STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1643

Heather Von St. James, et al.,
Respondents,

vs.

3M Corporation, et al.,
Defendants,

Ainsworth-Benning,
Appellant.

Filed July 29, 2008
Reversed
Wright, Judge

Ramsey County District Court
File No. C5-06-50535

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Considered and decided by Wright, Presiding Judge; Klaphake, Judge; and Collins, Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

WRIGHT, Judge

Appellant challenges the denial of its motion to dismiss for lack of personal jurisdiction, arguing that it lacks the minimum contacts required by due process. We reverse.

FACTS

Appellant Ainsworth-Benning Construction, Inc. (Ainsworth) is a South Dakota corporation based in Spearfish, South Dakota. It has conducted business in South Dakota, North Dakota, Wyoming, Nebraska, Montana, and Colorado. There is no evidence that Ainsworth has ever had business in or solicited business from Minnesota.

Respondent Heather Von St. James grew up in Spearfish, where her father, Ronald Rosedahl, was employed as a laborer with Ainsworth during the late 1970s and early 1980s. In 2005, Von St. James was diagnosed with mesothelioma, an asbestos-related cancer, allegedly caused by childhood exposure to her father's asbestos-covered work clothes. Von St. James and her husband brought this lawsuit alleging various theories of negligence, strict product liability, and breach of warranty.[1] Ainsworth moved to dismiss under Minn. R. Civ. P. 12.02(b), arguing that it lacked the minimum contacts with Minnesota necessary to establish personal jurisdiction. The district court denied Ainsworth's motion based on the jurisdictional-deposition testimony of Ainsworth's president, James Benning. This appeal followed.

[1] The other named defendants are not part of this appeal.

D E C I S I O N

Whether personal jurisdiction exists presents a question of law, which we review de novo. *Juelich v. Yamazaki Mazak Optonics Corp.*, 682 N.W.2d 565, 569 (Minn. 2004). Once personal jurisdiction has been challenged, it is the plaintiff's burden to prove that the forum state has personal jurisdiction over the defendant. *Id.* at 564-70. On appeal, we assume that the facts alleged to support personal jurisdiction are true, resolving the jurisdictional question in favor of retaining personal jurisdiction in doubtful cases. *Nw. Airlines, Inc. v. Friday*, 617 N.W.2d 590, 592 (Minn. App. 2000).

An assertion of personal jurisdiction over a nonresident defendant must be authorized by Minnesota's long-arm statute, Minn. Stat. § 543.19 (2006). *Id.* The long-arm statute permits Minnesota courts to assert personal jurisdiction over a defendant who commits an act outside Minnesota that causes an injury here. Minn. Stat. § 543.19, subd. 1(d). For the purpose of this appeal, Ainsworth concedes that its actions in South Dakota satisfy the long-arm statute's requirements.

Ainsworth's concession does not end our inquiry, however, because even if a defendant falls within the reach of the long-arm statute, a Minnesota court's power to exercise personal jurisdiction over a nonresident defendant is limited by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *Asahi Metal Indus. Co. v. Superior Ct.*, 480 U.S. 102, 108, 107 S. Ct. 1026, 1030 (1987); *Friday*, 617 N.W.2d at 592. To satisfy federal due-process standards, the defendant must "have certain minimum contacts with [the forum state] such that the maintenance of the suit

does not offend traditional notions of fair play and substantial justice." *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158 (1945) (quotation omitted).

Von St. James suggests that satisfying the long-arm statute necessarily satisfies the minimum-contacts requirement, citing caselaw in which we have described our statute's reach as "coextensive" with the Due Process Clause. *E.g.*, *Marshall v. Inn on Madeline Island*, 610 N.W.2d 670, 673 (Minn. App. 2000). But that language simply addresses the proposition that, when a case satisfies the Due Process Clause, it also satisfies the long-arm statute. *Compare The American Heritage Dictionary* 368 (3d ed. 1992) (defining coextensive as "[h]aving the same limits, boundaries, or scope") *with Valspar Corp. v. Lukken Color Corp.*, 495 N.W.2d 408, 411 (Minn. 1992) (holding that long-arm statute does not place limits on Minnesota's ability to exercise personal jurisdiction over nonresidents "*in addition to* those placed on its exercise by the Due Process Clause" (emphasis added)). Indeed, Von St. James can establish that the long-arm statute is satisfied if she establishes that applying it to Ainsworth complies with the Due Process Clause. But whether Ainsworth has the threshold contacts with Minnesota is a question of federal constitutional law that transcends an analysis of our state's long-arm statute. *See Friday*, 617 N.W.2d at 592 (observing that we simply apply federal caselaw on minimum contacts when analyzing most personal-jurisdiction questions); *Marshall*, 610 N.W.2d at 673 (stating that reach of our long-arm statute presents question of state law, but whether its application satisfies due process presents question of federal law).

