ind. 1983) (personal jurisdiction was exercised over nonresident defendant in breach of contract action based upon defendant's initiation of the transaction by telephone calls and visits to the state and by an Indiana choice-of-law provision in the contract); *Woodmar Coin Center, Inc. v. Owen*, 447 N.E.2d 618 (Ind. App. 1983) (personal jurisdiction existed over nonresident defendant in action for breach of contract to purchase coin where the defendant's telephone calls initiated the transaction and subsequent calls to negotiate a contract with an Indiana resident).

Business Tort Case

Cumis v. South-Coast Bank, 587 F. Supp. 339 (N.D. Ind. 1984) (finding that personal jurisdiction for a claim of conversion was proper where, despite the absence of a physical presence in the form of offices, employees or agents, nonresident defendant engaged in sales of certificates of deposit, issuance of checks and through its agents, negotiated sales with Indiana residents).

Internet Cases

Communications Depot, Inc. v. Verizon Comm. Inc., 2002 WL 1800044 (S.D. Ind. 2002) (noting that, standing alone, mere posting of information on a passive

Indiana

continued

website does not give rise to personal jurisdiction in the location of the reader or viewer); *Search Force, Inc. v. Dataforce International, Inc.*, 112 F. Supp. 2d 771 (S.D. Ind. 2000) (in action for trademark infringement, nonresident corporation offering recruitment and placement services via the Internet was not subject to personal jurisdiction under the Indiana long-arm statute where there was no evidence that the Internet activity resulted in any communications with Indiana residents or marketplace confusion within the State and where there was no showing that the corporation had specifically targeted its competitor in Indiana in its use of the allegedly infringing mark).

Iowa Long-Arm Statute

IA ST § 617.3 (2003)

§ 617.3. Foreign corporations or nonresidents contracting or committing torts in Iowa.

If the action is against any corporation or person owning or operating any railway or canal, steamboat or other rivercraft, or any telegraph, telephone, stage, coach, or carline, or against any express company, or against any foreign corporation, service may be made upon any general agent of such corporation, company, or person, wherever found, or upon any station, ticket, or other agent, or person transacting the business thereof or selling tickets therefore in the county where the action is brought; if there is no such agent in said county, then service may be had upon any such agent or person transacting said business in any other county.

If a foreign corporation makes a contract with a resident of Iowa to be performed in whole or in part by either party in Iowa, or if such foreign corporation commits a tort in whole or in part in Iowa against a resident of Iowa, such acts shall be deemed to be doing business in Iowa by such foreign corporation for the purpose of service of process or original notice on such foreign corporation under this section, and, if the corporation does not have a registered agent or agents in the state of Iowa, shall be deemed to constitute the appointment of the secretary of state of the state of Iowa to be its true and lawful attorney upon whom may be served all lawful process or original notice in actions or proceedings arising from or growing out of such contract or tort. If a nonresident person makes a contract with a resident of Iowa to be performed in whole or in part by either party in Iowa, or if such person commits a tort in whole or in part in Iowa against a resident of Iowa, such acts shall be deemed to be doing business in Iowa by such person for the purpose of service of process or original notice on such person under this section, and shall be deemed to constitute the appointment of the secretary of state of the state of Iowa to be the true and lawful attorney of such person upon whom may be served all lawful process or original notice in actions or proceedings arising from or growing out of such contract or tort. The term “nonresident person” shall include any person who was, at the time of the contract or tort, a resident of the state of Iowa but who removed from the state before the commencement of such action or proceedings and ceased to be a resident of Iowa or, a resident who has remained continuously absent from the state for at least a period of six months following commission of the tort. The making of the contract or the committing of the tort shall be deemed to be the agreement of such corporation or such person that any process or original notice so served shall be of the same legal force and

Iowa

continued

effect as if served personally upon such defendant within the state of Iowa. The term “resident of Iowa” shall include any Iowa corporation, any foreign corporation holding a certificate of authority to transact business in Iowa, any individual residing in Iowa, and any partnership or association one or more of whose members is a resident of Iowa. Service of such process or original notice shall be made (1) by filing duplicate copies of said process or original notice with said secretary of state, together with a fee of ten dollars, and (2) by mailing to the defendant and to each of them if more than one, by registered or certified mail, a notification of said filing with the secretary of state, the same to be so mailed within ten days after such filing with the secretary of state. Such notification shall be mailed to each foreign corporation at the address of its principal office in the state or country under the laws of which it is incorporated and to each such nonresident person at an address in the state of residence. The defendant shall have sixty days from the date of such filing with the secretary of state within which to appear. Proof of service shall be made by filing in court the duplicate copy of the process or original notice with the secretary of state’s certificate of filing, and the affidavit of the plaintiff or the plaintiff’s attorney of compliance herewith.

The secretary of state shall keep a record of all processes or original notices so served upon the secretary of state, recording therein the time of service and the secretary of state’s actions with reference thereto, and the secretary of state shall promptly return one of said duplicate copies to the plaintiff or the plaintiff’s attorney, with a certificate showing the time of filing thereof in the secretary of state’s office. The original notice of suit filed with the secretary of state shall be in form and substance the same as provided in rule of civil procedure 1.901, form 3, Iowa court rules. The notification of filing shall be in substantially the following form, to wit:

“To _____ (Here insert the name of each defendant with proper address.) You will take notice that an original notice of suit or process against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa by filing a copy of said notice or process on the ____ day of _____ (month), ____ (year) with the secretary of state of the state of Iowa.

Dated at _____, Iowa, this ____ day of _____ (month), ____ (year).

Plaintiff

By _____
Attorney for Plaintiff”

Iowa

continued

Actions against foreign corporations or nonresident persons as contemplated by this law may be brought in the county of which plaintiff is a resident, or in the county in which any part of the contract is or was to be performed or in which any part of the tort was committed.

Seminal Case

Universal Cooperatives, Inc. v. Tasco, Inc., 300 N.W.2d 139 (Iowa 1981) (holding where a defendant purposefully avails itself of the privilege of conducting activities within forum state, thus invoking the benefits and protections of its laws, it may be required to defend a suit in that state arising out of those activities).

Contract Case

Aquadrill, Inc. v. Environmental Compliance Consulting Servs., 558 N.W.2d 391 (Iowa 1997) (resident corporation brought suit against nonresident corporation and its principals for failing to pay for services performed by the resident corporation. The court applied a two-step analysis and found that: (1) Iowa R. Civ. P. 56.2 authorized the exercise of jurisdiction over corporations and individuals with the necessary minimum contacts with the state; and (2) because the nonresident corporate principal had communicated with the resident corporation and had made specific representations that were meant to deceive, the exercise of jurisdiction did not offend due process).

Business Tort Case

Cross v. Lightolier Inc., 395 N.W.2d 844 (Iowa 1986) (finding jurisdiction is appropriate under this section over foreign corporation that commits tortious act in whole or in part in Iowa causing damage or injury to resident of Iowa).

Internet Case

No reported decisions to date.

Kansas Long-Arm Statute

KS ST § 60-308 (2002)

§ 60-308. Service outside state.

Proof and effect.

(a) Service of process may be made upon any party outside the state. If upon a person domiciled in this state or upon a person who has submitted to the jurisdiction of the courts of this state, it shall have the force and effect of service of process within this state; otherwise it shall have the force and effect of service by publication.

(b) The service of process shall be made (A) in the same manner as service within this state, by any officer authorized to make service of process in this state or in the state where the defendant is served or (B) by sending a copy of the process and of the petition or other document to the person to be served in the manner provided in subsection (e). No order of a court is required. An affidavit, or any other competent proofs, of the server shall be filed stating the time, manner and place of service. The court may consider the affidavit, or any other competent proofs, in determining whether service has been properly made.

(c) No default shall be entered until the expiration of at least 30 days after service. A default judgment rendered on service outside this state may be set aside only on a showing which would be timely and sufficient to set aside a default judgment under subsection (b) of K.S.A. 60-260, and amendments thereto.

Submitting to jurisdiction – process.

Any person, whether or not a citizen or resident of this state, who in person or through an agent or instrumentality does any of the acts hereinafter enumerated, thereby submits the person and, if an individual, the individual's personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of these acts:

- (a) Transaction of any business within this state;
- (b) commission of a tortious act within this state;
- (c) ownership, use or possession of any real estate situated in this state;

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(d) contracting to insure any person, property or risk located within this state at the time of contracting;

(e) entering into an express or implied contract, by mail or otherwise, with a resident of this state to be performed in whole or in part by either party in this state;

(f) acting within this state as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business within this state or acting as executor or administrator of any estate within this state;

(g) causing to persons or property within this state any injury arising out of an act or omission outside of this state by the defendant if, at the time of the injury either (A) the defendant was engaged in solicitation or service activities within this state; or (B) products, materials or things processed, serviced or manufactured by the defendant anywhere were used or consumed within this state in the ordinary course of trade or use;

(h) living in the marital relationship within the state notwithstanding subsequent departure from the state, as to all obligations arising for maintenance, child support or property settlement under article 16 of this chapter, if the other party to the marital relationship continues to reside in the state;

(i) serving as the insurer of any person at the time of any act by the person which is the subject of an action in a court of competent jurisdiction within the state of Kansas which results in judgment being taken against the person;

(j) performing an act of sexual intercourse within the state, as to an action against a person seeking to adjudge the person to be a parent of a child and as to an action to require the person to provide support for a child as provided by law, if (A) the conception of the child results from the act and (B) the other party to the act or the child continues to reside in the State; or

(k) entering into an express or implied arrangement, whether by contract, tariff or otherwise, with a corporation or partnership, either general or limited, residing or doing business in this state under which such corporation or partnership has supplied transportation services, or communication services or equipment, including, without limitation, telephonic communication services, for a business or commercial user where the services supplied to such user are managed, operated or monitored within the state of Kansas, provided that such person is put

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on reasonable notice that arranging or continuing such transportation services or telecommunication services may result in the extension of jurisdiction pursuant to this section.

Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in subsection (b), may be made by serving the process upon the defendant outside this state, as provided in subsection (a)(2), with the same force and effect as though process had been served within this state, but only causes of action arising from acts enumerated in subsection (b) may be asserted against a defendant in an action in which jurisdiction over the defendant is based upon this subsection.

Nothing contained in this section limits or affects the right to serve any process in any other manner provided by law.

Service by return receipt delivery. (1) Service of any out-of-state process by return receipt delivery shall include service effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt showing to whom delivered, date of delivery, address where delivered, and person or entity effecting delivery. (2) The party or party's attorney shall cause a copy of the process and petition or other document to be placed in a sealed envelope addressed to the person to be served in accordance with K.S.A. 60-304, and amendments thereto, with portage or other delivery fees prepaid, and the sealed envelope placed in the custody of the person or entity effecting delivery. (3) Service of process shall be considered obtained under K.S.A. 60-203, and amendments thereto, upon the delivery of the sealed envelope. (4) After service and return of the return receipt, the party or party's attorney shall execute a return on service stating the nature of the process, to whom delivered, the date, the address where delivered and the person or entity effecting delivery. The original return of service shall be filed with the clerk, along with a copy of the return receipt evidencing such delivery. (5) If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the party or the party's attorney may send a copy of the process and petition or other document by first-class mail addressed to the party to be served, or may elect other methods of service. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service filed with the clerk. If the unopened envelope sent first-class mail is returned as undelivered for any reason, the party or party's attorney shall file an amended certificate of service with the

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clerk indicating nondelivery, and service by such mailing shall not be considered obtained. Mere failure to claim return receipt delivery is not refusal of service within the meaning of this subsection.

Seminal Case

Woodring v. Hall, 438 P.2d 135 (Kan. 1968) (holding in personam judgment permitted herein satisfies due process; section provides minimum contacts with forum state, adequate notice of claim and full opportunity to appear and be heard).

Contract Case

Kemper v. Rohrich, 508 F. Supp. 444 (D. Kan. 1980) (in personam jurisdiction proper in case involving breach of contract and fraud by out-of-state resident).

Business Tort Case

Professional Investors Life Ins. Co. v. Roussel, 528 F. Supp. 391 (D. Kan. 1981) (defendant argued that court could not exercise personal jurisdiction over him and that service of process was insufficient. Court had previously determined that the allegations of a conspiracy to commit a business tort that had foreseeable consequences in Kansas were sufficient to support a finding of personal jurisdiction over defendant. Defendant's alleged role in this conspiracy was sufficient for the exercise of personal jurisdiction).

Internet Case

D.J.'s Rock Creek Marina, Inc. v. Imperial Foam & Insulation Mfg. Co., 2003 WL 262495 (D. Kan. 2003) (considering the question of whether a supplier's interactive website, which was accessible to residents of the forum state, constituted "substantial and continuous local activity" to render general personal jurisdiction over the supplier. The supplier's website, accessible by forum state residents, had an on-line catalogue of 122 products under 48 product headings, and allowed customers to order online or through a toll-free number. Interested persons could e-mail to the supplier inquiries about the products, including a request for quote. Customers could also set up a customer account number on-line. However, the supplier had no traditional types of business contacts in the forum state. In addition, the supplier had no actual Internet-based contacts with residents of the forum state. Under the circumstances, the court found that general personal jurisdiction did not lie and denied the motion for discovery. Moreover, exercising jurisdiction over the supplier would not be reasonable).

Kentucky Long-Arm Statute

KY ST § 454.210

§454.210. Personal Jurisdiction of Courts over Nonresident; Process, How Served; Venue.

(1) As used in this section, “person” includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person’s:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or goods in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such

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continued

in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

(a) The father or mother or both are domiciled in this state;

(b) There is a repeated pattern of intercourse between the father and mother in this state; or

(c) Said intercourse is a tort or a crime in this state;

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person;

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail two (2) true copies to the secretary of state and shall also mail with the summons two (2) attested copies of plaintiff's complaint. The secretary of state shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the secretary of state. The clerk shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served

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on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure; and

(c) The clerk mailing the summons to the secretary of state shall mail to him, at the same time, a fee of ten dollars (\$10), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Seminal Case

Tube Turns Division of Chemtron Corp. v. Patterson Co., 562 S.W.2d 99 (Ky. 1978) (finding the court did not have personal jurisdiction over Colorado corporation that Kentucky corporation solicited for business in a single isolated transaction).

Contract Case

Friction Materials Co. v. Stinson, 833 S.W.2d 388 (Ky. 1992) (finding in action for breach of sales commissions contract, personal jurisdiction was proper where Indiana company hired Kentucky resident as sales representative in Kentucky, even though employment contract was executed in Indiana).

Business Tort Case

Audiovox Corp. v. Moody, 737 S.W.2d 468 (Ky. 1987) (holding personal jurisdiction was established over New York parent company that managed and had the same corporate officers as Kentucky subsidiary in wrongful termination and outrageous conduct action).

Internet Case

Auto Channel, Inc. v. Speedvision Network, LLC, 995 F. Supp. 761 (W.D. Ky. 1997) (noting the mere fact that Kentucky residents could view Delaware corporations' website advertisements did not establish personal jurisdiction).

Louisiana Long-Arm Statute

LA R.S. 13:3201

§ 3201. Personal jurisdiction over nonresidents.

A. A court may exercise personal jurisdiction over a nonresident, who acts directly or by an agent, as to a cause of action arising from any one of the following activities performed by the nonresident:

- (1) Transacting any business in this state.
- (2) Contracting to supply services or things in this state.
- (3) Causing injury or damage by an offense or quasi offense committed through an act or omission in this state.
- (4) Causing injury or damage in this state by an offense or quasi offense committed through an act or omission outside of this state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives revenue from goods used or consumed or services rendered in this state.
- (5) Having an interest in, using or possessing a real right on immovable property in this state.
- (6) Non-support of a child, parent, or spouse or a former spouse domiciled in this state to whom an obligation of support is owed and with whom the nonresident formerly resided in this state.
- (7) Parentage and support of a child who was conceived by the nonresident while he resided in or was in this state.
- (8) Manufacturing of a product or component thereof which caused damage or injury in this state, if at the time of placing the product into the stream of commerce, the manufacturer could have foreseen, realized, expected, or anticipated that the product may eventually be found in this state by reason of its nature and the manufacturer's marketing practices.

B. In addition to the provisions of Subsection A, a court of this state may exercise personal jurisdiction over a nonresident on any basis consistent with the constitution of this state and of the Constitution of the United States.

Louisiana

continued

Seminal Case

Petroleum Helicopters, Inc. v. AVCO Corp., 513 So. 2d 1188 (La. 1987) (holding Louisiana court had personal jurisdiction over California corporation that manufactured flotation devices for helicopter that sank in Gulf of Mexico since constitutional requirements for due process, which are coextensive with the Louisiana long-arm statute, were met).

Contract Case

Hagan v. Stone, 742 So. 2d 101 (La. 1999) (finding proprietor of Mississippi computer training company was subject to personal jurisdiction for contract entered into in Mississippi with Louisiana businesspersons, but which provided that proprietor would receive a percent of sales conducted in Louisiana).

Business Tort Case

Hollis v. Info Pro Tech., 764 So. 2d 184 (La. 2000) (in harassing collection practices action, court did not have personal jurisdiction over New Jersey business that accepted credit card payment from stolen credit card of Louisiana resident since transaction and collection practices did not take place in Louisiana).

Internet Case

Mid City Bowling Lanes & Sports Palace, Inc. v. Ivercrest, Inc., 35 F. Supp. 2d 507 (E.D. La. 1999) (finding Illinois bowling alley's website which was advertising information about its business but not selling products, was not subject to personal jurisdiction in trademark infringement action by Louisiana bowling alley).

Maine Long-Arm Statute

ME ST T. 14 § 704-A

§ 704-A. Persons subject to jurisdiction.

1. Declaration of purpose. It is declared, as a matter of legislative determination, that the public interest demands that the State provide its citizens with an effective means of redress against nonresident persons who, through certain significant minimal contacts with this State, incur obligations to citizens entitled to the state's protection. This legislative action is deemed necessary because of technological progress which has substantially increased the flow of commerce between the several states resulting in increased interaction between persons of this State and persons of other states.

This section, to insure maximum protection to citizens of this State, shall be applied so as to assert jurisdiction over nonresident defendants to the fullest extent permitted by the due process clause of the United States Constitution, 14th Amendment.

2. Causes of action. Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated in this section, thereby submits such person, and, if an individual, his personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any of such acts:

- A. The transaction of any business within this State;
- B. Doing or causing a tortious act to be done, or causing the consequences of a tortious act to occur within this State;
- C. The ownership, use or possession of any real estate situated in this State;
- D. Contracting to insure any person, property or risk located within this State at the time of contracting;
- E. Conception resulting in paternity within the meaning of Title 19-A, chapter 53, subchapter I;
- F. Contracting to supply services or things within this State;
- G. Maintaining a domicile in this State while subject to a marital

Maine

continued

or family relationship out of which arises a claim for divorce, alimony, separate maintenance, property settlement, child support or child custody; or the commission in this State of any act giving rise to such a claim; or

H. Acting as a director, manager, trustee or other officer of a corporation incorporated under the laws of, or having its principal place of business within, this State.

