

TRANSPORTATION ALERT

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Recent United States Supreme Court Decision Further Constricts Use of General Personal Jurisdiction to “Forum Shop” Against Transportation Companies

By **Chad M. Sizemore**, Of Counsel
Tyler M. Jolley, Associate

The Supreme Court’s recent decision in *BNSF Ry. Co. v. Tyrrell* (*BNSF*), No. 16-405, 2017 WL 2322834, (U.S. May 30, 2017) demonstrates why personal jurisdiction should be examined in response to every lawsuit filed against a transportation company and its driver. In *BNSF*, the United States Supreme Court continued to constrict the concept of general personal jurisdiction, giving transportation companies and their drivers another tool to combat “forum shopping.”

In *BNSF*, two plaintiffs sued BNSF in Montana state court for work-related injuries they claimed to have sustained in North Dakota and South Dakota. Neither plaintiff was a citizen of Montana. BNSF was incorporated in Delaware and maintained its principal place of business in Texas. Nonetheless, the plaintiffs sued BNSF in Montana.

BNSF moved to dismiss the lawsuits arguing that it was not subject to general personal jurisdiction in Montana. In moving to dismiss, BNSF noted that its contacts with Montana were limited in view of its entire operations across the country. Specifically, BNSF had 2,061 miles of railroad track in Montana (about 6% of its total track mileage); employed some 2,100 workers there (less than 5% of its total workforce); generated less than 10% of its total revenue in Montana; and maintained only one of its 24 automotive facilities in Montana. Nevertheless, the Montana Supreme Court concluded that BNSF was “doing business” and “found within” Montana such that Montana courts could exercise general personal jurisdiction over BNSF.

The United States Supreme Court reversed the Montana Supreme Court’s decision. In a nearly unanimous decision, the Court emphasized that general personal jurisdiction must be analyzed carefully. The Court held that general personal jurisdiction should be limited to situations where a corporation’s contacts with the forum state are “so substantial and of such a nature as to render the corporation at home in that State.” Before exercising general personal jurisdiction, a court must examine the company’s operations as a whole to determine if its operations in that state are substantial, or scarce, in the overall light of the company’s footprint. The Court held that BNSF’s business in Montana did not suffice to permit the assertion of general personal jurisdiction over claims that were unrelated to any activity occurring in Montana.

General personal jurisdiction is important for transportation companies to examine because it can be used to “forum shop.” Plaintiffs may sue transportation companies in less-favorable venues or “judicial hellholes” to obtain larger verdicts. Expect plaintiffs asserting general personal jurisdiction to argue that a transportation company can be sued anywhere given the transient nature of the trucking business, required Department of Transportation registration, and federal regulations. Plaintiffs may try to distract with state-specific contacts such as: number of miles a motor carrier drives in or through a state; amount of money spent on fuel in that state; amount of money spent on repairs; frequency and number of loads picked up and delivered; number of roadside inspections; prior lawsuits; and the location of terminals.

As shown by the Supreme Court in *BNSF*, transportation companies should resist a plaintiff’s efforts to exert general personal jurisdiction. Carriers should aggressively assert that personal jurisdiction generally is proper only in the state where (a) an accident occurs, (b) it is incorporated, or (c) its principal place of business is located. In addition, personal jurisdiction against the driver must also be examined, if the driver is a party to the case.

If you have any questions regarding this alert, please contact one of the listed Roetzel attorneys.

Authors

Chad M. Sizemore
csizemore@ralaw.com

Tyler M. Jolley
tjolley@ralaw.com

Additional Contact

Bradley A. Wright
bwright@ralaw.com

Media Contact

Ashley McCool
amccool@ralaw.com

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