

Recent Personal Jurisdiction Decision in St. Louis City Finds No General Jurisdiction When Defendant Had No Contacts in Forum at Time of Filing Suit

On January 19, 2017, Judge Joan Moriarty of the 22nd Judicial Circuit of Missouri, granted Conwed Corporation's motion to dismiss for lack of personal jurisdiction in the case of *Michael McGill & Tatyana Bobrova v. The Boeing Company, et al.*, 1622-CC00812.

At the hearing for this motion, Conwed argued that no personal jurisdiction existed as there was no evidence that the Plaintiff worked with a Conwed product in Missouri. Plaintiff only testified to using Conwed ceiling tiles in Kansas, not Missouri. Additionally, Conwed is not a Missouri company, and it has not sold products in Missouri nor has it had a registered agent in Missouri since 1985.

Plaintiffs argued that Conwed used to have a registered agent in Missouri, which should be sufficient for consent to jurisdiction. Additionally, Conwed used to have a warehouse and sales people in Kansas City, Missouri, so it had contacts with the state. Plaintiff also performed much of his carpentry work in Missouri, so he likely used Conwed tiles in Missouri. Finally, Plaintiffs argued that Conwed failed to warn of the dangers of its product across the country, and this action included failing to warn in Missouri; therefore, the Court has personal jurisdiction.

The Court held that there was no personal jurisdiction over Conwed. The Court noted Conwed is a Delaware corporation with its principal place of business in New York. In reviewing specific jurisdiction, the Plaintiff testified he did not know if he installed any ceilings in Missouri. Thus, the Court held that Plaintiffs did not meet their burden in showing their claim "arises out of or relates to" Conwed's contacts in Missouri; consequently, there was no specific jurisdiction over Conwed.

The Court also reviewed the possibility of general jurisdiction over Conwed stating a "court has 'general jurisdiction' over an out-of-state defendant if the defendant's connections with the state are systemic, continuous and substantial enough to furnish personal jurisdiction over the defendant based on any cause of action-even one that is unrelated to the defendant's contacts with the forum." *Bryant v. Smith Interior Design Grp., Inc.*, 310 S.W.3d 227, 232 (Mo. banc 2010)

The Court stated, prior to 1985 when Conwed did "regular and systematic business" in Missouri, Conwed would have been amenable to suit in Missouri. However, as Conwed has not done business in Missouri for 30 years, the Court did not believe Conwed had "systemic, continuous, and substantial connections with Missouri sufficient to furnish personal jurisdiction in this case." With no specific or general personal jurisdiction over Conwed, the Court granted its motion to dismiss.

It is worth noting that the Court continues to rely on the "systematic and continuous" contacts language of the pre-*Daimler* Missouri case *Bryant v. Smith Interior Design Grp., Inc.* in its general personal jurisdiction analysis, despite the United States Supreme Court stating the "inquiry . . . is not whether a foreign corporation's in-forum contacts can be said to be in some sense "continuous and systematic," it is whether that corporation's "affiliations with the State are

so ‘continuous and systematic’ as to render [it] essentially at home in the forum State.” *Daimler AG v. Bauman*, 134 S.Ct. 746, 750 (2014) citing *Goodyear Dunlop Tires Operations, S.A. v. Brow*, 131 S.Ct. 2846, 2951. (2011).