

Personal Jurisdiction: SCOTUS to Decide if Registration by Out-of-State Corporations Confers General Jurisdiction

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Litigation Alert

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On April 25, 2022, the U.S. Supreme Court granted certiorari of a case in which the Pennsylvania Supreme Court held that an out-of-state corporation's mere registration to conduct business within the Commonwealth did not subject the foreign company to general personal jurisdiction in Pennsylvania. In *Mallory v. Norfolk Southern Railway Company*, 266 A.3d 542 (Pa., December 22, 2021), the unanimous, bipartisan Pennsylvania Supreme Court exhaustively analyzed the history, nature and extent of general personal jurisdiction. In light of the past decade's U.S. Supreme Court rulings on personal jurisdiction, the Pennsylvania Court believed that the legislative "scheme of conditioning the privilege of doing business in the Commonwealth on the submission of the foreign corporation to general jurisdiction in Pennsylvania courts strips foreign corporations of the due process safeguards guaranteed" by the U.S. Constitution. In so holding, Pennsylvania joined the wide majority of courts in sister states which had ruled similarly.

General personal jurisdiction is the concept through which courts located in one state can assert personal jurisdiction against an out-of-state corporation for any manner of suit for which the court has subject matter jurisdiction, regardless of where the claim arises (within or outside of the forum state). The U.S. Supreme Court's rulings in *Daimler AG v. Bauman*, 571 U.S. 117, 134 S. Ct. 746, 187 L. Ed. 2d 624 (2014), and *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (2011) restricted the concept of general personal jurisdiction.

By granting certiorari in *Mallory*, the U.S. Supreme Court is signaling that at least four of its nine justices believe the issue is worth the Court's attention. Affirming the Pennsylvania decision would confirm the majority of states which previously ruled that registration by an out-of-state corporation cannot be a basis for general personal jurisdiction. On the other hand, if the U.S. Supreme Court were to overrule the Pennsylvania Court in *Mallory*, corporations would likely have to defend themselves against all manner of lawsuits in any and every state in which they register to conduct business. In short, a reversal would lead to an explosion of litigation tourism whereby plaintiff-attorneys file cases in pro-plaintiff county courts far from where the cause of action arose or from where the defendant-corporation exists.

As of the publication of this alert, the U.S. Supreme Court has yet to rule on a similar petition for writ of certiorari in *Cooper Tire & Rubber Company v. McCall*, 312 Ga. 422, 863 S.E.2d 81 (2021) wherein the Georgia court ruled that corporate registration is consent to general personal jurisdiction. The Court could grant certiorari in *Cooper Tire* and consolidate it with *Mallory*, but just as likely is that the eventual ruling in *Mallory* would render moot the need to rule in *Cooper Tire*.

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White and Williams continues to be in the vanguard on personal jurisdiction issues. You can read our previous alerts "U.S. Supreme Again Curbs Personal Jurisdiction for Out-of-State Corporations" and "Where Can Your Company Be Sued? An Update on All Things Personal Jurisdiction."

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questions.