I. Maintain any other relation to the State or to persons or property which affords a basis for the exercise of jurisdiction by the courts of this State consistent with the Constitution of the United States.

3. Personal service. Service of process upon any person who is subject to the jurisdiction of the courts of this State, as provided in this section, may be made by personally serving the summons upon the defendant outside this State, with the same force and effect as though summons had been personally served within this State.

4. Jurisdiction based upon this section. Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

5. Other service not affected. Nothing contained in this section limits or affects the right to serve any process in any other manner now or hereafter provided by law.

Seminal Case

Tyson v. Whitaker & Son, Inc., 407 A.2d 1 (Me. 1979) (holding New York car dealership was subject to personal jurisdiction when it sold a car to New York residents who were injured in a car accident in Maine).

Contract Case

Telford Aviation, Inc. v. Raycom National, Inc., 122 F. Supp. 2d 44 (D. Me. 2000) (finding Delaware corporation that contracted with Maine corporation for airplane charter services was not subject to personal jurisdiction where contract was executed in Alabama and no flight services occurred in Maine, even though all flights were scheduled through office in Maine).

Maine

continued

Business Tort Case

Talus Corp. v. Browne, 775 F. Supp. 23 (D. Me. 1991) (finding no personal jurisdiction for out-of-state defendant who sent notice of infringement letter to Maine corporation).

Internet Case

Talarico v. Marathon Shoe Co., 2001 WL 366346 (D. Me. 2001) (in patent infringement action, court had personal jurisdiction over Ohio corporation from whose website five Maine residents placed product orders).

Maryland Long-Arm Statute

MD CTS & JUD PRO § 6-103

§ 6-103. Cause of action arising from conduct in State or tortious injury outside State.

(a) Condition. – If jurisdiction over a person is based solely upon this section, he may be sued only on a cause of action arising from any act enumerated in this section.

(b) In general. – A court may exercise personal jurisdiction over a person, who directly or by an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply goods, food, services, or manufactured products in the State;

(3) Causes tortious injury in the State by an act or omission in the State;

(4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from goods, food, services, or manufactured products used or consumed in the State;

(5) Has an interest in, uses, or possesses real property in the State; or

(6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation, or agreement located, executed, or to be performed within the State at the time the contract is made, unless the parties otherwise provide in writing.

(c) Applicability to computer information and computer programs.

(1) (i) In this subsection the following terms have the meanings indicated.

(ii) “Computer information” has the meaning stated in § 22-102 of the Commercial Law Article.

Maryland

continued

(iii) “Computer program” has the meaning stated in § 22-102 of the Commercial Law Article.

(2) The provisions of this section apply to computer information and computer programs in the same manner as they apply to goods and services.

Seminal Case

A. F. Briggs Co. v. Starrett Corp. Me., 329 A.2d 177 (Me. 1974) (holding due process requires that nonresident defendant have minimum contacts with the forum state to make the exercise of jurisdiction reasonable and just according to traditional conceptions of fair play and substantial justice).

Contract Case

Ritz Camera Centers, Inc. v. Wentling Camera Shops, Inc., 982 F. Supp. 350 (D.Md. 1997) (finding Maryland corporation did not establish personal jurisdiction based on its negotiations with South Carolina business where contacts with Maryland occurred over phone and through mail outside the state).

Business Tort Case

Cape v. Maur, 932 F. Supp. 124 (D.Md. 1996) (finding court did not have personal jurisdiction in Virginia corporation’s attorney malpractice action against German law firm, where only contacts with Maryland were phone calls and letter to shareholder who was Maryland resident).

Internet Case

ALS Scan, Inc. v. Wilkins, 142 F. Supp. 2d 703 (D.Md. 2001) (court did not have personal jurisdiction in copyright infringement action over Georgia corporation that provided connection service to company publishing photographs on Internet, since Georgia corporation’s only contact with Maryland was its informational website).

Massachusetts Long-Arm Statute

MA ST 223A § 3 (2003)

223A § 3. Transactions or Conduct for Personal Jurisdiction.

A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action in law or equity arising from the person's

- (a) transacting any business in this commonwealth;
- (b) contracting to supply services or things in this commonwealth;
- (c) causing tortious injury by an act or omission in this commonwealth;
- (d) causing tortious injury in this commonwealth by an act or omission outside this commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this commonwealth;
- (e) having an interest in, using or possessing real property in this commonwealth;
- (f) contracting to insure any person, property or risk located within this commonwealth at the time of contracting;
- (g) maintaining a domicile in this commonwealth while a party to a personal or marital relationship out of which arises a claim for divorce, alimony, property settlement, parentage of a child, child support or child custody; or the commission of any act giving rise to such a claim; or
- (h) having been subject to the exercise of personal jurisdiction of a court of the commonwealth which has resulted in an order of alimony, custody, child support or property settlement, notwithstanding the subsequent departure of one of the original parties from the commonwealth, if the action involves modification of such order or orders and the moving party resides in the commonwealth, or if the action involves enforcement of such order notwithstanding the domicile of the moving party.

Seminal Case

Tatro v. Manor Care, Inc., 625 N.E.2d 549 (1994) (asserting that Massachusetts courts should broadly construe the “transacting any business”

Massachusetts

continued

clause of the long-arm statute, and that “any purposeful act by an individual, whether personal, private or commercial,” generally satisfies the state’s long-arm statutes, the application of which is proper where defendant transacted business in Massachusetts and plaintiff’s claim arose from the transaction of business by defendant).

Contract Case

Advanced Cell Technology, Inc. v. Infigen, Inc., 2001 WL 1763952 (Mass. App. Ct. Nov. 21, 2001) (holding defendant subject to the jurisdiction of Massachusetts over the protests of defendant because it had the following contacts with the state: engaged in recruiting plaintiff’s employees; took part in settlement negotiations that resulted in the dismissal of a case pending in Massachusetts and its acquiring of a security interest in property located in Massachusetts; and instructed plaintiff to advance payment to it via a wire transfer from a Massachusetts corporation).

Business Tort Case

Bond Leather Co., Inc. v. Q.T. Shoe Mfg. Co., 764 F.2d 928 (1st Cir. 1985) (although it found that an out-of-state corporation’s activities, which included guaranteeing payment for goods sold to a Massachusetts corporation and mailing four letters to, and receiving one phone call from within Massachusetts, fell within the reach of Massachusetts long-arm statute, the court deemed these contacts too insignificant to satisfy principles of in personam jurisdiction).

Internet Case

Back Bay Farms, LLC v. Collucio, 230 F. Supp. 2d 176 (D. Mass. 2002) (noting, in dicta, that a passive website alone, which was limited to making information available, would not give rise to personal jurisdiction).

Michigan Long-Arm Statute

MI ST 600.705 (2003)

§ 705. Limited personal jurisdiction over individuals.

The existence of any of the following relationships between an individual or his agent and the state shall constitute a sufficient basis of jurisdiction to enable a court of record of this state to exercise limited personal jurisdiction over the individual and to enable the court to render personal judgments against the individual or his representative arising out of an act which creates any of the following relationships:

- (1) The transaction of any business within the state.
- (2) The doing or causing an act to be done, or consequences to occur, in the state resulting in an action for tort.
- (3) The ownership, use, or possession of real or tangible personal property situated within the state.
- (4) Contracting to insure a person, property, or risk located within this state at the time of contracting.
- (5) Entering into a contract for services to be rendered or for materials to be furnished in the state by the defendant.
- (6) Acting as a director, manager, trustee, or other officer of a corporation incorporated under the laws of, or having its principal place of business within this state.
- (7) Maintaining a domicile in this state while subject to a marital or family relationship which is the basis of the claim for divorce, alimony, separate maintenance, property settlement, child support, or child custody.

Seminal Cases

Green v. Wilson, 565 N.W.2d 813 (Mich. 1997) (finding although long-arm statute lists specific acts giving rise to personal jurisdiction, the statute is coextensive with the due process and share the same outer boundary); *Sifers v. Horen*, 188 N.W.2d 623 (Mich. 1971) (construing the long-arm statute to provide for the broadest grant of jurisdiction permitted by the due process clause).

Michigan

continued

Contract Case

Corey v. Cook and Co., 142 N.W.2d 514 (Mich. Ct. App. 1966) (holding that, despite the fact the contract was entered into in Michigan or performed within state, personal jurisdiction was lacking against a nonresident defendant where the contract did not provide for the delivery of materials or rendering of services within the state).

Business Tort Cases

Hadad v. Lewis, 382 F. Supp. 1365 (E.D. Mich. 1974) (finding personal jurisdiction was proper against nonresident corporate officers on a claim of fraud where an agreement and accompanying representations for a Florida franchise sold to a Michigan resident failed to disclose impending insolvency of the company); *Nationwide Motorist Association of Michigan v. Freeman*, 405 F.2d 699 (6th Cir. 1969) (finding misrepresentations made by a nonresident to a resident that occurred within the state provided a sufficient basis for the exercise of personal jurisdiction on a fraud action).

Internet Cases

Siebellink v. Cyclone Airsports, Ltd., 2001 WL 1910560 (W.D. Mich. 2001) (holding that nonresident defendant's website, having a low level of interactivity, did not satisfy the purposeful availment requirement for a finding of personal jurisdiction, where website did not allow users to make on-line purchases, but rather provided hyperlinks to other company's websites); *Sports Authority Michigan, Inc. v. Justballs, Inc.*, 97 F. Supp. 2d 806 (E.D. Mich. 2000) (holding that nonresident's interactive website, which was used as its primary method of sales, in conjunction with evidence that products were targeted and sold to residents was sufficient to make a finding of personal jurisdiction).

Minnesota Long-Arm Statute

MN ST. § 543.19 (2003)

§ 543.19. Personal jurisdiction over nonresidents.

Subdivision 1. As to a cause of action arising from any acts enumerated in this subdivision, a court of this state with jurisdiction of the subject matter may exercise personal jurisdiction over any foreign corporation or any nonresident individual, or the individual's personal representative, in the same manner as if it were a domestic corporation or the individual were a resident of this state. This section applies if, in person or through an agent, the foreign corporation or nonresident individual:

(a) Owns, uses, or possesses any real or personal property situated in this state, or

(b) Transacts any business within the state, or

(c) Commits any act in Minnesota causing injury or property damage,
or

(d) Commits any act outside Minnesota causing injury or property damage in Minnesota, subject to the following exceptions when no jurisdiction shall be found:

(1) Minnesota has no substantial interest in providing a forum;
or

(2) the burden placed on the defendant by being brought under the state's jurisdiction would violate fairness and substantial justice; or

(3) the cause of action lies in defamation or privacy.

Subd. 2. The service of process on any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the summons upon the defendant outside this state with the same effect as though the summons had been personally served within this state.

Subd. 3. Only causes of action arising from acts enumerated in subdivision 1 may be asserted against a defendant in an action in which jurisdiction over the defendant is based upon this section.

Minnesota

continued

Subd. 4. Nothing contained in this section shall limit or affect the right to serve any process in any other manner now or hereafter provided by law or the Minnesota Rules of Civil Procedure.

Subd. 5. Nonresident individual, as used in this section, means any individual, or the individual's personal representative, who is not domiciled or residing in the state when suit is commenced.

Seminal Case

State Farm Mut. Auto. Ins. Co. v. Tennessee Farmers Mut. Ins. Co., 645 N.W.2d 169 (Minn. Ct. App. 2002) (holding Minnesota's long-arm statute permits a state court to extend its jurisdiction to the full extent permitted by the constitutional due process limitations).

Contract Case

Sybaritic, Inc. v. Interport Int'l, Inc., 957 F.2d 522 (8th Cir. 1992) (holding that defendant lacked sufficient contact to meet the standards of due process where, despite the existence of contacts with the state, such as a trip to Minnesota and various phone and mail communications, the contract was negotiated, drafted, presented and executed in foreign country).

Business Tort Case

Rostad v. On-Deck, Inc., 354 N.W.2d 95 (Minn. Ct. App. 1984), *aff'd*, 372 N.W.2d 717 (Minn. 1985) (finding personal jurisdiction was properly asserted against an out-of-state manufacturer distributing its product through a national distributor having a representative in Minnesota).

Internet Case

State v. Granite Gate Resorts, 568 N.W.2d 715 (Minn. Ct. App. 1997) (holding that company's Internet advertising for on-line gambling established minimum contacts with the state where numerous computer users in the state had accessed the website, Internet advertising is an active rather than passive capacity and the causes of action for deceptive trade practices and consumer fraud arose from the defendant's contacts with the forum state).

Mississippi Long-Arm Statute

MS ST § 13-3-57 (2003)

§ 13-3-57. Service on nonresidents; generally.

Any nonresident person, firm, general or limited partnership, or any foreign or other corporation not qualified under the Constitution and laws of this state as to doing business herein, who shall make a contract with a resident of this state to be performed in whole or in part by any party in this state, or who shall commit a tort in whole or in part in this state against a resident or nonresident of this state, or who shall do any business or perform any character of work or service in this state, shall by such act or acts be deemed to be doing business in Mississippi and shall thereby be subjected to the jurisdiction of the courts of this state. Service of summons and process upon the defendant shall be had or made as is provided by the Mississippi Rules of Civil Procedure.

Any such cause of action against any such nonresident, in the event of death or inability to act for itself or himself, shall survive against the executor, administrator, receiver, trustee, or any other selected or appointed representative of such nonresident. Service of process or summons may be had or made upon such nonresident executor, administrator, receiver, trustee or any other selected or appointed representative of such nonresident as is provided by the Mississippi Rules of Civil Procedure, and when such process or summons is served, made or had against the nonresident executor, administrator, receiver, trustee or other selected or appointed representative of such nonresident it shall be deemed sufficient service of such summons or process to give any court in this state in which such action may be filed, in accordance with the provisions of the statutes of the State of Mississippi or the Mississippi Rules of Civil Procedure, jurisdiction over the cause of action and over such nonresident executor, administrator, receiver, trustee or other selected or appointed representative of such nonresident insofar as such cause of action is involved.

The provisions of this section shall likewise apply to any person who is a nonresident at the time any action or proceeding is commenced against him even though said person was a resident at the time any action or proceeding accrued against him.

Seminal Case

Mladinich v. Kohn, 164 So. 2d 785 (Miss. 1964) (finding factors that must coincide if jurisdiction is to be obtained over nonresident are: nonresident must

Mississippi

continued

purposely do some act or consummate some transaction in forum state, cause of action must arise from, or be connected with, such act or transaction and assumption of jurisdiction by forum state must not offend traditional notions of fair play and substantial justice).

Contract Case

Cycles, Ltd. v. W.J. Digby, Inc., 889 F.2d 612 (5th Cir. 1989) (finding in action for breach of lease purchase agreement between Mississippi and Arkansas businesses, Mississippi court did not have personal jurisdiction over Arkansas residents where parties' agreement provided that all payments were to be made to businesses outside of Mississippi).

Business Tort Case

Falco Lime, Inc. v. Tide Towing Co., 779 F. Supp. 58 (N.D. Miss. 1991) (holding in negligence action, even though economic damages were suffered in Mississippi, court did not have personal jurisdiction over Illinois company that allowed Mississippi company's boats to run aground in Tennessee).

Internet Case

Internet Doorway, Inc. v. Parks, 138 F. Supp. 2d 773 (S.D. Miss. 2001) (finding e-mail sent to Mississippi resident soliciting business constituted "doing business" in Mississippi and conferred personal jurisdiction in action under Lanham Act and for trespass to chattels).

Missouri Long-Arm Statute

MO ST § 506.500 (2003)

§ 506.500. Actions in which out of state service is authorized — Jurisdiction of Missouri courts applicable when

1. Any person or firm, whether or not a citizen or resident of this state, or any corporation, who in person or through an agent does any of the acts enumerated in this section, thereby submits such person, firm, or corporation, and, if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of such acts:

- (1) The transaction of any business within this state;
- (2) The making of any contract within this state;
- (3) The commission of a tortious act within this state;
- (4) The ownership, use, or possession of any real estate situated in this state;
- (5) The contracting to insure any person, property or risk located within this state at the time of contracting;
- (6) Engaging in an act of sexual intercourse within this state with the mother of a child on or near the probable period of conception of that child.

2. Any person, whether or not a citizen or resident of this state, who has lived in lawful marriage within this state, submits himself to the jurisdiction of the courts of this state as to all civil actions for dissolution of marriage or for legal separation and all obligations arising for maintenance of a spouse, support of any child of the marriage, attorney's fees, suit money, or disposition of marital property, if the other party to the lawful marriage lives in this state or if a third party has provided support to the spouse or to the children of the marriage and is a resident of this state.

3. Only causes of action arising from acts enumerated in this section may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

Missouri

continued

Seminal Case

State ex rel. Deere & Co. v. Pinnell, 454 S.W.2d 889 (Mo. 1970) (en banc) (concluding that “ultimate objective” of Missouri legislature was to extend jurisdiction of Missouri court to nonresident defendants to the extent permissible under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution).

Contract Case

Laser Vision Ctrs., Inc. v. Laser Vision Centers Int’l, SpA, 930 S.W.2d 29 (Mo. Ct. App. 1996) (performing “final act” necessary for acceptance of contract in Missouri is equivalent to making a contract under Missouri long-arm statute).

Business Tort Case

May Dept. Stores Co. v. Wilansky, 900 F. Supp. 1154 (E.D. Mo. 1995) (holding “commission of a tortious act” provision of Missouri long-arm statute permitted jurisdiction over a defendant corporation where sole basis for jurisdiction was an extraterritorial act, tortious interference with a contract, which produced an effect in Missouri, but that exercise of such jurisdiction would violate due process).

Internet Case

State ex rel. Nixon v. Beer Nuts, Ltd., 29 S.W.3d 828 (Mo. Ct. App. 2000) (selling beer to Missouri residents through “beer of the month club” memberships on Internet sufficient to confer personal jurisdiction in action by Missouri Attorney General for violation of Missouri Merchandising Practices Act).

Montana Long-Arm Statute

MT ST RCP Rule 4B (2002)

Rule 4B. Jurisdiction of Persons.

(1) Subject to Jurisdiction. All persons found within the state of Montana are subject to the jurisdiction of the courts of this state. In addition, any person is subject to the jurisdiction of the courts of this state as to any claim for relief arising from the doing personally, through an employee, or through and agent, of any of the following acts:

- (a) the transaction of any business within this state;
- (b) the commission of any act which results in the accrual within this state of a tort action;
- (c) the ownership, use or possession of any property, or any interest therein, situated within this state;
- (d) contracting to insure any person, property or risk located within this state at the time of contracting;
- (e) entering into a contract for services to be rendered or for materials to be furnished in this state by such person; or
- (f) acting as director, manager, trustee, or other officer of any corporation organized under the laws of, or having its principal place of business within this state, or as personal representative of any estate within this state.