The constitutional due-process inquiry focuses on the relationship among the defendant, the forum, and the litigation. *Shaffer v. Heitner*, 433 U.S. 186, 204, 97 S. Ct. 2569, 2580 (1977). The due-process standard requires that the defendant's contacts with the forum state be "such that he should reasonably anticipate being haled into court there." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474, 105 S. Ct. 2174, 2183 (1985) (quotation omitted). Minnesota courts use a five-factor test to determine whether an exercise of personal jurisdiction over a nonresident defendant is consistent with these requirements, evaluating (1) the quantity of the defendant's contacts with the forum state; (2) the nature and quality of those contacts; (3) the connection between the plaintiff's cause of action and those contacts; (4) Minnesota's interest in providing a forum; and (5) the convenience of the parties. *Juelich*, 682 N.W.2d at 570. Of these factors, the first three are the most important because they determine whether the defendant has established minimum contacts with Minnesota, which is the "constitutional touchstone" of the due-process analysis. *Asahi Metal*, 480 U.S. at 108-09, 107 S. Ct. at 1030; *Juelich*, 682 N.W.2d at 570. The last two factors determine "whether the exercise of jurisdiction is reasonable according to traditional notions of fair play and substantial justice." *Juelich*, 682 N.W.2d at 570.

The degree of the defendant's contacts with the forum state determines whether the defendant may be subject to general or specific personal jurisdiction. *Marshall*, 610 N.W.2d at 674 (citing *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 nn.8-9, 104 S. Ct. 1868, 1872 nn.8-9 (1984)). A forum state may exercise specific personal jurisdiction over a nonresident defendant when the defendant's contacts with the

forum state provide the basis for the plaintiff's cause of action. *Helicopteros*, 466 U.S. at 414 n.8, 104 S. Ct. at 1872 n.8. Specific personal jurisdiction may be exercised only if the defendant's contacts with the forum state are sufficiently connected with the plaintiff's particular claims. *See Int'l Shoe*, 326 U.S. at 317, 66 S. Ct. at 159 (stating that "the casual presence of the corporate agent or even . . . single or isolated items of activities in a state in the corporation's behalf are not enough to subject it to suit on *causes of action unconnected with the activities there*" (emphasis added)). General personal jurisdiction, by contrast, does not require any relationship between the plaintiff's claims and the defendant's contacts. *Helicopteros*, 466 U.S. at 415-16, 104 S. Ct. at 1872-73. But it may be asserted only if the nonresident defendant has such "continuous and systematic" contacts with the forum state that it can reasonably anticipate being haled into court on claims unrelated to its contacts there. *Id.* In the context of Minnesota's five-factor personal-jurisdiction test, specific personal jurisdiction requires the plaintiff to prove all three minimum-contact factors. By contrast, general personal jurisdiction permits the plaintiff effectively to disregard the third minimum-contact factor—the connection between the plaintiff's cause of action and the defendant's contacts with this state—if there is a sufficiently high showing of the first two factors.

Von St. James argues that she has established a prima facie case of minimum contacts based on evidence that (1) Benning has traveled via the Minneapolis/St. Paul International Airport on Ainsworth business; (2) Ainsworth may have used Minnesota subcontractors at some point; and (3) Ainsworth may have purchased products from Minnesota. Because these are neither continuous nor systematic contacts with

Minnesota, personal jurisdiction is unwarranted unless the record contains sufficient facts to support an exercise of specific personal jurisdiction. Thus, the record must establish a sufficient connection between these contacts and her cause of action. That is, Von St. James must establish that Ainsworth's contacts with Minnesota are somehow related to her having contracted mesothelioma as a result of inhaling asbestos particles clinging to her father's work clothes while he was an Ainsworth employee. From our review of the record, we conclude that she has not.

That Benning travelled through a Minnesota airport is unrelated to Von St. James's claim that she contracted mesothelioma by inhaling asbestos particles clinging to her father's work clothes. According to Benning's deposition, Minnesota was merely the point of departure, fortuitously made necessary by Spearfish's small size and remote location.[2] The only purpose of Benning's presence in Minnesota was to travel to meetings elsewhere.

