

TRANSPORTATION

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This article addresses the recent U.S. Supreme Court case, *Ford Motor Co. Montana Eighth Jud. Dist. Ct. Ford Motor Co. v. Bandemer No. 19-368, 2021 WL 1132515 (U.S. Mar. 25, 2021)*, in which it further defined the legal analysis of specific jurisdiction. This case is particularly important for the Transportation committee members because it has a significant impact on auto, aviation, trucking, rail, and other industries where clients may be “hailed into court” simply because their product traveled to a different state.

Ford Motor Company v. Montana Eighth Judicial District – “Specifically Dealing with Specific Jurisdiction”

ABOUT THE AUTHORS



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Susan Hofer serves as the Chair of the firm’s Aviation Litigation Practice Group. Susan has been litigating since 1988 and is licensed to practice law in North Carolina. She has also been admitted to practice Pro Hac Vice in many other jurisdictions. She joined the Cranfill Sumner & Hartzog LLP (CSH Law) team in 2014 and serves on the CSH Law COVID-19 Response Team. In addition to her extensive litigation experience, Susan is an FAA certificated pilot, holding commercial and certified flight instructor, small unmanned aircraft system, remote pilot, instrument airplane, and glider certificates. This combined expertise, along with a technical background from extensive patent research experience, enables her to effectively and successfully analyze and litigate aviation, products liability, and other technically-based cases.. She can be reached at shofer@cshlaw.com.

ABOUT THE COMMITTEE

This IADC Committee was formed to combine practices of aviation, rail, maritime with trucking together to serve all members who are involved in the defense of transportation including aviation companies (including air carriers and aviation manufacturers), maritime companies (including offshore energy exploration and production), railroad litigation (including accidents and employee claims) and motor carriers and trucking insurance companies for personal injury claims, property damage claims and cargo claims. Learn more about the Committee at www.iadclaw.org. To contribute a newsletter article, contact:



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The International Association of Defense Counsel serves a distinguished, invitation-only membership of corporate and insurance defense lawyers. The IADC dedicates itself to enhancing the development of skills, professionalism and camaraderie in the practice of law in order to serve and benefit the civil justice system, the legal profession, society and our members.

On March 25, 2021, the U.S. Supreme Court decided the Ford Motor Co. Montana Eighth Jud. Dist. Ct. Ford Motor Co. v. Bandemer cases¹ holding that the due process test for specific jurisdiction does not depend on a strict causation-only approach and a manufacturer's substantial business in forum States does support specific personal jurisdiction.

In the Ford decision, there were actually two cases addressed. The first lawsuit was filed against Ford in Montana where the deceased resided; the second lawsuit was filed in Minnesota where the injured plaintiff resided. Ford moved to dismiss both lawsuits for lack of personal jurisdiction. It argued that each state court had jurisdiction only if the company's conduct in the state had given rise to each of the plaintiff's claims. Ford argued that it must be proven that the company had designed, manufactured, or sold the part in the state where the particular vehicle was involved in the accident. Here, the cars were designed and manufactured elsewhere, and the company had originally sold the cars at issue outside the forum states (which were resold and relocated by the customers to the forum states).

The district court disagreed with Ford and held that **the plaintiff's claims and Ford's activities in the forum states were close enough for specific jurisdiction.** The U.S. Supreme Court affirmed. It noted that Ford is a global auto company, incorporated in

Delaware and headquartered in Michigan. It also markets, sells and services its cars in every state in the U.S., and specifically, Ford does "substantial business" in both Montana and Minnesota. The U.S. Supreme Court also referenced advertisements ("Built tough"), which aired in both Montana and Minnesota.

Recall the famous "International Shoe" case which held that personal jurisdiction requires that the defendant have such "contacts" with the forum State that "the maintenance of the suit" is "reasonable" and "does not offend traditional notions of fair play and substantial justice." International Shoe Co. v. Washington, 326 U. S. 310, 316-317; Ford at *1 (U.S. Mar. 25, 2021). The Court recognized two types of personal jurisdiction: general and specific jurisdiction. A state court may exercise general jurisdiction only when a defendant is "essentially at home" in the State. Specific jurisdiction covers defendants less intimately connected with a State, but has taken "some act by which [it] purposefully avails itself of the privilege of conducting activities within the forum State."

In the Ford case, Ford admitted it had "purposefully avail[ed] itself of the privilege of conducting activities" in both States, but argued that those activities were "insufficiently connected" to the lawsuits. The standard identified by case law requires the lawsuit must **"arise out of or relate to the defendant's contacts with the forum."**

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

Ford at *2 (emphasis added). The Court focused on the “or” connector and indicated that it expands the “causation” test. Here, the Court determined that Ford’s contacts in the forum were substantial and “related to” its contacts with the forum (i.e. its markets, sells and services its cars in the forum states) and therefore, both Montana and Minnesota had specific jurisdiction over Ford.

The Court concluded that there is a strong “relationship among the defendant, the forum, and the litigation”—the “essential foundation” of specific jurisdiction, despite the company having sold the specific cars involved in these crashes outside the forum States, with consumers later selling them to the States’ residents. The Court felt that this still treated Ford “fairly” because it conducted so much business in the two forum states. The Court also noted that this decision is consistent with the prior case law precedent.

Justice Kagan drafted the opinion with Justice Alito, Gorsuch, and Thomas concurred.

For clients in the auto, aviation, trucking, and rail industries, the holdings in these cases are significant because it makes more clear that manufacturers and parts manufacturers may be “hailed in” to court in states in more circumstances than just where it manufactured the product in question.

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