(2) Acquisition of Jurisdiction. Jurisdiction may be acquired by our courts over any person through service of process as herein provided; or by the voluntary appearance in an action by any person either personally, or through an attorney, or through any other authorized officer, agent or employee.

Seminal Case

Simmons v. State, 670 P.2d 1372 (Mont. 1983) (concluding that even where jurisdiction is conferred on a nonresident under the long-arm statute, court must still evaluate whether assertion of jurisdiction comports with the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution).

Montana

continued

Contract Case

Spectrum Pool Prods., Inc. v. MW Golden, Inc., 968 P.2d 728 (Mont. 1998) (finding nonresident contractor “entered into a contract for services to be rendered” in Montana so as to justify assertion of jurisdiction under the long-arm statute, where contractor solicited plaintiff in Montana and solicited by telephone for the manufacture and sale of a swimming pool lift to be delivered to contractor in Colorado).

Business Tort Case

Jackson v. Kroll, Pomerantz & Cameron, 724 P.2d 717 (Mont. 1986) (holding that jurisdiction was proper under tort prong of long-arm statute where plaintiff alleged that, through its relationship with insolvent insurance company, defendants had the authority to make decisions concerning evaluation and processing of plaintiff’s insurance claim and that defendant’s bad faith denial of liability on plaintiff’s claim violated the Montana Unfair Trade Practices Act).

Internet Case

Bedrejo v. Triple E Canada, Ltd., 984 P.2d 739 (Mont. 1999) (concluding, as a matter of first impression, that maintenance of an Internet website by Canadian manufacturer did not establish that manufacturer was “found within the state,” as basis for general jurisdiction, or that manufacturer “purposefully availed itself of privilege of conducting activities in Montana,” where there was no connection between defendant’s website and the events upon which the underlying case was based).

Nebraska Long-Arm Statute

NE ST § 25-536 (2003)

§25-536. Jurisdiction over a person.

A court may exercise personal jurisdiction over a person:

(1) Who acts directly or by an agent, as to a cause of action arising from the person:

- (a) Transacting any business in this state;
- (b) Contracting to supply services or things in this state;
- (c) Causing tortious injury by an act or omission in this state;

(d) Causing tortious injury in this state by an act or omission outside this state if the person regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this state;

(e) Having an interest in, using, or possessing real property in this state; or

(f) Contracting to insure any person, property, or risk located within this state at the time of contracting; or

(2) Who has any other contact with or maintains any other relation to this state to afford a basis for the exercise of personal jurisdiction consistent with the Constitution of the United States.

Seminal Cases

Stucky v. Stucky, 185 N.W.2d 656 (Neb. 1971) (construing Nebraska long-arm statute to extend the reach of the state's personal jurisdiction as far as U.S. Constitution permits); *Wagner v. UniCord Corp.*, 526 N.W.2d 74 (Neb. 1995) (same),

Contract Case

Crete Carrier Corp. v. Red Food Stores, Inc., 576 N.W.2d 760 (Neb. 1998) (finding numerous telephone contacts between nonresident defendant and Nebraska plaintiff, combined with the long-term and ongoing relationship between parties, sufficient to establish personal jurisdiction over nonresident for breach of

Nebraska

continued

contract claim stemming from nonresident's refusal to indemnify plaintiff for workers' compensation payment made to injured employee).

Business Tort Case

Oriental Trading Co. v. Firetti, 236 F.3d 938 (8th Cir. 2001) (holding that personal jurisdiction was proper over nonresident defendants in suit involving claims for fraud, negligent misrepresentation and conversion, where defendants purposely directed their fraudulent communications at a Nebraska resident).

Internet Case

No reported decisions to date.

Nevada Long-Arm Statute

NV ST § 14.065 (2003)

§ 14.065. Exercise of jurisdiction on any basis consistent with state and federal constitutions; service of summons to confer jurisdiction.

1. A Court of this state may exercise jurisdiction over a party to a civil action on any basis not inconsistent with the constitution of this state or the Constitution of the United States.

2. Personal service of summons upon a party outside this state is sufficient to confer upon a court of this state jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this state.

3. The method of service provided in this section is cumulative, and may be utilized with, after or independently of other methods of service.

Seminal Cases

Certain-Teed Prods. Corp. v. District Court, 479 P.2d 781 (Nev. 1971) (holding that Nevada long-arm statute reaches the limits of due process set by the U.S. Constitution); *see also Trump v. District Court*, 857 P.2d 740 (Nev. 1993) (same).

Contract Case

Firouzabadi v. District Court, 885 P.2d 616 (Nev. 1994) (concluding that nonresident vendor availed itself of opportunity to do business in State of Nevada by offering its clothing at trade show in Nevada and, therefore, was subject to personal jurisdiction in Nevada on contract claim arising out of purchases made at the trade show).

Business Tort Case

Peccole v. District Court, 899 P.2d 568 (Nev. 1995) (finding personal jurisdiction over nonresident defendants was proper based on allegations that the defendants committed tortious acts aimed at Nevada residents based upon certain fraudulent misrepresentations made during a telephone conversation with the plaintiffs in Nevada that certain property for sale in Colorado was suitable for gaming).

Nevada

continued

Internet Case

Graziose v. American Home Prods. Corp., 161 F. Supp. 2d 1149 (D. Nev. 2001) (holding nonresident trade association's maintenance of informational website which had been accessed by Nevada residents could not form basis for establishing specific or general jurisdiction over association in action for fraudulent concealment and civil conspiracy arising from the use of various over-the-counter drug products sold and manufactured by the association's members).

New Hampshire Long-Arm Statute

NH ST § 510:4 (2003)

§ 510:4. Nonresident Defendant.

I. JURISDICTION. Any person who is not an inhabitant of this state and who, in person or through an agent, transacts any business within this state, commits a tortious act within this state, or has the ownership, use, or possession of any real or personal property situated in this state submits himself, or his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from or growing out of the acts enumerated above.

Seminal Cases

Phelps v. Kingston, 536 A.2d 740 (N.H. 1987) (observing that the purpose of New Hampshire jurisdictional statute is “to provide jurisdiction over foreign defendants to the full extent that the statutory language and due process will allow”); *see also Estabrook v. Wetmore*, 529 A.2d 956 (N.H. 1987) (finding New Hampshire’s long-arm statute grants jurisdiction whenever permitted by Due Process Clause of U.S. Constitution).

Contract Case

Alacron, Inc. v. Swanson, 765 A.2d 1043 (N.H. 2000) (concluding that defendants were subject to personal jurisdiction in New Hampshire where “each defendant purposefully directed actions at the forum by authorizing an agreement that had a substantial connection to New Hampshire and approv[ed] all activities related to this agreement”).

Business Tort Cases

Buckley v. McGraw-Hill, Inc., 762 F. Supp. 430 (D.N.H. 1991) (concluding exercise of personal jurisdiction over nonresident defendants was proper where libelous activities occurred out of the state but were reasonably anticipated to injure plaintiff within the state); *Concord Labs, Inc. v. Ballard Med. Prods.*, 701 F. Supp. 272 (D.N.H. 1988) (holding nonresident defendant corporation subject to personal jurisdiction in New Hampshire when it sent letter to New Hampshire plaintiff threatening to sue plaintiff for patent infringement and informed plaintiff’s customers in New Hampshire that plaintiff could be infringing defendant’s patents).

New Hampshire

continued

Internet Cases

Metcalf v. Lawson, 802 A.2d 1221 (N.H. 2002) (holding that defendant lacked sufficient contacts with the state necessary for assertion of personal jurisdiction where defendant sold a single excavator to a New Hampshire resident and exchanged emails with the purchaser but lacked the intent to direct her activities into the state); *Remsbury v. Docusearch, Inc.*, No. Civ. 00-211-B, 2002 WL 130952 (D.N.H. Jan. 31, 2002) (*slip op.*) (recognizing that nonresident defendant corporation was subject to personal jurisdiction in New Hampshire when it took orders from a New Hampshire resident on its website and defendant called New Hampshire resident to verify orders).

New Jersey Long-Arm Statute

N.J. CT. R..4:4-4 (2003)

4:4-4. Summons; Personal Service; In Personam Jurisdiction.

Service of summons, writs and complaints shall be made as follows:

(a) **Primary Method of Obtaining In Personam Jurisdiction.** The primary method of obtaining in personam jurisdiction over a defendant in this State is by causing the summons and complaint to be personally served within this State pursuant to R. 4:4-3, as follows:

(1) Upon a competent individual of the age of 14 or over, by delivering a copy of the summons and complaint to the individual personally, or by leaving a copy thereof at the individual's dwelling place or usual place of abode with a competent member of the household of the age of 14 or over then residing therein, or by delivering a copy thereof to a person authorized by appointment or by law to receive service of process on the individual's behalf;

(2) Upon a minor under the age of 14, by delivering a copy of the summons and complaint personally to a parent or the guardian of the minor's person or to a competent adult member of the household with whom the minor resides;

(3) Upon an incompetent, by delivering a copy of the summons and complaint personally to the guardian of the incompetent's person or to a competent adult member of the household with whom the incompetent resides, or if the incompetent resides in an institution, to the director or chief executive officer thereof;

(4) Upon individual proprietors and real property owners, provided the action arises out of a business in which the individual is engaged within this State or out of any real property or interest in real property in this State owned by the individual, by delivering a copy of the summons and complaint to the individual if competent, or, whether or not the individual proprietor or property owner is competent, to a managing or general agent employed by the individual in such business or for the management of such real property, or if service cannot be made in that manner, then by delivering a copy of the summons and complaint to any employee or agent of the individual within this State acting in the discharge of his or her duties in connection with the business or the management of the real property;

New Jersey

continued

(5) Upon partnerships and unincorporated associations subject to suit under a recognized name, by serving a copy of the summons and complaint in the manner prescribed by paragraph (a)(1) of this rule on an officer or managing agent or, in the case of a partnership, a general partner;

(6) Upon a corporation, by serving a copy of the summons and complaint in the manner prescribed by paragraph (a)(1) of this rule on any officer, director, trustee or managing or general agent, or any person authorized by appointment or by law to receive service of process on behalf of the corporation, or on a person at the registered office of the corporation in charge thereof, or, if service cannot be made on any of those persons, then on a person at the principal place of business of the corporation in this State in charge thereof, or if there is no place of business in this State, then on any employee of the corporation within this State acting in the discharge of his or her duties, provided, however, that a foreign corporation may be served only as herein prescribed subject to due process of law;

(7) Upon the State of New Jersey, by registered, certified or ordinary mail of a copy of the summons and complaint or by personal delivery of a copy of the summons and complaint to the Attorney General or to the Attorney General's designee named in a writing filed with the Clerk of the Superior Court. No default shall be entered for failure to appear unless personal service has been made under this paragraph. In an action under N.J.S.A. 2A:45-1 et seq. (lien or encumbrance held by the State), the notice in lieu of summons shall be in the form, manner and substance prescribed by N.J.S.A. 2A:45-2, and shall be served, together with a copy of the complaint, on the Attorney General or designee as herein provided, but if the lien or encumbrance arises by reason of a recognizance entered into in connection with any proceeding in the Superior Court or any criminal judgment rendered in such court, the notice, together with a copy of the complaint, shall be served on the county prosecutor or the prosecutor's designee named in a writing filed with the Clerk of the Superior Court;

(8) Upon other public bodies, by serving a copy of the summons and complaint in the manner prescribed by paragraph (a)(1) of this rule on the presiding officer or on the clerk or secretary thereof;

(b) Obtaining In Personam Jurisdiction by Substituted or Constructive Service.

New Jersey

continued

(1) By Mail or Personal Service Outside the State. If it appears by affidavit satisfying the requirements of R. 4:4-5(c)(2) that despite diligent effort and inquiry personal service cannot be made in accordance with paragraph (a) of this rule, then, consistent with due process of law, in personam jurisdiction may be obtained over any defendant as follows:

(A) personal service in a state of the United States or the District of Columbia, in the same manner as if service were made within this State, except that service shall be made by a public official having authority to serve civil process in the jurisdiction in which the service is made or by a person qualified to practice law in this State or in the jurisdiction in which service is made or by a person specially appointed by the court for that purpose; or

(B) personal service outside the territorial jurisdiction of the United States, in accordance with any governing international treaty or convention to the extent required thereby, and if none, in the same manner as if service were made within the United States, except that service shall be made by a person specially appointed by the court for that purpose; or

(C) mailing a copy of the summons and complaint by registered or certified mail, return receipt requested, and, simultaneously, by ordinary mail to: (i) a competent individual of the age of 14 or over, addressed to the individual's dwelling house or usual place of abode; (ii) a minor under the age of 14 or an incompetent, addressed to the person or persons on whom service is authorized by paragraphs (a)(2) and (a)(3) of this rule; (iii) a corporation, partnership or unincorporated association that is subject to suit under a recognized name, addressed to a registered agent for service, or to its principal place of business, or to its registered office. Mail may be addressed to a post office box in lieu of a street address only as provided by R. 1:5-2.

(2) As Provided by Law. Any defendant may be served as provided by law.

(3) By Court Order. If service can be made by any of the modes provided by this rule, no court order shall be necessary. If service cannot be made by any of the modes provided by this rule, any defendant may be served as provided by court order, consistent with due process of law.

New Jersey

continued

(c) Optional Mailed Service. Where personal service is required to be made pursuant to paragraph (a) of this rule, service, in lieu of personal service, may be made by registered, certified or ordinary mail, provided, however, that such service shall be effective for obtaining in personam jurisdiction only if the defendant answers the complaint or otherwise appears in response thereto. If defendant does not answer or appear within 60 days following mailed service, service shall be made as is otherwise prescribed by this rule, and the time prescribed by R. 4:4-1 for issuance of the summons shall then begin to run anew.

Seminal Case

Gendler & Co. v. Telecom Equipment Corp., 508 A.2d 1127 (N.J. 1986) (permitting exercise of long-arm jurisdiction over non-resident defendant to the full extent permitted by due process of law); *Avdel Corp. v. Mecure*, 277 A.2d 207 (N.J. 1971) (observing that New Jersey’s long-arm jurisdiction extends to the “outermost limits permitted by the United States Constitution”).

Contract Case

Bayway Refining Co. v. State Utilities, Inc., 755 A.2d 1204 (N.J. Ct. App. 2000) (finding the defendant not subject to personal jurisdiction for breach of contract when contract was solicited by New Jersey plaintiff in New York, but payments were mailed to plaintiff in New Jersey and effect of breach was felt in New Jersey because “[t]he existence of a contractual relationship alone is not enough to sustain jurisdiction unless the foreign corporation entering into that relationship can reasonably have contemplated ‘significant activities or effect’ in the forum state”).

Business Tort Case

IMO Indus., Inc. v. Kiekert AG, 155 F.3d 254 (3d Cir. 1998) (finding the defendant not subject to personal jurisdiction in New Jersey on tortious interference with contract claim where the plaintiff could not “demonstrate that [defendant] expressly aimed its tortious conduct at New Jersey”).

Internet Case

Ragonese v. Rosenfeld, 722 A.2d 991 (N.J. Sup. Ct. 1998) (observing that a defendant’s operation of an internet website, combined with defendant’s advertisement of its telephone number in phone directory, is not enough to confer personal jurisdiction in New Jersey).

New Mexico Long-Arm Statute

N.M. ST § 38-1-16 (2003)

§ 38-1-16. Personal service of process outside state.

A. Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts enumerated in this subsection thereby submits himself or his personal representative to the jurisdiction of the courts of this state as to any cause of action arising from:

- (1) the transaction of any business within this state;
- (2) the operation of a motor vehicle upon the highways of this state;
- (3) the commission of a tortious act within this state;
- (4) the contracting to insure any person, property or risk located within this state at the time of contracting;
- (5) with respect to actions for divorce, separate maintenance or annulment, the circumstance of living in the marital relationship within the state, notwithstanding subsequent departure from the state, as to all obligations arising from alimony, child support or real or personal property settlements under Chapter 40, Article 4 NMSA 1978 if one party to the marital relationship continues to reside in the state.

Seminal Case

Windward v. Holly Creek Mills, Inc., 493 P.2d 954 (N.M. 1972) (observing that the “purpose [of New Mexico’s long-arm statute] . . . is to insure that there is a close relationship between a non-resident defendant’s jurisdictional activities and the cause of action against which he must defend.”); *see also Telephonic, Inc. v. Rosenblum*, 543 P.2d 825 (N.M. 1975) (concluding, “We have repeatedly equated the ‘transaction of business’ – insofar as the acquisition of long-arm jurisdiction is concerned – with the due process standard of ‘minimum contacts’ sufficient to satisfy the ‘traditional conception of fair play and substantial justice’ announced in *International Shoe*. . .”).

New Mexico

continued

Contract Case

Salas v. Homestake Enterprises, Inc., 742 P.2d 1049 (N.M.1987) (finding Colorado defendant's telephone call to New Mexico plaintiff inviting plaintiff to view goods in Colorado, plaintiff's efforts to fulfill contract in New Mexico, and defendant's subsequent mailing of two documents to the plaintiff in New Mexico was not enough to establish jurisdiction when goods were inspected in Colorado and negotiations took place in Colorado).

Business Tort Case

United Nuclear Corp. v. General Atomic Co., 570 P.2d 305 (N.M. 1977) (holding out-of-state corporation's direction to wrongfully ship uranium located in New Mexico was tortious act subjecting defendant to jurisdiction in New Mexico).

Internet Case

Origins Natural Resources, Inc. v. Kotler, 133 F. Supp. 2d 1232 (D.N.M. 2001) (finding defendant's one-time sale of clothing over the Internet to New Mexico party not enough, standing alone, to subject defendant to personal jurisdiction in New Mexico).

New York Long-Arm Statute

N.Y. C.P.L.R. § 302 (2003)

§ 302. Personal jurisdiction by acts of non-domiciliaries.

(a) Acts which are the basis of jurisdiction. As to a cause of action arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any non-domiciliary, or his executor or administrator, who in person or through an agent:

1. transacts any business within the state or contracts anywhere to supply goods or services in the state; or

2. commits a tortious act within the state, except as to a cause of action for defamation of character arising from the act; or

3. commits a tortious act without the state causing injury to person or property within the state, except as to a cause of action for defamation of character arising from the act, if he

(i) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or

(ii) expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce; or

4. owns, uses or possesses any real property situated within the state.

