

No Injury In-State, No Headquarters, No Problem: Mallory Expands Plaintiffs' Options for Jurisdictions in Which They May Sue a Company

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The United States Supreme Court recently handed down a decision with significant implications on which courts can exercise jurisdiction over corporate defendants. In other words, in which states can a corporation be sued for its conduct? For over 50 years, corporate defendants understood that they could be sued in any state where an injury occurred or in the state where the company has its principal place of business or is headquartered. This concept is referred to as personal jurisdiction, and it ensures that lawsuits are sufficiently connected to the selected state. The Supreme Court's new ruling on this issue calls into question these age-old rules.

In *Mallory v. Norfolk Southern*, a freight-car mechanic filed a lawsuit in Philadelphia after developing cancer. The mechanic alleged that in his more than two decades of railroad work in Ohio and Virginia, he was exposed to carcinogenic chemicals which caused his colon cancer. Although nearly none of the worker's allegations had a connection with Philadelphia, the Supreme Court held that jurisdiction was proper there because Norfolk Southern had consented to being sued in Pennsylvania by registering to do business in the Commonwealth as required by Pennsylvania statute. The jurisdictional theory is known as "consent by registration." Norfolk Southern challenged the law as violating the due process clause of the 14th Amendment to the United States Constitution. The Pennsylvania Supreme Court agreed with Norfolk Southern and ruled the law was unconstitutional.

The United States Supreme Court sided with the mechanic and ruled that consent by registration did not violate due process, and the Pennsylvania law was not unconstitutional. Justice Gorsuch, writing for the court, held that the century-old Supreme Court decision in *Pennsylvania Fire Ins. Co. of Philadelphia v. Gold Issue Mining & Milling Co.* was still good law and had not been effectively overruled by the 1945 decision *International Shoe v. Washington* as many practitioners and lower courts had believed.

The decision may only be a temporary victory, however. As Justice Alito noted in his concurrence, the Pennsylvania law may violate the "dormant" commerce clause of the Constitution, which prohibits states from unduly restricting the national economy. The United States Supreme Court did not address that issue in *Mallory*, leaving it open for further challenge.

In the meantime, businesses should be aware that they may be hauled into court in Pennsylvania if they are registered to do business in the Commonwealth. Critics contend this rule will encourage "forum shopping" by plaintiffs who seek to sue in the most favorable jurisdiction. Plaintiffs may be incentivized, for example, to choose one jurisdiction over another due to the existence of more plaintiff-friendly laws or historically large jury verdicts.

Our attorneys are qualified to handle the full range of litigation filed in Pennsylvania. If you have any questions regarding the Supreme Court's recent decision, please reach out to [Luke Weber](#) or any member of Barley Snyder's [Litigation Practice Group](#).

Summer Associate Curtis Tokach assisted in the drafting of this client alert. To learn more about our summer associate program, [click here](#).

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