That Ainsworth may have hired Minnesota subcontractors also is not sufficiently connected to Von St. James's case. As Von St. James correctly argues, a nonresident that purposefully avails itself of the benefits of doing business in Minnesota—and, therefore, of the protections of Minnesota law—reasonably can expect to be haled into court for injuries arising from the business it does here. *See Int'l Shoe*, 326 U.S. at 320, 66 S. Ct. at 160. ("The obligation which is here sued upon arose out of those very activities [in the

[2] Had Benning been served while waiting at the Minneapolis/St. Paul airport, of course, Ainsworth could have been subject to transitory jurisdiction under the rule of *Pennoyer v. Neff*, 95 U.S. 714 (1877) (permitting personal service of defendant while physically present in forum state).

forum state]. It is evident that these operations establish sufficient contacts or ties with the state of the forum to make it reasonable and just according to our traditional conception of fair play and substantial justice to permit the state to enforce the obligations which appellant has incurred there."). In his deposition, Benning "speculate[d]" that Ainsworth, as a general contractor, might have used a Minnesota subcontractor to do some elevator work. But he also testified that Ainsworth required elevator work infrequently and that such work would not have been performed in Minnesota. Moreover, whether Ainsworth contracted with Minnesota residents to perform work in South Dakota is immaterial to the personal-injury litigation at issue here. *Cf. Marshall*, 610 N.W.2d at 676 (recognizing that "entering into a contract with a Minnesota resident can justify the exercise of specific jurisdiction but only where the dispute involves the contract").

That Ainsworth may have purchased products from Minnesota bears an equally tenuous relationship to the issues here. Von St. James tethers her argument to the economic benefit that Ainsworth presumably received from these purchases. Indeed, a defendant who deliberately places goods in the stream of commerce flowing into the forum state should reasonably anticipate being haled into court by consumers there. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-98, 100 S. Ct. 559, 567 (1980). But Ainsworth's contacts, which amount to standing downstream and receiving goods that have flowed out of Minnesota, are of a qualitatively different nature. *See Marshall*, 610 N.W.2d at 675 (distinguishing "contacts by purchasers of goods and services from Minnesota residents and contacts by sellers of goods and services to

Minnesota residents"). Even if Von St. James's illness were caused by products that had been purchased from Minnesota, her illness is unrelated to the transaction itself. Rather, it was Ainsworth's subsequent use of those products in South Dakota that Von St. James alleges exposed her to asbestos.

Moreover, there is no record evidence of what, if anything, Ainsworth might have purchased from Minnesota or when Ainsworth might have purchased it. Rather, Von St. James's argument is based on Benning's isolated statement that Ainsworth had "probably bought products from Minnesota" over the years. In other asbestos cases, we have inferred that the plaintiff's illness was caused by some of the asbestos-containing products the defendant had placed in the stream of commerce directed at Minnesota. *E.g.*, *Stanek v. A.P.I., Inc.*, 474 N.W.2d 829, 834-35 (Minn. App. 1991) (concluding that minimum contacts existed despite uncertainty of plaintiff's asbestos exposure to particular defendant's products when defendant was a miner and wholesaler of raw asbestos fiber who had made direct sales to Minnesota), *review denied* (Minn. Oct. 31, 1991). But such an inference is not reasonable on the instant record. As Ainsworth maintained at oral argument, on this record, it is no more reasonable to infer from Benning's statement that Ainsworth bought raw asbestos from Minnesota during the years it employed Rosedahl as it is to infer that Ainsworth bought office supplies from Minnesota long after he left.

The weakness of Ainsworth's contacts here underscores the unreasonableness of exercising personal jurisdiction when applying Minnesota's five-factor test. Although

the minimum-contacts factors and reasonableness factors are distinct, they also are interdependent to some extent:

> [T]he reasonableness prong of the due process inquiry evokes a sliding scale: the weaker the plaintiff's showing on [minimum contacts], the less a defendant need show in terms of unreasonableness to defeat jurisdiction. The reverse is equally true: an especially strong showing of reasonableness may serve to fortify a borderline showing of [minimum contacts].

Juelich, 682 N.W.2d at 570-71 (alteration in original) (quotation omitted). Von St. James acknowledges that her exposure to asbestos occurred in South Dakota. Indeed, Von St. James did not move to Minnesota until 1998, which, based on the allegations, would have been approximately 15 years after her father ceased working at Ainsworth. Although we are mindful of the difficulties that Von St. James faces in litigating her claim elsewhere as her illness advances, this does not alter our analysis when the only common connection among Ainsworth, Minnesota, and this lawsuit is the fact that Von St. James moved here before her mesothelioma manifested itself. "The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum [s]tate." *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S. Ct. 1228, 1239-40 (1958). Although we regret the hardship that litigating these claims in another state may cause Von St. James, under the governing constitutional standards, Minnesota is not an appropriate forum for her action against Ainsworth.

Reversed.