(b) Personal jurisdiction over non-resident defendant in matrimonial actions or family court proceedings. A court in any matrimonial action or family court proceeding involving a demand for support, alimony, maintenance, distributive awards or special relief in matrimonial actions may exercise personal jurisdiction over the respondent or defendant notwithstanding the fact that he or she no longer is a resident or domiciliary of this state, or over his or her executor or administrator, if the party seeking support is a resident of or domiciled in this state at the time such demand is made, provided that this state was the matrimonial domicile of the parties before their separation, or the defendant abandoned the plaintiff in this state, or the claim for support, alimony, maintenance, distributive awards or special relief in matrimonial actions accrued under the laws of this state or under an agreement executed in this state. The family court may exercise personal jurisdiction

New York

continued

over a non-resident respondent to the extent provided in sections one hundred fifty-four and one thousand thirty-six of the family court act.

(c) *Effect of appearance.* Where personal jurisdiction is based solely upon this section, an appearance does not confer such jurisdiction with respect to causes of action not arising from an act enumerated in this section.

Seminal Case

Longines-Wittnauer Watch Co. v. Barnes & Reinecke, Inc., 209 N.E.2d 68 (N.Y. 1965) (observing that the New York long-arm statute was modeled on the Illinois long-arm statute, and stating that the long-arm statute was designed to take “advantage of the ‘new (jurisdictional) enclave’ opened up by *International Shoe*”) (*superseded by statute as observed in Pilates, Inc. v. Pilates Institute, Inc.*, 891 F. Supp. 175 (S.D.N.Y. 1995)).

Contract Case

Armouth International, Inc. v. Haband Co., 277 A.D.2d 189 (N.Y. App. Div. 2000) (finding defendant’s maintenance of an Internet website through which customers can purchase its products was insufficient, on its own, to subject defendant to New York jurisdiction when defendant maintained no offices, telephone, or sales personnel in New York, and contract between plaintiff and defendant was negotiated and signed in New Jersey).

Business Tort Case

Niagara Mohawk Energy Marketing, Inc. v. Entergy Power Marketing Corp., 270 A.D.2d 872 (N.Y. App. Div. 2000) (holding out-of-state defendant not subject to New York jurisdiction for tortious interference with contract, even though plaintiff made numerous telephone calls to defendant in an attempt to obtain supply of power from out-of-state defendant).

Internet Case

Armouth International, Inc. v. Haband Co., 277 A.D.2d 189 (N.Y. App. Div. 2000) (concluding defendant’s maintenance of an Internet website through which customers can purchase its products was insufficient, on its own, to subject it to New York jurisdiction when defendant maintained no offices, telephone, or sales personnel in New York, contract between plaintiff and defendant was negotiated and signed in New Jersey, and defendant’s Internet activity was not substantially related to breach of contract).

North Carolina Long-Arm Statute

NC ST § 1-75.4 (2002)

§ 1-75.4. Personal jurisdiction, grounds for generally.

A court of this State having jurisdiction of the subject matter has jurisdiction over a person served in an action pursuant to Rule 4(j), Rule 4(j)(1), or Rule 4(j)(3) of the Rules of Civil Procedure under any of the following circumstances:

Local Presence or Status. – In any action, whether the claim arises within or without this State, in which a claim is asserted against a party who when service of process is made upon such party:

- (a) Is a natural person present within this State; or
- (b) Is a natural person domiciled within this State; or
- (c) Is a domestic corporation; or

(d) Is engaged in substantial activity within this State, whether such activity is wholly interstate, intrastate, or otherwise.

Special Jurisdiction Statutes. – In any action which may be brought under statutes of this State that specifically confer grounds for personal jurisdiction.

Local Act or Omission. – In any action claiming injury to person or property or for wrongful death within or without this State arising out of an act or omission within this State by the defendant.

Local Injury; Foreign Act. – In any action for wrongful death occurring within this State or in any action claiming injury to person or property within this State arising out of an act or omission outside this State by the defendant, provided in addition that at or about the time of the injury either:

- (a) Solicitation or services activities were carried on within this State by or on behalf of the defendant;
- (b) Products, materials or thing processed, serviced or manufactured by the defendant were used or consumed, within this State in the ordinary course of trade; or
- (c) Unsolicited bulk commercial electronic mail was sent into or within this State by the defendant using a computer, computer network, or the computer

North Carolina

continued

services of an electronic mail service provider in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of commercial electronic mail from an organization to its members shall not be deemed to be unsolicited bulk commercial electronic mail.

Local Services, Goods or Contracts.—In any action which:

(a) Arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to perform services within this State or to pay for services to be performed in this State by the plaintiff; or

(b) Arises out of services actually performed for the plaintiff by the defendant within this State, or services actually performed for the defendant by the plaintiff within this State if such performance within this State was authorized or ratified by the defendant; or

(c) Arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to deliver or receive within this State, or to ship from this State goods, documents of title, or other things of value; or

(d) Relates to goods, documents of title, or other things of value shipped from this State by the plaintiff to the defendant on his order or direction; or

(e) Relates to goods, documents of title, or other things of value actually received by the plaintiff in this State from the defendant through a carrier without regard to where delivery to the carrier occurred.

Local Property. – In any action which arises out of:

(a) A promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or protect, acquire, dispose of, use, rent, own, control or possess by either party real property situated in this State; or

(b) A claim to recover for any benefit derived by the defendant through the use, ownership, control or possession by the defendant of tangible property situated within this State either at the time of the first use, ownership, control or possession or at the time the action is commenced; or

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continued

(c) A claim that the defendant return, restore, or account to the plaintiff for any asset or thing of value which was within this State at the time the defendant acquired possession or control over it.

Deficiency Judgment on Local Foreclosure or Resale. – In any action to recover a deficiency judgment upon an obligation secured by a mortgage, deed of trust, conditional sale, or other security instrument executed by the defendant or his predecessor to whose obligation the defendant has succeeded and the deficiency is claimed either:

(a) In an action in this State to foreclose such security instrument upon real property, tangible personal property, or an intangible represented by an indispensable instrument, situated in this State; or

(b) Following sale of real or tangible personal property or an intangible represented by an indispensable instrument in this State under a power of sale contained in any security instrument.

Director or Officer of a Domestic Corporation. – In any action against a defendant who is or was an officer or director of a domestic corporation where the action arises out of the defendant's conduct as such officer or director or out of the activities of such corporation while the defendant held office as a director or officer.

Taxes or Assessments. – In any action for the collection of taxes or assessments levied, assessed or otherwise imposed by a taxing authority of this State after the date of ratification of this act.

Insurance or Insurers. – In any action which arises out of a contract of insurance as defined in G.S. 58-1-10 made anywhere between the plaintiff or some third party and the defendant and in addition either:

(a) The plaintiff was a resident of this State when the event occurred out of which the claim arose; or

(b) The event out of which the claim arose occurred within this State, regardless of where the plaintiff resided.

Personal Representative. – In any action against a personal representative to enforce a claim against the deceased person represented, whether or not the action was commenced during the lifetime of the deceased, where one or more of the grounds stated in subdivisions (2) to (10) of this section would have furnished a basis for jurisdiction over the deceased had he been living.

Marital Relationship. – In any action under Chapter 50 that arises out of the marital relationship within this State, notwithstanding subsequent departure

North Carolina

continued

from the State, if the other party to the marital relationship continues to reside in this State.

Seminal Case

Dillon v. Numismatic Funding Corp., 231 S.E.2d 629 (N.C. 1977) (finding the intent of North Carolina legislature in enacting long-arm statute was to extend jurisdiction of North Carolina courts over nonresident defendants to the extent allowed by federal due process).

Contract Case

Williamson Produce, Inc. v. Satcher, 471 S.E.2d 96 (N.C. Ct. App. 1996) (concluding that contract between plaintiff and peach farmer for sale in North Carolina of farmer's peaches grown in South Carolina established promise for plaintiff's benefit to pay for services to be performed in North Carolina sufficient to satisfy § 1-75.4(5)(a), (b) and (d) of North Carolina's long-arm statute).

Business Tort Case

Park Ave. Partners v. Johnson, 342 S.E.2d 570 (N.C. Ct. App. 1986) (holding that participation by Pennsylvania attorney and members of a Pennsylvania partnership in drafting North Carolina partnership agreement and in supervising closing of transaction by partnership in North Carolina was sufficient to confer personal jurisdiction over Pennsylvania attorney and partnership members in fraud action).

Internet Case

Replacements, Ltd. v. MidweSterling, 515 S.E.2d 46 (N.C. Ct. App. 1999) (finding Missouri corporation that allegedly misappropriated North Carolina corporation's trade secrets had sufficient minimum contacts with North Carolina to subject it to general jurisdiction under North Carolina's long-arm statute in trade secrets misappropriation case, where Missouri corporation had maintained business relationship with North Carolina corporation for several years, had placed several phone calls to North Carolina corporation regarding business transactions, sent direct mail to at least 50 North Carolina residents, and advertised in journals circulated in North Carolina and on Internet website available to North Carolina citizens).

North Dakota Long-Arm Statute

N.D. R. CIV. P. 4 (2003)

Rule 4. Persons Subject to Jurisdiction – Process – Service.

Definition of Person. As used in this rule, “person”, whether or not a citizen or domiciliary of this state and whether or not organized under the laws of this state, includes: an individual, executor, administrator or other personal representative; any other fiduciary; any two or more persons having a joint or common interest; a partnership; an association; a corporation; and any other legal or commercial entity.

Jurisdiction Over Person.

(a) *Personal Jurisdiction Based Upon Presence or Enduring Relationship.* A court of this state may exercise personal jurisdiction over a person found within, domiciled in, organized under the laws of, or maintaining his or its principal place of business in, this state as to any claim for relief.

(b) *Personal Jurisdiction Based Upon Contacts.* A court of this state may exercise personal jurisdiction over a person who acts directly or by an agent as to any claim for relief arising from the person’s having such contact with this state that the exercise of personal jurisdiction over the person does not offend against traditional notions of justice or fair play or the due process of law, under one or more of the following circumstances:

- (1) transacting any business in this state;
- (2) contracting to supply or supplying service, goods, or other things in this state;
- (3) committing a tort within or without this state causing injury to another person or property within this state;
- (4) committing a tort within this state, causing injury to another person or property within or without this state;
- (5) owning, having any interest in, using, or possessing property in this state;
- (6) contracting to insure another person, property, or other risk within this state;

North Dakota

continued

(7) acting as a director, manager, trustee, or officer of a corporation organized under the laws of, or having its principal place of business within, this state;

(8) enjoying any other legal status or capacity within this state;
or

(9) engaging in any other activity, including cohabitation or sexual intercourse, within this state.

(c) *Limitation on Jurisdiction Based Upon Contacts.* If jurisdiction over a person is based solely upon paragraph (2) of this subdivision, only a claim for relief arising from bases enumerated therein may be asserted against that person.

(d) *Acquisition of Jurisdiction.* A court of this state may acquire personal jurisdiction over any person through service of process as provided in this rule or by statute, or by voluntary general appearance in an action by any person either personally or through an attorney or any other authorized person.

(e) *Inconvenient Forum.* If the court finds that in the interest of substantial justice the action should be heard in another forum, the court may stay or dismiss the action in whole or in part on any condition that may be just.

Seminal Case

Hebron Brick Co. v. Robinson Brick & Tile Co., 234 N.W.2d 250 (N.D. 1975) (observing that the North Dakota long-arm statute was “designed to permit the state courts to exercise personal jurisdiction to the fullest extent permitted by due process”).

Contract Case

Auction Effertz, Ltd. v. Scheche, 611 N.W.2d 173 (N.D. 2000) (holding out-of-state defendant was subject to personal jurisdiction in North Dakota when he placed telephone call into North Dakota to initiate agency contract and made payments to plaintiff while in North Dakota, and much of the activity to be performed on defendant’s behalf would take place in North Dakota).

North Dakota

continued

Business Tort Case

Lumber Mart, Inc. v. Haas Int'l Sales & Serv., Inc., 269 N.W.2d 83 (N.D. 1978) (finding out-of-state corporation not subject to personal jurisdiction for negligent repair of plaintiff's vehicle when repair took place in Montana, even though defendant and plaintiff exchanged numerous telephone calls, defendant attempted to settle resulting dispute during visit in North Dakota, and defendant returned vehicle to plaintiff in North Dakota).

Internet Case

No reported decisions to date.

Ohio Long-Arm Statute

OH ST § 2307.382 (2003)

§ 2307.382. Personal Jurisdiction.

A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a cause of action arising from the person's:

- (a) Transacting any business in this state;
- (b) Contracting to supply services or goods in this state;
- (c) Causing tortious injury by an act or omission in this state;
- (d) Causing tortious injury in this state by an act or omission outside this state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (e) Causing injury in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when he might reasonably have expected such person to use, consume, or be affected by the goods in this state, provided that he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (f) Causing tortious injury in this state to any person by an act outside this state committed with the purpose of injuring persons, when he might reasonably have expected that some person would be injured thereby in this state;
- (g) Causing tortious injury to any person by a criminal act, any element of which takes place in this state, which he commits or in the commission of which he is guilty of complicity.
- (h) Having an interest in, using, or possessing real property in this state;
- (i) Contracting to insure any person, property, or risk located within this state at the time of contracting.

For purposes of this section, a person who enters into an agreement, as a principal, with a sales representative for the solicitation of orders in this state is

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continued

transacting business in this state. As used in this division, “principal” and “sales representative” have the same meanings as in section 1335.11 of the Revised Code.

When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him.

Seminal Case

U.S. Sprint Communications Co. v. Mr. K’s Foods, Inc., 624 N.E.2d 1048 (Ohio 1994) (stating that, to determine whether personal jurisdiction exists over a foreign corporation, a court must determine “whether the state’s long-arm statute and applicable civil rule confer personal jurisdiction and, if so, whether granting jurisdiction under the statute and the rule would deprive the defendant of due process of law under the Fourteenth Amendment to the United States Constitution”).

Contract Case

Columbus Show Case Co. v. Cee Contracting, Inc., 599 N.E.2d 881 (Ohio Ct. App. 1992) (finding personal jurisdiction where out-of-state corporation solicited business with an Ohio corporation, negotiated with the Ohio corporation, and contracted with the Ohio corporation even though defendant did not have any employees or physical presence within the state).

Business Tort Case

Clark v. Connor, 695 N.E.2d 751 (Ohio 1998) (concluding out-of-state defendant was subject to personal jurisdiction where the alleged misappropriation, disclosure, and conversion of trade secrets arose from defendant’s employment within the state).

Internet Case

Compuserve, Inc. v. Patterson, 89 F.3d 1257 (6th Cir. 1996) (finding exercise of personal jurisdiction proper under Ohio long-arm statute based on foreign defendant’s relationship with an Ohio Internet service provider albeit defendant had no other contacts with the state).

Oklahoma Long-Arm Statute

OK ST T. 12 § 2004 (2002)

§ 2004. Process.

A. **SUMMONS: ISSUANCE.** Upon filing of the petition, the clerk shall forthwith issue a summons. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

B. **SUMMONS: FORM.**

1. The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise, the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify the defendant that in case of failure to appear, judgment by default will be rendered against the defendant for the relief demanded in the petition.

2. A judgment by default shall not be different in kind from or exceed in amount that prayed for in either the demand for judgment or in cases not sounding in contract in a notice which has been given the party against whom default judgment is sought. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his or her pleadings.

C. **BY WHOM SERVED: PERSON TO BE SERVED.**

1. **SERVICE BY PERSONAL DELIVERY.**

a. At the election of the plaintiff, process, other than a subpoena, shall be served by a sheriff or deputy sheriff, a person licensed to make service of process in civil cases, or a person specially appointed for that purpose. The court shall freely make special appointments to serve all process, other than a subpoena, under this paragraph.

b. A summons to be served by the sheriff or deputy sheriff shall be delivered to the sheriff by the court clerk or an attorney of record for the plaintiff. When a summons, subpoena, or other process is to be served by the sheriff or deputy sheriff of another county, the court clerk

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shall mail it, together with his voucher for the fees collected for the service, to the sheriff of that county. The sheriff shall deposit the voucher in the Sheriff's Service Fee Account created pursuant to Section 514.1 of Title 19 of the Oklahoma Statutes. The sheriff or deputy sheriff shall serve the process in the manner that other process issued out of the court of the sheriff's own county is served. A summons to be served by a person licensed to make service of process in civil cases or by a person specially appointed for that purpose shall be delivered by an attorney of record for the plaintiff to such person.

c. Service shall be made as follows:

Upon an individual other than an infant who is less than fifteen (15) years of age or an incompetent person, by delivering a copy of the summons and of the petition personally or by leaving copies thereof at the person's dwelling house or usual place of abode with some person then residing therein who is fifteen (15) years of age or older or by delivering a copy of the summons and of the petition to an agent authorized by appointment or by law to receive service of process;

Upon an infant who is less than fifteen (15) years of age, by serving the summons and petition personally and upon either of the infant's parents or guardian, or if they cannot be found, then upon the person having the care or control of the infant or with whom the infant lives; and upon an incompetent person by serving the summons and petition personally and upon the incompetent person's guardian;

Upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and of the petition to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant;

Upon the United States or an officer or agency thereof in the manner specified by Federal Rule of Civil Procedure 4;

Upon a state, county, school district, public trust or municipal corporation or other governmental organization thereof subject to suit, by delivering a copy of the summons and of the petition to the officer or individual designated by specific statute; however, if there is no statute, then upon the chief executive officer or a

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clerk, secretary, or other official whose duty it is to maintain the official records of the organization; and

Upon an inmate incarcerated in an institution under the jurisdiction and control of the Department of Corrections, by delivering a copy of the summons and of the petition to the warden or superintendent or the designee of the warden or superintendent of the institution where the inmate is housed. It shall be the duty of the receiving warden or superintendent or a designee to promptly deliver the summons and petition to the inmate named therein. The warden or superintendent or his or her designee shall reject service of process for any inmate who is not actually present in said institution.

2. SERVICE BY MAIL.

a. At the election of the plaintiff, a summons and petition may be served by mail by the plaintiff's attorney, any person authorized to serve process pursuant to subparagraph a of paragraph 1 of this subsection, or by the court clerk upon a defendant of any class referred to in division (1), (3), or (5) of subparagraph c of paragraph 1 of this subsection. Service by mail shall be effective on the date of receipt or if refused, on the date of refusal of the summons and petition by the defendant.

b. Service by mail shall be accomplished by mailing a copy of the summons and petition by certified mail, return receipt requested and delivery restricted to the addressee. When there is more than one defendant, the summons and a copy of the petition or order shall be mailed in a separate envelope to each defendant. If the summons is to be served by mail by the court clerk, the court clerk shall enclose the summons and a copy of the petition or order of the court to be served in an envelope, prepared by the plaintiff, addressed to the defendant, or to the resident service agent if one has been appointed. The court clerk shall prepay the postage and mail the envelope to the defendant, or service agent, by certified mail, return receipt requested and delivery restricted to the addressee. The return receipt shall be prepared by the plaintiff. Service by mail to a garnishee shall be accomplished by mailing a copy of the summons and notice by certified mail, return receipt requested, and at the election of the judgment creditor by restricted delivery, to the addressee.

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c. Service by mail shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. Acceptance or refusal of service by mail by a person who is fifteen (15) years of age or older who resides at the defendant's dwelling house or usual place of abode shall constitute acceptance or refusal by the party addressed. In the case of an entity described in division (3) of subparagraph c of paragraph 1 of this subsection, acceptance or refusal by any officer or by any employee of the registered office or principal place of business who is authorized to or who regularly receives certified mail shall constitute acceptance or refusal by the party addressed. A return receipt signed at such registered office or principal place of business shall be presumed to have been signed by an employee authorized to receive certified mail. In the case of a state municipal corporation, or other governmental organization thereof subject to suit, acceptance or refusal by an employee of the office of the officials specified in division (5) of subparagraph c of paragraph 1 of this subsection who is authorized to or who regularly receives certified mail shall constitute acceptance or refusal by the party addressed. If delivery of the process is refused, upon the receipt of notice of such refusal and at least ten (10) days before applying for entry of default, the person elected by plaintiff pursuant to subparagraph a of this paragraph to serve the process shall mail to the defendant by first-class mail a copy of the summons and petition and a notice prepared by the plaintiff that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any default or judgment by default shall be set aside upon motion of the defendant in the manner prescribed in Section 1031.1 of this title, or upon petition of the defendant in the manner prescribed in Section 1033 of this title if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person. A petition shall be filed within one (1) year after the defendant has notice of the default or judgment by default but in no event more than two (2) years after the filing of the judgment.

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3. SERVICE BY PUBLICATION.

a. Service of summons upon a named defendant may be made by publication when it is stated in the petition, verified by the plaintiff or the plaintiff's attorney, or in a separate affidavit by the plaintiff or the plaintiff's attorney filed with the court, that with due diligence service cannot be made upon the defendant by any other method.

b. Service of summons upon the unknown successors of a named defendant, a named decedent, or a dissolved partnership, corporation, or other association may be made by publication when it is stated in a petition, verified by the plaintiff or the plaintiff's attorney, or in a separate affidavit by the plaintiff or the plaintiff's attorney filed with the court, that the person who verified the petition or the affidavit does not know and with due diligence cannot ascertain the following:

whether a person named as defendant is living or dead, and, if dead, the names or whereabouts of the person's successors, if any,

the names or whereabouts of the unknown successors, if any, of a named decedent,

whether a partnership, corporation, or other association named as a defendant continues to have legal existence or not; or the names or whereabouts of its officers or successors,

whether any person designated in a record as a trustee continues to be the trustee; or the names or whereabouts of the successors of the trustee, or

the names or whereabouts of the owners or holders of special assessment or improvement bonds, or any other bonds, sewer warrants or tax bills.

c. Service pursuant to this paragraph shall be made by publication of a notice, signed by the court clerk, one (1) day a week for three (3) consecutive weeks in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in some such newspaper of general circulation which is published in an adjoining county. All named parties and their unknown successors who may be served by publication may be included in one notice. The notice shall

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state the court in which the petition is filed and the names of the plaintiff and the parties served by publication, and shall designate the parties whose unknown successors are being served. The notice shall also state that the named defendants and their unknown successors have been sued and must answer the petition on or before a time to be stated (which shall not be less than forty-one (41) days from the date of the first publication), or judgment, the nature of which shall be stated, will be rendered accordingly. If jurisdiction of the court is based on property, any real property subject to the jurisdiction of the court and any property or debts to be attached or garnished must be described in the notice.

When the recovery of money is sought, it is not necessary for the publication notice to state the separate items involved, but the total amount that is claimed must be stated. When interest is claimed, it is not necessary to state the rate of interest, the date from which interest is claimed, or that interest is claimed until the obligation is paid.

It is not necessary for the publication notice to state that the judgment will include recovery of costs in order for a judgment following the publication notice to include costs of suit.

In an action to quiet title to real property, it is not necessary for the publication notice to state the nature of the claim or interest of either party, and in describing the nature of the judgment that will be rendered should the defendant fail to answer, it is sufficient to state that a decree quieting plaintiff's title to the described property will be entered. It is not necessary to state that a decree forever barring the defendant from asserting any interest in or to the property is sought or will be entered if the defendant does not answer.

In an action to foreclose a mortgage, it is sufficient that the publication notice state that if the defendant does not answer, the defendant's interest in the property will be foreclosed. It is not necessary to state that a judgment forever barring the defendant from all right, title, interest, estate, property and equity of redemption in or to said property or any part thereof is requested or will be entered if the defendant does not answer.

d. Service by publication is complete when made in the manner and for the time prescribed in subparagraph c of this paragraph. Service by publication shall be proved by the affidavit of any person having knowledge

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of the publication. No default judgment may be entered on such service until proof of service by publication is filed with and approved by the court.

e. Before entry of a default judgment or order against a party who has been served solely by publication under this paragraph, the court shall conduct an inquiry to determine whether the plaintiff, or someone acting in his behalf, made a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of any named parties who have been served solely by publication under this paragraph. Before entry of a default judgment or order against the unknown successors of a named defendant, a named decedent, or a dissolved partnership, corporation or association, the court shall conduct an inquiry to ascertain whether the requirements described in subparagraph b of this paragraph have been satisfied.

f. A party against whom a default judgment or order has been rendered, without other service than by publication in a newspaper, may, at any time within three (3) years after the filing of the judgment or order, have the judgment or order set aside in the manner prescribed in Sections 1031.1 and 1033 of this title. Before the judgment or order is set aside, the applicant shall notify the adverse party of the intention to make an application and shall file a full answer to the petition, pay all costs if the court requires them to be paid, and satisfy the court by affidavit or other evidence that during the pendency of the action the applicant had no actual notice thereof in time to appear in court and make a defense. The title to any property which is the subject of and which passes to a purchaser in good faith by or in consequence of the judgment or order to be opened shall not be affected by any proceedings under this subparagraph. Nor shall proceedings under this subparagraph affect the title of any property sold before judgment under an attachment. The adverse party, on the hearing of an application to open a judgment or order as provided by this subparagraph, shall be allowed to present evidence to show that during the pendency of the action the applicant had notice thereof in time to appear in court and make a defense.

g. The term “successors” includes all heirs, executors, administrators, devisees, trustees, and assigns, immediate and remote, of a named individual, partnership, corporation, or association.

h. Service outside of the state does not give the court in personal jurisdiction over a defendant who is not subject to the jurisdiction of the courts

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of this state or who has not, either in person or through an agent, submitted to the jurisdiction of the courts of this state.

4. SERVICE ON THE SECRETARY OF STATE.

a. Service of process on a domestic or foreign corporation may be made by serving the Secretary of State as the corporation's agent, if:

there is no registered agent for the corporation listed in the records of the Secretary of State; or

neither the registered agent nor an officer of the corporation could be found at the registered office of the corporation, when service of process was attempted.

b. Before resorting to service on the Secretary of State the plaintiff must have attempted service either in person or by mail on the corporation at:

the corporation's last-known address shown on the records of the Franchise Tax Division of the Oklahoma Tax Commission, if any is listed there; and

the corporation's last-known address shown on the records of the Secretary of State, if any is listed there; and

the corporation's last address known to the plaintiff. If any of these addresses are the same, the plaintiff is not required to attempt service more than once at any address. The plaintiff shall furnish the Secretary of State with a certified copy of the return or returns showing the attempted service.

c. Service on the Secretary of State shall be made by filing two (2) copies of the summons and petition with the Secretary of State, notifying the Secretary of State that service is being made pursuant to the provisions of this paragraph, and paying the Secretary of State the fee prescribed in paragraph 7 of Section 1142 of Title 18 of the Oklahoma Statutes, which fee shall be taxed as part of the costs of the action, suit or proceeding if the plaintiff shall prevail therein. If a registered agent for the corporation is listed in the records of the Secretary of State, the plaintiff must also furnish a certified copy of the return showing that service on the registered agent has been attempted either in person or by mail, and that neither the registered agent nor an officer of the corporation could be found at the registered office of the corporation.

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d. Within three (3) working days after receiving the summons and petition, the Secretary of State shall send notice by letter, certified mail, return receipt requested, directed to the corporation at its registered office or the last-known address found in the office of the Secretary of State, or if no address is found there, to the corporation's last-known address provided by the plaintiff. The notice shall enclose a copy of the summons and petition and any other papers served upon the Secretary of State. The corporation shall not be required to serve its answer until forty (40) days after service of the summons and petition on the Secretary of State.

e. Before entry of a default judgment or order against a corporation that has been served by serving the Secretary of State as its agent under this paragraph, the court shall determine whether the requirements of this paragraph have been satisfied. A default judgment or order against a corporation that has been served only by service on the Secretary of State may be set aside upon motion of the corporation in the manner prescribed in Section 1031.1 of this title, or upon petition of the corporation in the manner prescribed in Section 1033 of this title, if the corporation demonstrates to the court that it had no actual notice of the action in time to appear and make its defense. A petition shall be filed within one (1) year after the corporation has notice of the default judgment or order but in no event more than two (2) years after the filing of the default judgment or order.

f. The Secretary of State shall maintain an alphabetical record of service setting forth the name of the plaintiff and defendant, the title, docket number, and nature of the proceeding in which the process has been served upon the defendant, the fact that service has been effected pursuant to the provisions of this paragraph, the return date thereof, and the date when the service was made. The Secretary of State shall not be required to retain this information for a period longer than five (5) years from receipt of the service of process.

g. The provisions of this paragraph shall not apply to a foreign insurance company doing business in this state.

5. **SERVICE BY ACKNOWLEDGMENT.** An acknowledgment on the back of the summons or the voluntary appearance of a defendant is equivalent to service.

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6. **SERVICE BY OTHER METHODS.** If service cannot be made by personal delivery or by mail, a defendant of any class referred to in division (1) or (3) of subparagraph c of paragraph 1 of this subsection may be served as provided by court order in any manner which is reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard.

7. **NO SERVICE BY PRISONER.** No prisoner in any jail, Department of Corrections facility, private prison, or parolee or probationer under supervision of the Department of Corrections shall be appointed by any court to serve process on any defendant, party or witness.

D. **SUMMONS AND PETITION.** The summons and petition shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. The failure to serve a copy of the petition with the summons is not a ground for dismissal for insufficiency of service of process, but on motion of the party served, the court may extend the time to answer or otherwise plead. If a summons and petition are served by personal delivery, the person serving the summons shall state on the copy that is left with the person served the date that service is made. This provision is not jurisdictional, but if the failure to comply with it prejudices the party served, the court, on motion of the party served, may extend the time to answer or otherwise plead.

E. **SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.**

1. Service of the summons and petition may be made anywhere within this state in the manner provided by subsection C of this section.

2. When the exercise of jurisdiction is authorized by subsection F of this section, service of the summons and petition may be made outside this state:

a. by personal delivery in the manner prescribed for service within this state,

b. in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction,

c. in the manner prescribed by paragraph 2 of subsection C of this section,

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- d. as directed by the foreign authority in response to a letter rogatory,
 - e. in the manner prescribed by paragraph 3 of subsection C of this section only when permitted by subparagraphs a and b of paragraph 3 of subsection C of this section, or
 - f. as directed by the court.
3. Proof of service outside this state may be made in the manner prescribed by subsection G of this section, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction.
4. Service outside this state may be made by an individual permitted to make service of process under the law of this state or under the law of the place in which the service is made or who is designated to make service by a court of this state.
5. When subsection C of this section requires that in order to effect service one or more designated individuals be served, service outside this state under this section must be made upon the designated individual or individuals.
6. a. A court of this state may order service upon any person who is domiciled or can be found within this state of any document issued in connection with a proceeding in a tribunal outside this state. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside this state and shall direct the manner of service.
- b. Service in connection with a proceeding in a tribunal outside this state may be made within this state without an order of court.
- c. Service under this paragraph does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside this state.

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F. **ASSERTION OF JURISDICTION.** A court of this state may exercise jurisdiction on any basis consistent with the Constitution of this state and the Constitution of the United States.

G. **RETURN.**

1. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process, but the failure to make proof of service does not affect the validity of the service.

2. When process has been served by a sheriff or deputy sheriff and return thereof is filed in the office of the court clerk, a copy of the return shall be sent by the court clerk to the plaintiff's attorney within three (3) days after the return is filed. If service is made by a person other than a sheriff, deputy sheriff, or licensed process server, that person shall make affidavit thereof. The return shall set forth the name of the person served and the date, place, and method of service.

3. If service was by mail, the person mailing the summons and petition shall endorse on the copy of the summons or order of the court that is filed in the action the date and place of mailing and the date when service was receipted or service was rejected, and shall attach to the copy of the summons or order a copy of the return receipt or returned envelope, if and when received, showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also show the date and place of any subsequent mailing pursuant to paragraph 2 of subsection C of this section. When the summons and petition are mailed by the court clerk, the court clerk shall notify the plaintiff's attorney within three (3) days after receipt of the returned card or envelope showing that the card or envelope has been received.

H. **AMENDMENT.** At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

I. **SUMMONS: TIME LIMIT FOR SERVICE.** If service of process is not made upon a defendant within one hundred eighty (180) days after the filing of the petition and the plaintiff cannot show good cause why such service was not made within that period, the action may be dismissed as to that defendant without

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prejudice upon the court's own initiative with notice to the plaintiff or upon motion. The action shall not be dismissed where a summons was served on the defendant within one hundred eighty (180) days after the filing of the petition and a court later holds that the summons or its service was invalid. After a court quashes a summons or its service, a new summons may be served on the defendant within a time specified by the judge. If the new summons is not served within the specified time, the action shall be deemed to have been dismissed without prejudice as to that defendant. This subsection shall not apply with respect to a defendant who has been outside of this state for one hundred eighty (180) days following the filing of the petition.

Seminal Case

Hough v. Leonard, 867 P.2d 438 (Okla. 1993) (recognizing that “intent of the Oklahoma long-arm statute is to extend the jurisdiction of Oklahoma courts over non-residents to the outer limits permitted by the Oklahoma Constitution and by the due process clause of the United States Constitution”).

Contract Case

Ferrell v. Prairie Int'l Trucks, Inc., 935 P.2d 286 (Okla. 1997) (concluding that when truck dealer specifically targeted advertising in a paper distributed in Oklahoma, solicited Oklahoma buyers for its trucks, negotiated the sale of the truck at issue in the case over the telephone knowing the buyer was in Oklahoma, and that the truck would be used in Oklahoma, and entered into an installment contract with the plaintiff, thereby creating a continuing obligation with the plaintiff in Oklahoma, it had fair warning that its activities would subject it to Oklahoma's jurisdiction and maintenance of the suit did not offend traditional notions of fair play and substantial justice).

Business Tort Case

National Occupational Health Servs., Inc. v. Advanced Indus. Care, 50 F. Supp. 2d 1111 (N.D. Ok. 1998) (finding tortious interference with contractual relations based on acts outside Oklahoma that interfered with an Oklahoma contract constituted contact with the forum state such that personal jurisdiction was proper).

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Internet Case

Intercon, Inc. v. Bell Atlantic Internet Solutions, Inc., 205 F.3d 1244 (10th Cir. 2000) (holding that when defendant purposefully availed itself of plaintiff's Internet server notwithstanding defendant's knowledge that its routing of e-mail through the plaintiff's server was causing significant slowdown in speed of traffic through server, defendant created sufficient contacts to establish personal jurisdiction).

Oregon Long-Arm Statute

ORCP 4 (2002)

Rule 4. Jurisdiction (Personal).

Personal Jurisdiction. A court of this state having jurisdiction of the subject matter has jurisdiction over a party served in an action pursuant to Rule 7 under any of the following circumstances:

Local Presence or Status. In any action, whether arising within or without this state, against a defendant who when the action is commenced:

- (a) Is a natural person present within this state when served; or
- (b) Is a natural person domiciled within this state; or
- (c) Is a corporation created by or under the laws of this state; or
- (d) Is engaged in substantial and not isolated activities within this state, whether such activities are wholly interstate, intrastate, or otherwise; or
- (e) Has expressly consented to the exercise of personal jurisdiction over such defendant.

Special Jurisdiction Statutes. In any action which may be brought under statutes or rules of this state that specifically confer grounds for personal jurisdiction over the defendant.

Local Act or Omission. In any action claiming injury to person or property within or without this state arising out of an act or omission within this state by the defendant.

Local Injury; Foreign Act. In any action claiming injury to person or property within this state arising out of an act or omission outside this state by the defendant, provided in addition that at the time of the injury, either:

- (a) Solicitation or service activities were carried on within this state by or on behalf of the defendant; or
- (b) Products, materials, or things distributed, processed, serviced, or manufactured by the defendant were used or consumed within this state in the ordinary course of trade.

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Local Services, Goods, or Contracts. In any action or proceeding which:

(a) Arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to perform services within this state or to pay for services to be performed in this state by the plaintiff; or

(b) Arises out of services actually performed for the plaintiff by the defendant within this state or services actually performed for the defendant by the plaintiff within this state, if such performance within this state was authorized or ratified by the defendant; or

(c) Arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to deliver or receive within this state or to send from this state goods, documents of title, or other things of value; or

(d) Relates to goods, documents of title, or other things of value sent from this state by the defendant to the plaintiff or to a third person on the plaintiff's order or direction; or

(e) Relates to goods, documents of title, or other things of value actually received in this state by the plaintiff from the defendant or by the defendant from the plaintiff, without regard to where delivery to carrier occurred.

Local Property. In any action which arises out of the ownership, use, or possession of real property situated in this state or the ownership, use, or possession of other tangible property, assets, or things of value which were within this state at the time of such ownership, use, or possession; including, but not limited to, actions to recover a deficiency judgment upon any mortgage, conditional sale contract, or other security agreement relating to such property, executed by the defendant or predecessor to whose obligation the defendant has succeeded.

Director or Officer of a Domestic Corporation. In any action against a defendant who is or was an officer or director of a domestic corporation where the action arises out of the defendant's conduct as such officer or director or out of the activities of such corporation while the defendant held office as a director or officer.

Taxes or Assessments. In any action for the collection of taxes or assessments levied, assessed, or otherwise imposed by a taxing authority of this state.

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Insurance or Insurers. In any action which arises out of a promise made anywhere to the plaintiff or some third party by the defendant to insure any person, property, or risk and in addition either:

(a) The person, property, or risk insured was located in this state at the time of the promise; or

(b) The person, property, or risk insured was located within this state when the event out of which the cause of action is claimed to arise occurred; or

(c) The event out of which the cause of action is claimed to arise occurred within this state, regardless of where the person, property, or risk insured was located.

Securities. In any action arising under the Oregon Securities Law, including an action brought by the Director of the Department of Consumer and Business Services, against:

(a) An applicant for registration or registrant, and any person who offers or sells a security in this state, directly or indirectly, unless the security or the sale is exempt from ORS 59.055; or

(b) Any person, a resident or nonresident of this state, who has engaged in conduct prohibited or made actionable under the Oregon Securities Law.

Certain Marital and Domestic Relations Actions

(a) In any action to determine a question of status instituted under ORS chapter 106 or 107 when the plaintiff is a resident of or domiciled in this state.

(b) In any action to enforce personal obligations arising under ORS chapter 106 or 107, if the parties to a marriage have concurrently maintained the same or separate residences or domiciles within this state for a period of six months, notwithstanding departure from this state and acquisition of a residence or domicile in another state or country before filing of such action, but if an action to enforce personal obligations arising under ORS chapter 106 or 107 is not commenced within one year following the date upon which the party who left the state acquired a residence or domicile in another state or country, no jurisdiction is conferred by this subsection in any such action.

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(c) In any proceeding to establish paternity under ORS chapters 109 or ORS 110.300 to 110.441, or any action for declaration of paternity where the primary purpose of the action is to establish responsibility for child support, when the act of sexual intercourse which resulted in the birth of the child is alleged to have taken place in this state.

Other Actions. Notwithstanding a failure to satisfy the requirement of sections B. through K. of this rule, in any action where prosecution of the action against a defendant in this state is not inconsistent with the Constitution of this state or the Constitution of the United States.

Personal Representative. In any action against a personal representative to enforce a claim against the deceased person represented where one or more of the grounds stated in sections A. through L. would have furnished a basis for jurisdiction over the deceased had the deceased been living. It is immaterial whether the action is commenced during the lifetime of the deceased.

Joinder of Claims in the Same Action. In any action brought in reliance upon jurisdictional grounds stated in sections B. through L., there cannot be joined in the same action any other claim or cause against the defendant unless grounds exist under this rule, or other rule or statute, for personal jurisdiction over the defendant as to the claim or cause to be joined.

Defendant Defined. For purposes of this rule and Rules 5 and 6, “defendant” includes any party subject to the jurisdiction of the court.

Seminal Case

State ex rel. Hydraulic Servocontrols Corp. v. Dale, 657 P.2d 211 (Or. 1982) (holding that Oregon’s long-arm statute confers personal jurisdiction to the outer limits of due process so that a foreign manufacturer or distributor engaging in conduct by which it seeks to serve the Oregon market, or purposely availing itself of the privilege of doing business in Oregon, subjects itself to the jurisdiction of the Oregon courts).

Contract Case

Freeman v. Duffy, 983 P.2d 533 (Or. 1999) (finding contacts were sufficient to establish the requisite minimum contacts necessary for personal jurisdiction where the contract was negotiated by telephone between the defendant in Florida and

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the plaintiffs in Oregon, and the defendant partially performed that contract by depositing money into plaintiffs' Oregon bank account).

Business Tort Case

State ex rel. Academy Press, Ltd. v. Beckett, 581 P.2d 496 (Or. 1978) (concluding a state has the power to exercise judicial jurisdiction over an individual who causes effects in the state by an act done elsewhere with respect to any cause of action arising from these effects unless the nature of the effects and of the individual's relationship to the state make the exercise of such jurisdiction unreasonable).

Internet Case

Tech Heads, Inc. v. Desktop Service Center, Inc., 105 F. Supp. 2d 1142 (D. Or. 2000) (finding those conducting business over the Internet can protect themselves with (1) a disclaimer that they will not sell products or provide services (or accept resumes from) outside a certain geographic area; and (2) an interactive agreement that includes a choice of venue clause to which a consumer or client must agree before purchasing any products or receiving any services. In utilizing such methods, a business may be able to limit the jurisdictions in which it could be subject to suit. But when a merchant seeks the benefit of engaging in unlimited commerce over the Internet, it runs the risk of being subject to the process of the courts of those states.

Pennsylvania Long-Arm Statute

PA ST 42 Pa.C.S. § 5322 (2002)

§ 5322. Bases of personal jurisdiction over persons outside this Commonwealth.

General Rule. – A tribunal of this Commonwealth may exercise personal jurisdiction over a person (or the personal representative of a deceased individual who would be subject to jurisdiction under this subsection if not deceased) who acts directly or by an agent, as to a cause of action or other matter arising from such person:

(a) Transacting any business in this Commonwealth. Without excluding other acts which may constitute transacting business in this Commonwealth, any of the following shall constitute transacting business for the purpose of this paragraph:

(1) The doing by any person in this Commonwealth of a series of similar acts for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object.

(2) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts.

(3) The shipping of merchandise directly or indirectly into or through this Commonwealth.

(4) The engaging in any business or profession within this Commonwealth, whether or not such business requires license or approval by any government unit of this Commonwealth.

(5) The ownership, use or possession of any real property situate within this Commonwealth.

(b) Contracting to supply services or things in this Commonwealth.

(c) Causing harm or tortious injury by an act or omission in this Commonwealth.

(d) Causing harm or tortious injury in this Commonwealth by an act or omission outside this Commonwealth.

Pennsylvania

continued

(e) Having an interest in, using, or possessing real property in this Commonwealth.

(f) (1) Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

(2) Being a person who controls, or who is a director, officer, employee or agent of a person who controls, an insurance company incorporated in this Commonwealth or an alien insurer domiciled in this Commonwealth.

(3) Engaging in conduct described in section 504 of the act of May 17, 1921 (P.L. 789, No. 285), known as The Insurance Department Act of 1921.

(g) Accepting election or appointment or exercising powers under the authority of this Commonwealth as a:

(1) Personal representative of a decedent.

(2) Guardian of a minor or incapacitated person.

(3) Trustee or other fiduciary.

(4) Director or officer of a corporation.

(h) Executing any bond of any of the persons specified in paragraph (7).

(i) Making application to any government unit for any certificate, license, permit, registration or similar instrument or authorization or exercising any such instrument or authorization.

(j) Committing any violation within the jurisdiction of this Commonwealth of any statute, home rule charter, local ordinance or resolution, or rule or regulation promulgated thereunder by any government unit or of any order of court or other government unit.

Exercise of Full Constitutional Power Over Nonresidents. – In addition to the provisions of subsection (a) the jurisdiction of the tribunals of this Commonwealth shall extend to all persons who are not within the scope of section 5301 (relating to persons) to the fullest extent allowed under the Constitution

Pennsylvania

continued

of the United States and may be based on the most minimum contact with this Commonwealth allowed under the Constitution of the United States.

Scope of Jurisdiction. – When jurisdiction over a person is based solely upon this section, only a cause of action or other matter arising from acts enumerated in subsection (a), or from acts forming the basis of jurisdiction under subsection (b), may be asserted against him.

Service Outside This Commonwealth. – When the exercise of personal jurisdiction is authorized by this section, service of process may be made outside this Commonwealth.

Inconvenient Forum. – When a tribunal finds that in the interest of substantial justice the matter should be heard in another forum, the tribunal may stay or dismiss the matter in whole or in part on any conditions that may be just.

Seminal Case

Kenny v. Alexson Equipment Co., 432 A.2d 974 (Pa. 1981) (concluding, when tested against both § 8301 and U.S. Const. amend. XIV, the state’s exercise of jurisdiction over defendant was not so broad. Causing a harmful effect within the state or the entry of a single product into commerce in the state, in the absence of purposeful participation by appellant in a continuous distributive chain, was insufficient to satisfy minimum contacts requirement of due process).

Contract Case

Hall-Woolford Tank Co. v. R. F. Kilns, Inc., 698 A.2d 80 (Pa. Super. Ct. 1997) (holding that defendant’s contacts with Pennsylvania did not support exercise of specific personal jurisdiction in breach of contract action where its only contact with Pennsylvania concerning the contract involved telephone calls directed to plaintiff in Pennsylvania).

Business Tort Case

Snyder v. Dolphin Encounters Ltd., 2002 U.S. Dist. LEXIS 23807 (E.D. Pa. 2002) (finding injured party could not exercise specific jurisdiction over a tour company and a dolphin encounter company where the injury did not happen in the state, and there was no showing that the companies undertook some action to purposefully avail themselves of the privileges of conducting business in the state).

Pennsylvania

continued

Internet Cases

Zippo Mfg. Co. v. Zippo Dot com, Inc., 952 F. Supp. 1119 (W.D. Pa. 1997) (holding defendant's conducting of electronic commerce with Pennsylvania residents constituted purposeful availment of doing business in Pennsylvania. Defendant had contracted with numerous individuals and Internet access providers in Pennsylvania and intended object of transactions had been downloading of electronic messages in Pennsylvania that formed basis of suit; *Efford v. Jockey Club*, 796 A.2d 370 (Pa. Super. Ct. 2002) (finding maintenance of an Internet website which permits a Pennsylvania user to register a horse online did not suffice to establish general jurisdiction via long-arm statute).

Puerto Rico Long-Arm Statute

PR ST T. 32 Ap. III, R. 4.7 (2000)

Rule 4.7. Service on a person not domiciled in Puerto Rico.

Whenever the person to be served is not domiciled in Puerto Rico, the General Court of Justice shall take jurisdiction over said person if the action or claim arises because said person:

(a) Transacted business in Puerto Rico personally or through an agent;

or

(b) participated in tortious acts within Puerto Rico personally or through his agent; or

(c) was involved in an automobile accident while driving a motor vehicle in Puerto Rico personally or through his agent; or

(d) was involved in an accident in Puerto Rico while operating, personally or through his agent, a freight or passenger transportation business in Puerto Rico, between Puerto Rico and the United States or between Puerto Rico and a foreign country, or if, in the operation of said business, an accident occurs outside Puerto Rico and the contract had been executed in Puerto Rico; or

(e) owns, uses or possesses, personally or through his agent, real property in Puerto Rico.

In said cases, service shall be made pursuant to Rule 4.5.

Seminal Case

Pou v. American Motors Corp., 127 P.R. Dec. 810 (P.R. 1991) (recognizing that for a court to assume jurisdiction over a nondomiciled defendant, it is necessary for the defendant to have minimum contacts with the forum and for the cause of action to have arisen from or be related to such contacts).

Contract Case

Rodriguez v. Dixie S. Indus., Inc., 113 F. Supp. 2d 242 (D.P.R. 2000) (finding that exercise of specific personal jurisdiction in breach of contract action over nonresident defendant which had mailed documents and made phone calls to Puerto Rico in furtherance of the contract's formation was proper).

Puerto Rico

continued

Business Tort Case

Rivera v. Santon, 118 F. Supp. 2d 159 (D.P.R. 2000) (stating that court lacked personal jurisdiction under Puerto Rico's long-arm statute over factory representative of manufacturer of allegedly malfunctioning water heater where factory representative did not sell a water heater to plaintiffs, never applied for or obtained authorization to conduct business in Puerto Rico, and never owned, leased, used or possessed real property in Puerto Rico nor maintained an office or agent in Puerto Rico).

Internet Case

No reported decisions to date.

Rhode Island Long-Arm Statute

R.I. ST § 9-5-33 (2002)

§ 9-5-33. Jurisdiction over foreign corporations and over nonresident individuals, partnerships, or associations.

(a) Every foreign corporation, every individual not a resident of this state or his or her executor or administrator, and every partnership or association, composed of any person or persons not such residents, that shall have the necessary minimum contacts with the state of Rhode Island, shall be subject to the jurisdiction of the state of Rhode Island, and the courts of this state shall hold such foreign corporations and such nonresident individuals or their executors or administrators, and such partnerships or associations amenable to suit in Rhode Island in every case not contrary to the provisions of the constitution or laws of the United States.

Seminal Case

Conn v. ITT Aetna Finance Co., 252 A.2d 184 (R.I. 1969) (recognizing that Rhode Island’s long-arm statute empowers Rhode Island state courts to exercise personal jurisdiction over foreign defendants “up to the constitutional limitation.”).

Contract Case

Ben’s Marine Sales v. Sleek Craft Boats, 502 A.2d 808 (R.I. 1985) (holding the direct or indirect shipment of goods into the forum by a nonresident defendant with knowledge of their destination is sufficient contact upon which to base jurisdiction where the plaintiff was injured as the result of such shipment, even when that shipment constituted the defendant’s only contact with the forum).

Business Tort Case

Ultra Scientific, Inc. v. John S. Yanusas, 687 A.2d 1247 (R.I. 1997) (finding that nonresident defendant’s contact with state was not sufficient to subject it to personal jurisdiction where it never advertised, solicited business, or had distributors, agents or representative in state and its sole connection with the plaintiff was that it hired plaintiff’s employees).

Internet Case

No reported decisions to date.

South Carolina Long-Arm Statute

S.C. ST § 36-2-803 (2002)

§ 36-2-803. Personal jurisdiction based upon conduct.

(1) A court may exercise personal jurisdiction over a person who acts directly or by an agent as to a cause of action arising from the person's

(a) transacting any business in this State;

(b) contracting to supply services or things in the State;

(c) commission of a tortious act in whole or in part in this State;

(d) causing tortious injury or death in this State by an act or omission outside this State if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this State; or

(e) having an interest in, using, or possessing real property in this State; or

(f) contracting to insure any person, property or risk located within this State at the time of contracting; or

(g) entry into a contract to be performed in whole or in part by either party in this State; or

(h) production, manufacture, or distribution of goods with the reasonable expectation that those goods are to be used or consumed in this State and are so used or consumed.

(2) When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him, and such action, if brought in this State, shall not be subject to the provisions of § 15-7-100(3).

Seminal Case

Sheppard v. Jacksonville Marine Supply, Inc., 877 F. Supp. 260 (D.C.S.C. 1995) (finding the South Carolina long-arm statute extends jurisdiction to the limits allowed by the Due Process Clause; the court's inquiry is, therefore, limited to

South Carolina

continued

whether the exercise of personal jurisdiction over each defendant is consistent with Due Process).

Contract Case

Bass v. Harbor Light Marina, Inc., 372 F. Supp. 786 (D.C.S.C. 1974) (holding that traditional notions of fair play and substantial justice would be offended if a foreign corporation is allowed to entice residents of this state across the border to enter into contracts governed by foreign law and thereafter avoid liability for any breaches arising therefrom when presented to a forum in this state).

Business Tort Case

ESAB Group, Inc. v. Centricut, Inc., 126 F.3d 617 (4th Cir. 1997) (finding New Hampshire corporation and its chief executive officer lacked sufficiently continuous and systematic contacts with South Carolina to justify district court's exercise of general in personam jurisdiction, under South Carolina's long-arm statute; although South Carolina sought to vindicate interest of its own citizens and 26 of corporation's customers resided in South Carolina, all were mail order customers and corporation did not service them in South Carolina, corporation maintained no sales representatives or other agents in South Carolina, and business attributable to corporation's South Carolina customers constituted less than one-tenth of one percent of its nationwide sales volume).

Internet Case

No reported decisions to date.

South Dakota Long-Arm Statute

S.D. ST § 15-7-2 (2002)

§ 15-7-2. Acts within the state subjecting persons to jurisdiction of the courts.

Any person is subject to the jurisdiction of the courts of this state as to any cause of action arising from the doing personally, through any employee, through an agent or through a subsidiary, of any of the following acts:

- (1) The transaction of any business within the state;
- (2) The commission of any act which results in accrual within this state of a tort action;
- (3) The ownership, use, or possession of any property, or of any interest therein, situated within this state;
- (4) Contracting to insure any person, property, or risk located within this state at the time of contracting;
- (5) Entering into a contract for services to be rendered or for materials to be furnished in this state by such person;
- (6) Acting as director, manager, trustee, or other officer of any corporation organized under the laws of, or having its principal place of business within this state, or as personal representative of any estate within this state;
- (7) Failure to support a minor child residing in South Dakota;
- (8) Having sexual intercourse in this state, which act creates a cause of action for the determination of paternity of a child who may have been conceived by that act of intercourse;
- (9) With respect to any action for divorce, separate maintenance or spousal support the maintenance in this state of a matrimonial domicile at the time the claim arose or the commission in this state of an act giving rise to the claim, subject to the provisions of § 25-4-30;
- (10) Entering into negotiations with any person within the state with the apparent objective of contracting for services to be rendered or materials to be furnished in this state;
- (11) Commencing or participating in negotiations, mediation, arbitration

South Dakota

continued

or litigation involving subject matter located in whole or in part within the state;

(12) Doing any act for the purpose of influencing legislation, administrative rule-making or judicial or administrative decision-making by any local, state or federal official whose official function is being performed within the state, providing that an appearance to contest personal jurisdiction shall not be within this subsection;

(13) The commission of any act which results in the accrual of an action in this state for a violation of the antitrust laws of the United States or chapter 37-1;

(14) The commission of any act, the basis of which is not inconsistent with the Constitution of this state or with the Constitution of the United States.

Seminal Case

Ventling v. Kraft, 161 N.W.2d 29 (S.D. 1968) (stating that South Dakota long-arm statute is to be interpreted broadly and that the essential question is whether exercise of personal jurisdiction over the nonresident defendant is fundamentally fair).

Contract Case

Hot Stuff Food Sys., Inc. v. Griffin Petroleum, Inc., 891 F. Supp. 499 (D.S.D. 1995) (finding personal jurisdiction under South Dakota long-arm statute where Arkansas defendant contracted with South Dakota resident and created an ongoing relationship but did not sell goods or advertise in South Dakota).

Business Tort Case

Dakota Indus., Inc. v. Dakota Sportswear, Inc., 946 F.2d 1384 (8th Cir. 1991) (finding nonresident defendant subject to personal jurisdiction under South Dakota long-arm statute because defendant intentionally placed goods into the stream of commerce in South Dakota, which led to the trademark infringement claim).

Internet Case

No reported decisions to date.

Tennessee Long-Arm Statute

TN ST § 20-2-214 (2002)

§ 20-2-214. Jurisdiction of persons unavailable to personal service in state – Classes of actions to which applicable.

(1) Persons who are nonresidents of Tennessee and residents of Tennessee who are outside the state and cannot be personally served with process within the state are subject to the jurisdiction of the courts of this state as to any action or claim for relief arising from:

- (a) The transaction of any business within the state;
- (b) Any tortious act or omission within this state;
- (c) The ownership or possession of any interest in property located within this state;
- (d) Entering into any contract of insurance, indemnity, or guaranty covering any person, property, or risk located within this state at the time of contracting;
- (e) Entering into a contract for services to be rendered or for materials to be furnished in this state;
- (f) Any basis not inconsistent with the constitution of this state or of the United States;
- (g) Any action of divorce, annulment or separate maintenance where the parties lived in the marital relationship within this state, notwithstanding one party's subsequent departure from this state, as to all obligations arising for alimony, custody, child support, or marital dissolution agreement, if the other party to the marital relationship continues to reside in this state.

(2) "Person," as used herein, includes corporations and all other entities which would be subject to service of process if present in this state.

(3) Any such person shall be deemed to have submitted to the jurisdiction of this state who acts in the manner above described through an agent or personal representative.

Tennessee

continued

§ 17.041. Definition.

In this subchapter, “nonresident” includes:

- (a) an individual who is not a resident of this state; and
- (b) a foreign corporation, joint-stock company, association, or partnership.

Seminal Case

Masada Inv. Corp. v. Allen, 697 S.W.2d 332 (Tenn. 1985) (under the Tennessee long-arm statute personal jurisdiction was proper so long as defendant’s conduct satisfied federal due process).

Contract Case

J.I. Case Corp. v. Williams, 832 S.W.2d 530 (Tenn. 1992) (finding personal jurisdiction based on a contractual relationship was proper where a party reached out from one state and created a continuing relationship with a Tennessee citizen).

Business Tort Case

Chenault v. Walker, 36 S.W.3d 45 (Tenn. 2001) (holding that a defendant may be subject to personal jurisdiction based on a conspiracy theory if a co-conspirator commits an act in furtherance of the conspiracy that, if committed by the foreign defendant, would subject that defendant to personal jurisdiction).

Internet Case

Bailey v. Turbine Design, Inc., 86 F. Supp. 2d 790 (W.D. Tenn. 2000) (finding that plaintiff failed to establish personal jurisdiction under Tennessee’s long-arm statute where evidence showed that defendant did not have any contact with Tennessee other than posting alleged defamatory statements on defendant’s Internet website).

Texas Long-Arm Statute

TX. CIV. PRAC. & REM. § 17.042 (2001)

§ 17.041. Definition.

In this subchapter, “nonresident” includes:

- (1) an individual who is not a resident of this state; and
- (2) a foreign corporation, joint-stock company, association, or partnership.

§ 17.042. *Acts Constituting Business in This State.*

In addition to other acts that may constitute doing business, a nonresident does business in this state if the nonresident:

- (1) contracts by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in this state;
- (2) commits a tort in whole or in part in this state; or
- (3) recruits Texas residents, directly or through an intermediary located in this state, for employment inside or outside this state.

Tex. R. Civ. Pro 108. Defendant Without State.

Where the defendant is absent from the State, or is a nonresident of the State, the form of notice to such defendant of the institution of the suit shall be the same as prescribed for citation to a resident defendant; and such notice may be served by any disinterested person competent to make oath of the fact in the same manner as provided in Rule 106 hereof. The return of service in such cases shall be endorsed on or attached to the original notice, and shall be in the form provided in Rule 107, and be signed and sworn to by the party making such service before some officer authorized by the laws of this State to take affidavits, under the hand and official seal of such officer. A defendant served with such notice shall be required to appear and answer in the same manner and time and under the same penalties as if he had been personally served with a citation within this State to the full extent that he may be required to appear and answer under the Constitution of the United States in an action either in rem or in personam.

Texas

continued

Seminal Case

U-Anchor Adver., Inc. v. Burt, 553 S.W.2d 760 (Tex. 1977) (holding that the Texas long-arm statute provides that personal jurisdiction may be exercised over nonresident defendants transacting business in the state, and reaches as far as the federal constitutional requirements of due process will permit).

Contract Case

Zac Smith & Co. v. Otis Elevator Co., 734 S.W.2d 662 (Tex. 1987) (finding nonresident defendant subject to personal jurisdiction where contract was wholly performable in Texas and defendant's activities were purposefully directed at Texas residents).

Business Tort Case

Ring Power Sys. v. Int'l DeComercio, 39 S.W.3d 350 (Tex. Civ. App. 2001) (holding that Florida corporation was subject to personal jurisdiction under Texas long-arm statute where alleged negligent misrepresentations that formed the basis of plaintiff's suit were communicated to plaintiff's Texas office via phone and fax).

Internet Case

Riviera Operating Corp. v. Dawson, 29 S.W.3d 905 (Tex. Civ. App. 2000) (applying "sliding scale" Internet analysis and holding that foreign defendant was not subject to personal jurisdiction where defendant's only contacts with Texas were over the Internet and did not include business transactions or entering into contracts).

Utah Long-Arm Statute

UT ST § 78-27-24 (2003)

§ 78-27-24. Jurisdiction over nonresidents – Acts submitting person to jurisdiction.

Any person, notwithstanding Section 16-10a-1501, whether or not a citizen or resident of this state, who in person or through an agent does any of the following enumerated acts, submits himself, and if an individual, his personal representative, to the jurisdiction of the courts of this state as to any claim arising out of or related to:

- (1) the transaction of any business within this state;
- (2) contracting to supply services or goods in this state;
- (3) the causing of any injury within this state whether tortious or by breach of warranty;
- (4) the ownership, use, or possession of any real estate situated in this state;
- (5) contracting to insure any person, property, or risk located within this state at the time of contracting;
- (6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or
- (7) the commission of sexual intercourse within this state which gives rise to a paternity suit under Title 78, Chapter 45a, to determine paternity for the purpose of establishing responsibility for child support.

§ 78-27-26. Jurisdiction over nonresidents – Service of process.

Service of process on any party outside the state may be made pursuant to the applicable provisions of Rule 4 of the Utah Rules of Civil Procedure.

Service of summons and of a copy of the complaint, if any, may also be made upon any person located without this state by any individual over 21 years of age, not a party to the action, with the same force and effect as though the

Utah

continued

summons had been personally served within this state. No order of court is required. An affidavit of the server shall be filed with the court stating the time, manner and place of service. The court may consider the affidavit, or any other competent proofs, in determining whether proper service has been made.

Nothing contained in this act shall be construed to limit or affect the right to serve process in any other manner provided by law.

§ 78-27-26. Jurisdiction over nonresidents – Only claims arising from enumerated acts may be asserted.

Only claims arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him is based upon this act.

Seminal Case

Brown v. Carnes Corp., 611 P.2d 378 (Utah 1980) (holding that each section of the Utah long-arm statute should be interpreted broadly because legislative intent indicates that the protections afforded by the courts of Utah must be applied to the fullest extent allowed by due process of law).

Contract Case

SII Mega Diamond, Inc. v. Am. Superabrasives Corp., 969 P.2d 430 (Utah 1998) (holding that defendant was subject to personal jurisdiction where Utah plaintiff and out-of-state defendant engaged in a series of mail order transactions).

Business Tort Case

Patriot Sys., Inc. v. C-Cubed Corp., 21 F. Supp. 2d 1318 (D. Utah 1998) (finding that causing financial injury to a Utah business standing alone, is insufficient to establish personal jurisdiction over a nonresident defendant).

Internet Case

iAccess, Inc. v. WEBcard Tech., Inc., 182 F. Supp. 2d 1183 (D. Utah 2002) (holding that the maintenance of an interactive website was insufficient, without more, to subject out-of-state corporation to personal jurisdiction under the Utah long-arm statute).

Vermont Long-Arm Statute

VT ST T. 12, §§ 855 and 913 (2003)

§ 855. Doing business as appointment of process agent.

If the contact with the state or the activity in the state of a foreign corporation, or the contact or activity imputable to it, is sufficient to support a Vermont personal judgment against it the contact or activity shall be deemed to be doing business in Vermont by that foreign corporation and shall be equivalent to the appointment by it of the secretary of the state of Vermont and his successors to be its true and lawful attorney upon whom may be served all lawful process in any action or proceedings against it arising or growing out of that contact or activity, and also shall be deemed to be its agreement that any process against it which is so served upon the secretary of state shall be of the same legal force and effect as if served on the foreign corporation at its principal place of business in the state or country where it is incorporated according to the law of that state or country.

§ 913. Effect of service outside the state.

A. When process is served upon a party outside the state in such manner as the supreme court may by rule provide, the same proceedings may be had, so far as to affect the title or right to the possession of goods, chattels, rights, credits, land, tenements or hereditaments in the state as if the process had been served on a party in the state.

B. Upon the service, and if it appears that the contact with the state by the party or the activity in the state by the party or the contact or activity imputable to him is sufficient to support a personal judgment against him, the same proceedings may be had for a personal judgment against him as if the process or pleading had been served on him in the state.

C. The provisions of subsection (b) are in addition to all existing manner of service, rights and remedies, and the availability of a personal judgment by reason of subsection (b) shall make the provisions of sections 855, 856, 891 and 892 of this title and section 1630 of Title 11 alternative and not inoperative.

Seminal Cases

Bard Building Supply Co. v. United Foam Corp., 400 A.2d 1023 (Vt. 1979) (finding Defendant foreign corporation had sufficient minimum contacts with state to support *in personam* jurisdiction where plaintiff Vermont corporation contacted

Vermont

continued

defendant by phone to purchase goods and defendant accepted the order and shipped the goods C.O.D. to plaintiff in Vermont); *O'Brien v. Comstock Foods, Inc.*, 194 A.2d 568 (Vt. 1963) (holding foreign defendant's placement of products into the stream of commerce was insufficient to support the exercise of personal jurisdiction).

Contract Cases

Cameron v. Burke, 572 A.2d 1361 (Vt. 1990) (concluding that the exercise of personal jurisdiction was proper in breach of contract action where the defendant orally promised to repay debt while in Vermont, substantial portions of the agreement were executed in Vermont and the loan was to be repaid from proceeds of the sale of the defendant's property located in Vermont); *Artec Distrib., Inc. v. Video Playback, Inc.*, 799 F. Supp. 1558 (D. Vt. 1992) (finding Vermont long-arm statute did not support the exercise of personal jurisdiction over foreign corporation and its principals in breach of contract case where plaintiff initiated the transaction by contacting foreign defendants and defendants' only contact with the state was the purchase from and occasional return of products to plaintiff in Vermont).

Business Tort Cases

Blue Compass Corp. v. Polish Masters of America, 777 F. Supp. 4 (D. Vt. 1991) (holding California defendant who advertised his business in national magazine, obtained a Vermont customer and sent materials to the Vermont customer was subject to personal jurisdiction under the Vermont long-arm statute in action alleging copyright infringement and unfair competition); *Anderson v. Abex Corp.*, 418 F. Supp. 5 (D. Vt. 1975) (concluding that defendant's mailing three administrative letters to plaintiff in Vermont was an insufficient amount of contact to warrant the exercise of personal jurisdiction under the Vermont long-arm statute).

Internet Case

No reported decisions to date.

Virginia Long-Arm Statute

VA ST § 8.01-328.1 (2003)

§ 8.01-328.1. When personal jurisdiction over person may be exercised.

A. A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or things in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when he might reasonably have expected such person to use, consume, or be affected by the goods in this Commonwealth, provided that he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
6. Having an interest in, using, or possessing real property in this Commonwealth;
7. Contracting to insure any person, property or risk located within this Commonwealth at the time of contracting;
8. Having (i) executed an agreement in this Commonwealth which obligates the person to pay spousal support or child support to a domiciliary of this Commonwealth, or to a person who has satisfied in the residency requirements in suits for annulments or divorce for members of the armed forces pursuant to § 20-97 provided proof of service of process on a nonresident party is made by a law-enforcement officer or other person authorized to serve

Virginia

continued

process in the jurisdiction where the nonresident party is located, (ii) been ordered to pay spousal support or child support pursuant to an order entered by any court of competent jurisdiction in this Commonwealth having in personam jurisdiction over such person, or (iii) shown by personal conduct in this Commonwealth, as alleged by affidavit, that the person conceived or fathered a child in this Commonwealth;

9. Having maintained within this Commonwealth a matrimonial domicile at the time of separation of the parties upon which grounds for divorce or separate maintenance is based, or at the time a cause of action arose for divorce or separate maintenance or at the time of commencement of such suit, if the other party to the matrimonial relationship resides herein; or

10. Having incurred a tangible personal property tax liability to any political subdivision of the Commonwealth. Add A-C.

Seminal Case

Carmichael v. Snyder, 164 S.E.2d 703 (Va. 1968) (noting that Virginia legislature had made a “conscious and deliberate effort . . . to assert jurisdiction over non-resident defendants to the extent permissible by the Due Process Clause” in ruling that personal jurisdiction could be exercised over a non-resident purchaser of real property because property was located in Virginia and contract was executed in Virginia).

Contract Cases

Peanut Corp. of America v. Hollywood Brands, Inc., 696 F.2d 311 (4th Cir. 1982) (holding in breach of contract action that nonresident defendant-buyer was subject to personal jurisdiction under Virginia long-arm statute where the letter that became an integral part of the purchase agreement was sent to, and telephonic negotiations occurred with, the supplier in Virginia); *I.T. Sales, Inc. v. Dry*, 278 S.E.2d 789 (Va. 1981) (by entering into an employment contract in Virginia and sending purchase orders to employer in Commonwealth, employee conducted a business transaction in Virginia that was sufficiently substantial for court to exercise personal jurisdiction over employee, even though employment contract required the employee to move to California).

Virginia

continued

Business Tort Cases

Selman v. American Sports Underwriters, 697 F. Supp. 225 (W.D. Va. 1988) (finding nonresident corporate defendant, through acts of its agents in traveling to Virginia, caused tortious injury to plaintiff in Virginia by interfering with plaintiff's contractual relations and was subject to personal jurisdiction under Virginia long-arm statute); *Herbert v. Direct Wire & Cable, Inc.*, 694 F. Supp. 192 (E.D. Va. 1988) (holding court had personal jurisdiction over manufacturer in an action for tortious interference with business relationship, because manufacturer entered into a long-term employment agreement with plaintiff, a citizen of Virginia, to establish an ongoing business presence in Virginia that resulted in annual sales in excess of \$100,000).

Internet Cases

Verizon Online Services, Inc. v. Ralksky, 203 F. Supp. 2d 601 (E.D. Va. 2002) (holding that nonresident defendants' transmission of spam emails through plaintiff's servers, located in Virginia, to nonresident Internet subscribers created a substantial connection to forum sufficient for exercise of personal jurisdiction on a claim of trespass to chattel); *Alitalia-Linee Aeree Italiane S.p.A. v. Casinoalitalia.com*, 128 F. Supp. 2d 340 (E.D. Va. 2001) (determining that nonresident Internet website operator's use of allegedly infringing domain name gave rise to sufficient minimum contacts with Virginia to support exercise of personal jurisdiction in trademark infringement action because website was interactive in trademark infringement action).

Washington Long-Arm Statute

WA ST § 4.28.185 (2003)

§ 4.28.185. Personal service out of state; Acts submitting person to jurisdiction of courts.

A. Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person, and, if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

1. The transaction of any business within this state;
2. The commission of a tortious act within this state;
3. The ownership, use, or possession of any property whether real or personal situated in this state;
4. Contracting to insure any person, property or risk located within this state at the time of contracting;
5. The act of sexual intercourse within this state with respect to which a child may have been conceived;
6. Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all proceedings authorized by chapter 26.09 RCW, so long as the petitioning party has continued to reside in this state or has continued to be a member of the armed forces stationed in this state.

Seminal Case

Tyee Construction Co. v. Dulien Steel Prod., Inc., 381 P.2d 245 (Wash. 1963) (noting that long-arm statute permits exercise over a defendant to the extent permitted by the due process clause, and holding that jurisdiction was not proper over a nonresident defendant where third-party plaintiff solicited third-party defendant to obtain a buyer for third-party plaintiff's electrical generators located in Washington, the contract negotiations were conducted out of state, the transaction represented an isolated event in the state by third-party defendant and the presence of agents of third-party defendant was incidental to the transaction).

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continued

Contract Case

Precision Lab. Plastics v. Micro Test, Inc., 981 P.2d 454 (Wash. Ct. App. 1999) (holding that out-of-state purchaser purposely transacted business within the state for purposes of assertion of specific personal jurisdiction by entering into long-term contract with Washington manufacturer for the sale of three million custom manufactured vials).

Business Tort Case

CTVC of Hawaii, Co., Ltd. v. Shinawtra, 919 P.2d 1243 (Wash. Ct. App. 1996) (concluding that specific personal jurisdiction could not be asserted over foreign defendant based upon tortious conduct of conversion, fraud, and negligent misrepresentation and intentional interference with business relationship related to joint venture to supply cable television to Thailand, where none of the alleged torts occurred in Washington).

Internet Case

Precision Laboratory Plastics v. Micro Test, Inc., 981 P.2d 454 (Wash. Ct. App. 1999) (noting in *dicta* that a passive website that merely makes information available likely would not support jurisdiction, whereas a website that involves the exchange of information may support jurisdiction, depending upon the “level of interactivity and commercial nature of the exchange of information”).

West Virginia Long-Arm Statute

W.V. ST § 56-3-33 (2003)

§ 56-3-33. Actions by or against nonresident persons having certain contracts [contacts] with this state; authorizing secretary of state to receive process; bond and fees; service of process; definitions; retroactive application.

(a) The engaging by a nonresident, or by his or her duly authorized agent, in any one or more of the acts specified in subdivisions (1) through (7) of this subsection shall be deemed equivalent to an appointment by such nonresident of the secretary of state, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any circuit court in this state, including an action or proceeding brought by a nonresident plaintiff or plaintiffs, for a cause of action arising from or growing out of such act or acts, and the engaging in such act or acts shall be a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though such nonresident were personally served with a summons and complaint within this state:

- (1) Transacting any business in this state;
- (2) Contracting to supply services or things in this state;
- (3) Causing tortious injury by an act or omission in this state;
- (4) Causing tortious injury in this state by an act or omission outside this state if he or she regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (5) Causing injury in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when he or she might reasonably have expected such person to use, consume or be affected by the goods in this state: Provided, That he or she also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (6) Having an interest in, using or possessing real property in this state; or

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(7) Contracting to insure any person, property or risk located within this state at the time of contracting.

(b) When jurisdiction over a nonresident is based solely upon the provisions of this section, only a cause of action arising from or growing out of one or more of the acts specified in subdivisions (1) through (7), subsection (a) of this section may be asserted against him or her.

(c) Service shall be made by leaving the original and two copies of both the summons and the complaint, and the fee required by section two [§ 59-1-2], article one, chapter fifty-nine of this code with the secretary of state, or in his or her office, and such service shall be sufficient upon such nonresident: Provided, That notice of such service and a copy of the summons and complaint shall forthwith be sent by registered or certified mail, return receipt requested, by the secretary of state to the defendant at his or her nonresident address and the defendant's return receipt signed by himself or herself or his or her duly authorized agent or the registered or certified mail so sent by the secretary of state which is refused by the addressee and which registered or certified mail is returned to the secretary of state, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused, shall be appended to the original summons and complaint and filed therewith in the clerk's office of the court from which process issued. If any defendant served with summons and complaint fails to appear and defend within thirty days of service, judgment by default may be rendered against him or her at any time thereafter. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action or proceeding.

(d) The fee remitted to the secretary of state at the time of service shall be taxed in the costs of the action or proceeding. The secretary of state shall keep a record in his or her office of all such process and the day and hour of service thereof.

(e) The following words and phrases, when used in this section, shall for the purpose of this section and unless a different intent be apparent from the context, have the following meanings:

(1) "Duly authorized agent" means and includes among others a person who, at the direction of or with the knowledge or acquiescence of a nonresident, engages in such act or acts and includes among others a member

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continued

of the family of such nonresident or a person who, at the residence, place of business or post office of such nonresident, usually receives and receipts for mail addressed to such nonresident.

(2) “Nonresident” means any person, other than voluntary unincorporated associations, who is not a resident of this state or a resident who has moved from this state subsequent to engaging in such act or acts, and among others includes a nonresident firm, partnership or corporation or a firm, partnership or corporation which has moved from this state subsequent to any of said such act or acts.

(3) “Nonresident plaintiff or plaintiffs” means a nonresident of this state who institutes an action or proceeding in a circuit court in this state having jurisdiction against a nonresident of this state pursuant to the provisions of this section.

(f) The provision for service of process herein is cumulative and nothing herein contained shall be construed as a bar to the plaintiff in any action or proceeding from having process in such action served in any other mode or manner provided by the law of this state or by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction.

(g) This section shall not be retroactive and the provisions hereof shall not be available to a plaintiff in a cause of action arising from or growing out of any of said acts occurring prior to the effective date of this section.

Seminal Case

Abbott v. Owens-Corning Fiberglass Corp., 444 S.E.2d 285 (W. Va. 1994) (stating that a court must use a two-step approach when analyzing whether personal jurisdiction exists over a foreign defendant. The first step involves determining whether defendant’s actions satisfy the long-arm statute and the second step involves determining whether defendant’s contacts with forum state satisfy federal due process).

Contract Case

Reilly v. Chambers, 215 F. Supp. 2d 759 (S.D.W. Va. 2002) (concluding that federal district court sitting in West Virginia could assert personal jurisdiction over resident of Virginia sued by a Pennsylvania resident alleging breach of contract to

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continued

sell stock of corporation holding West Virginia real estate because, by seeking to acquire real estate in West Virginia, Virginia resident purposefully availed himself of the opportunity to carry on activities in West Virginia).

Business Tort Case

Hill v. Showa Denko, K.K., 425 S.E.2d 609 (W. Va. 1992) (holding that trial court had personal jurisdiction over Japanese corporation which allegedly manufactured product that caused plaintiff's blood disorder where corporation's wholly-owned United States subsidiary was its sole American distributor that solicited business in West Virginia).

Internet Case

No reported decisions to date.

Wisconsin Long-Arm Statute

WI ST § 801.05 (2003)

§ 801.05. Personal jurisdiction, grounds for generally.

A court of this state having jurisdiction of the subject matter has jurisdiction over a person served in an action pursuant to s. 801.11 under any of the following circumstances:

(1) **LOCAL PRESENCE OR STATUS.** In any action whether arising within or without this state, against a defendant who when the action is commenced:

(a) Is a natural person present within this state when served; or

(b) Is a natural person domiciled within this state; or

(c) Is a domestic corporation or limited liability company; or

(d) Is engaged in substantial and not isolated activities within this state, whether such activities are wholly interstate, intrastate, or otherwise.

(2) **SPECIAL JURISDICTION STATUTES.** In any action which may be brought under statutes of this state that specifically confer grounds for personal jurisdiction over the defendant.

(3) **LOCAL ACT OR OMISSION.** In any action claiming injury to person or property within or without this state arising out of an act or omission within this state by the defendant.

(4) **LOCAL INJURY; FOREIGN ACT.** In any action claiming injury to person or property within this state arising out of an act or omission outside this state by the defendant, provided in addition that at the time of the injury, either:

(a) Solicitation or service activities were carried on within this state by or on behalf of the defendant; or

(b) Products, materials or things processed, serviced or manufactured by the defendant were used or consumed within this state in the ordinary course of trade.

(5) **LOCAL SERVICES, GOODS OR CONTRACTS.** In any action which:

(a) Arises out of a promise, made anywhere to the plaintiff or to

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continued

some 3rd party for the plaintiffs benefit, by the defendant to perform services within this state or to pay for services to be performed in this state by the plaintiff; or

(b) Arises out of services actually performed for the plaintiff by the defendant within this state, or services actually performed for the defendant by the plaintiff within this state if such performance within this state was authorized or ratified by the defendant; or

(c) Arises out of a promise, made anywhere to the plaintiff or to some 3rd party for the plaintiffs benefit, by the defendant to deliver or receive within this state or to ship from this state goods, documents of title, or other things of value; or

(d) Relates to goods, documents of title, or other things of value shipped from this state by the plaintiff to the defendant on the defendants order or direction; or

(e) Relates to goods, documents of title, or other things of value actually received by the plaintiff in this state from the defendant without regard to where delivery to carrier occurred.

(6) LOCAL PROPERTY. In any action which arises out of:

(a) A promise, made anywhere to the plaintiff or to some 3rd party for the plaintiffs benefit, by the defendant to create in either party an interest in, or protect, acquire, dispose of, use, rent, own, control or possess by either party real property situated in this state; or

(b) A claim to recover any benefit derived by the defendant through the use, ownership, control or possession by the defendant of tangible property situated within this state either at the time of the first use, ownership, control or possession or at the time the action is commenced; or

(c) A claim that the defendant return, restore, or account to the plaintiff for any asset or thing of value which was within this state at the time the defendant acquired possession or control over it.

(7) DEFICIENCY JUDGMENT ON LOCAL FORECLOSURE OR RESALE. In any action to recover a deficiency judgment upon a mortgage note or conditional sales contract or other security agreement executed by the defendant

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continued

or predecessor to whose obligation the defendant has succeeded and the deficiency is claimed either:

(a) In an action in this state to foreclose upon real property situated in this state; or

(b) Following sale of real property in this state by the plaintiff under ch. 846; or

(c) Following resale of tangible property in this state by the plaintiff under ch. 409

(8) **DIRECTOR, OFFICER OR MANAGER OF A DOMESTIC CORPORATION OR LIMITED LIABILITY COMPANY.** In any action against a defendant who is or was an officer, director or manager of a domestic corporation or domestic limited liability company where the action arises out of the defendant's conduct as such officer, director or manager or out of the activities of such corporation or limited liability company while the defendant held office as a director, officer or manager.

(9) **TAXES OR ASSESSMENTS.** In any action for the collection of taxes or assessments levied, assessed or otherwise imposed by a taxing authority of this state after July 1, 1960.

(10) **INSURANCE OR INSURERS.** In any action which arises out of a promise made anywhere to the plaintiff or some 3rd party by the defendant to insure upon or against the happening of an event and in addition either:

(a) The person insured was a resident of this state when the event out of which the cause of action is claimed to arise occurred; or

(b) The event out of which the cause of action is claimed to arise occurred within this state, regardless of where the person insured resided.

(11) **CERTAIN MARITAL ACTIONS.** In addition to personal jurisdiction under sub. (1) and s. 801.06, in any action affecting the family, except for actions under ch. 769, in which a personal claim is asserted against the respondent commenced in the county in which the petitioner resides at the commencement of the action when the respondent resided in this state in marital relationship with the petitioner for not less than 6 consecutive months within the 6 years next preceding the commencement of the action and the respondent is served personally under s.

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continued

801.11 The effect of any determination of a child's custody shall not be binding personally against any parent or guardian unless the parent or guardian has been made personally subject to the jurisdiction of the court in the action as provided under this chapter or has been notified under s. 822.05 as provided in s. 822.12

(12) **PERSONAL REPRESENTATIVE.** In any action against a personal representative to enforce a claim against the deceased person represented where one or more of the grounds stated in subs. (2) to (11) would have furnished a basis for jurisdiction over the deceased had the deceased been living and it is immaterial under this subsection whether the action had been commenced during the lifetime of the deceased.

(13) **JOINDER OF CLAIMS IN THE SAME ACTION.** In any action brought in reliance upon jurisdictional grounds stated in subs. (2) to (11) there cannot be joined in the same action any other claim or cause against the defendant unless grounds exist under this section for personal jurisdiction over the defendant as to the claim or cause to be joined.

Seminal Case

Zerbel v. H. L. Federman & Co., 179 N.W.2d 872 (Wis. 1970) (setting forth five tests in determining whether requirements of fair play and substantial justice are met in an application of Wisconsin's long-arm statute, including: (1) quantity of the contacts, (2) nature and quality of the contacts, (3) source and connection of the cause of action with those contacts, (4) interest of the forum state, and (5) convenience with respect to defendant).

Contract Case

L.B. Sales Corp. v. Dial Mfg., Inc., 593 F. Supp. 290 (E.D. Wis. 1984) (finding court had jurisdiction over defendant in breach of contract action when nonresident defendant initiated negotiations leading to contract with Wisconsin plaintiff and where services to be provided under contract were to occur in Wisconsin).

Business Tort Case

Pavlic v. Woodrum, 486 N.W.2d 533 (Wis. Ct. App. 1992) (concluding that out-of-state defendant did not carry on solicitations in Wisconsin for purpose of long-arm statute by mailing stock certificates to a Wisconsin investor because

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defendant did not receive any financial benefit from solicitation and the act in question was merely ministerial).

Internet Case

PKWare, Inc. v. Timothy L. Meade & Ascent Solutions, 79 F. Supp. 2d 1007 (E.D. Wis. 2000) (holding that court had general jurisdiction over out-of-state software programmer in breach of contract action where, among other considerations, the programmer operated an Internet website with an on-line store where users including Wisconsin residents, can place orders to purchase the programmer's software).

Wyoming Long-Arm Statute

WY ST § 5-1-107 (2003)

§ 5-1-107. Personal Jurisdiction; service of process outside state.

(a) A Wyoming court may exercise jurisdiction on any basis not inconsistent with the Wyoming or United States Constitution.

(b) When the exercise of personal jurisdiction is authorized by this section, service may be made outside this state and proved according to the Wyoming Rules of Civil Procedure or any order of the court.

Seminal Case

First Wyoming Bank, N.A. v. Trans Mountain Sales & Leasing, Inc., 602 P.2d 1219 (Wyo. 1979) (noting that legislature intended to extend state court jurisdiction to constitutional limit).

Contract Cases

Chamberlain v. Ruby Drilling Co., Inc., 986 P.2d 846 (Wyo. 1999) (concluding that exercise of personal jurisdiction over nonresident defendant was proper where it contracted with a Wyoming company to perform services in Wyoming and action for breach of contract arose from those services).

Business Tort Case

Dobbs v. Chevron U.S.A. Inc., 39 F.3d 1064 (10th Cir. 1994) (holding that claims for tortious interference with contract and prospective business advantage were properly dismissed for lack of personal jurisdiction where defendants had not maintained systematic and continuous business contacts and had not purposely availed themselves of privileges offered by the state).

Internet

No reported decisions to date.

Vedder Price Litigation Practice

Vedder, Price, Kaufman & Kammholz, P.C.'s litigation attorneys handle client matters in trial and appellate courts, before administrative agencies, and in arbitration and other alternative dispute resolution contexts. When advantageous to larger or more complex cases, trial attorneys work closely with fellow Vedder Price intellectual property or corporate attorneys in various substantive legal areas. While the general philosophy is toward minimal staffing at levels necessary to achieve effective and efficient results, the litigation practice area has the resources to staff the most complex litigation matters and has substantial experience in litigating lengthy multiparty cases involving computerized depositions, massive document management and related sophisticated discovery and trial techniques. Vedder Price trial counsel are also experienced in working in partnership with corporate counsel on litigation matters and often work as co-counsel on litigation matters where time permits corporate counsel to be an active participant in day-to-day management of case matters.

The litigation practice group provides cost-effective and efficient legal services regardless of the size of the matter and continuously updates clients with respect to estimated and actual expenses of litigation. Over the years, Vedder Price's trial attorneys have been involved in a significant number of cases that have shaped the course of the law at the local, state and national levels.

In addition to general business litigation experience, Vedder Price's litigators have special knowledge in a number of areas, including the following:

Commercial Litigation

The firm has numerous attorneys engaged in the litigation of a wide range of general corporate and commercial disputes. Vedder Price attorneys are involved in all types of commercial cases including breach of contract, Uniform Commercial Code, failed joint venture, shareholder disputes and similar causes of action arising from the transaction of business by our clients. Several of our litigation counsel have a depth of experience in franchise litigation in a variety of industries.

Additionally, Vedder Price has a number of attorneys who concentrate on the litigation of commercial matters such as those listed below in various specialty areas.

Financial Institutions Litigation

The firm represents financial institutions in defense of individual and consumer class action litigation involving alleged violations of federal and state statutes arising out of mortgage banking, credit card practices, automobile loans, insurance, interest calculations and related matters. In addition, the firm serves as national counsel to financial institutions and coordinates multiparty fraud investigations and related litigation. The firm also represents financial institutions in stock valuation cases, proceedings against state and federal regulatory agencies, legal actions involving defaults on commercial loans, lender liability actions, commercial contract actions and other business and regulatory banking litigation. Vedder Price litigation attorneys routinely counsel clients on litigation avoidance, and keep firm clients informed of new legislation and litigation trends and developments.

Securities Litigation

Vedder Price has actively engaged in the litigation and arbitration of numerous securities cases, including the prosecution or defense of companies and individuals in connection with claims involving the sale of unregistered securities, fraud in connection with the purchase or sale of securities, broker-dealer responsibilities, and insider trading. The firm also defends individuals and corporations in class-action litigation involving claims under various federal securities statutes.

Construction Litigation

Vedder Price's litigators have extensive experience representing contractors, subcontractors, building owners and architects in a wide variety of matters, including drafting of contracts and counseling on litigation avoidance. They also provide representation in federal and state courts as well as alternative dispute resolution forums in connection with litigation or claims arising out of the construction process, including breach of contract claims and mechanics' lien claims.

Environmental Litigation

Vedder Price's environmental litigation practice represents clients in negotiations and litigation before federal and state environmental regulatory agencies. Attorneys in the firm advise clients on compliance with these laws and regulations and apprise them of regulatory developments affecting their businesses.

Intellectual Property Litigation

The firm regularly represents clients in patent, trademark, copyright and trade secret litigation and intellectual property matters. Vedder Price has been successful in enjoining the misappropriation of proprietary information as well as the theft of key employees and customer lists.

Tort and Products Liability

Firm shareholders have extensive experience and depth of expertise in defending clients in a broad range of personal injury litigation. We have represented clients in fen-phen class action litigation, breast implant litigation in MDL proceedings, mass tort litigation over alleged trichloroethylene contamination of groundwater, and numerous individual lawsuits over silicosis, asbestos, benzene, collagen, and other hazardous materials. The firm has been engaged as national, regional and local trial counsel for product manufacturers in a variety of industries. Firm attorneys have represented industrial equipment manufacturers, major electrical equipment manufacturers, major household appliance and appliance component manufacturers, outdoor garden and snow removal equipment manufacturers, power tool equipment manufacturers, automobile manufacturers and chemical and oil industry members in toxic tort and chemical exposure litigation, as well as a broad range of personal injury defense litigation. In fulfillment of this work, our attorneys have tried cases around the country.

Professional Liability Litigation

The firm has a wealth of experience in defending accountants, attorneys and corporate directors and officers in a wide variety of civil liability claims, as well as coverage claims with their liability insurers. Over the past 15 years, the firm's attorneys have defended over 200 such claims in both court arbitration and mediation proceedings and have advised professionals and their insurers on ways to avoid and/or mitigate liability claims.

Antitrust and Unfair Competition Litigation

The firm represents businesses and individuals with respect to federal and state antitrust, trade regulation and unfair competition laws in civil and criminal actions before federal and state courts and administrative agencies. Attorneys practicing in this area have litigated matters involving mergers, pricing practices, licensing agreements, marketing and distribution, discriminatory pricing, refusals to deal and

comparable areas regulated by federal and state antitrust and trade regulation laws, as well as common law relating to unfair competition.

Insurance Litigation

Vedder Price's trial attorneys have counselled and litigated on behalf of the firm's corporate and individual clients as well as insurance companies with respect to literally all facets of insurance coverage at the primary and excess insurance levels. The firm also represents clients on a wide range of insurance-related issues, including antitrust and unfair trade/insurance practices, class action litigation, defense of professionals and other insureds under liability policies, counseling, labor and employment, employee benefit plans, and occupational safety and health.

Health Law Litigation

The firm's extensive health law practice has resulted in significant litigation experience in the areas of government regulation, including antitrust issues and third-party reimbursement. Vedder Price's litigators have extensive experience before a variety of governmental bodies in connection with certificates of need, state licensure, medicare and medicaid reimbursement and federal and state accreditation programs. On behalf of its medical specialty clients, the firm has been involved in antitrust and other health law issues at the cutting edge of the law.

Real Estate Litigation

In addition to representing firm clients before zoning boards, planning commissions and the like, the firm has extensive experience in the areas of foreclosure and condemnation proceedings as well as challenging, in court, the conduct of cities and villages in connection with zoning decisions, taxing policies and comparable land development issues.

RICO Litigation

Vedder Price's trial attorneys have defended and prosecuted numerous claims of violation of the Racketeering Influenced Corrupt Organizations Act in various courts throughout the United States. The firm has handled RICO claims arising from lending activities, insurance activities, securities sales, land development and other business transactions.

Criminal Litigation

The firm is called upon to represent its corporate clients, their employees and other individuals in connection with white-collar criminal charges. The attorneys who practice in this area represent clients called before grand juries in investigations brought by various state and federal law enforcement agencies and at trial.

Employment Litigation

The firm represents corporate clients in virtually all aspects of the employer/employee relationship, frequently drawing on the experience of attorneys in the labor area. Vedder Price's litigators are experienced in the areas of restrictive covenants in employment agreements, labor management relations, equal employment, wrongful discharge and Employee Retirement Income Security Act (ERISA) litigation.

Bankruptcy and Creditor Rights Litigation

The litigation practice area represents both corporate and individual clients, including financially troubled companies in bankruptcy and corporate reorganization matters. Secured creditors, unsecured creditors and creditors' committees are also represented in bankruptcy proceedings, including pre-bankruptcy planning, claims negotiations and bankruptcy litigation.

Tax Litigation

Vedder Price has extensive experience in representing taxpayers in the United States Tax Court as well as various courts of appeals and trial courts throughout the United States, including representation of taxpayers in the largest consolidated proceeding in the history of the United States Tax Court.