

**MISSOURI CIRCUIT COURT  
TWENTY-SECOND JUDICIAL CIRCUIT  
(City of St. Louis)**

ALAN EDWARD MOORE, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 1722-CC00708
vs.	)	
	)	Division No. 18
ABB INC, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM, ORDER AND JUDGMENT

The Court has before it Defendant Genuine Parts Company's Motion to Dismiss for Lack of Personal Jurisdiction.

For many years, this Circuit, comprising the City of St. Louis, has hosted asbestos litigation involving scores of defendants and myriad plaintiffs. The 22nd Circuit Court established a special "asbestos docket," presided over initially by Ryan, J., and later by this Court and other judges, to ensure consistent and expeditious pretrial proceedings and prompt trials. Although the special docket has been abandoned, counsel for plaintiffs and defendants have in general maintained a very cooperative, orderly and (for the court system) efficient practice of prosecuting and defending the actions. Jurisdiction of these claims was seldom questioned.

However, over the years, the character of the asbestos cases in the Circuit has changed (from this Court's perspective anyway). Gone are the plaintiffs who were exposed in the course of construction or manufacturing work at sites in Missouri. In their place, new generations of plaintiffs emerged, alleging exposure of themselves or their decedents in a wide variety of settings,

involving a range of products from floor or ceiling tile to brake linings. Many of these plaintiffs and the places where they were exposed to asbestos have or had little or no connection with Missouri.

Along with new generations of plaintiffs came a new lineup of defendants. Bankruptcy having claimed many if not most of the universe of defendants who manufactured or distributed asbestos insulation products, the new defendants included parties who utilized asbestos in the kinds of products mentioned above, and many others. The connection of the latter waves of litigation to Missouri has become much attenuated. Still, jurisdiction was usually conceded, primarily because most of the defendants did sufficient business in Missouri that it was seemingly reasonable that they be sued in Missouri, and it was thought that joinder of any number of defendants was permissible if at least one was subject to jurisdiction in Missouri. Missouri's joinder and venue rules combined to maintain this Circuit's role in asbestos litigation.

But legal times have changed along with the character of asbestos litigation. Both the Supreme Court of Missouri and the Supreme Court of the United States have refined the jurisdictional analysis in claims prosecuted by out-of-state plaintiffs against defendants whose conduct with regard to the plaintiffs has no connection with the plaintiffs' selected forum. Perhaps the first straw in the wind was J. McIntyre Machinery, Ltd. v. Nicastro, 564

U.S. 873 (2011), rejecting the "stream of commerce" notion of personal jurisdiction in products liability cases. Then came *Daimler AG v. Bauman*, 134 S.Ct. 746 (2014), rejecting the theory of general or "all purpose" jurisdiction based on the extent of a nonresident corporate defendant's contacts and presence in a state, without regard to the plaintiff's claim.

Finally, both the Supreme Court of the United States and the Supreme Court of Missouri have reiterated and reinforced the basic principles of due process limiting state jurisdiction over claims by a nonresident plaintiff against a nonresident corporate defendant. In brief, a state court does not have specific or general personal jurisdiction over an action by a plaintiff, who was and is not a resident nor injured in the state, against a nonresident corporation which is not incorporated in or has its principal place of business in the state. *Bristol-Myers Squibb Co. v. Superior Court*, 137 S.Ct. 1773 (2017); *State ex rel. Norfolk Southern Ry. Co. v. Dolan*, 512 S.W.3d 41 (Mo.banc 2017). Mere license to do business in Missouri is not sufficient to confer general personal jurisdiction over a nonresident corporation. *State ex rel. Norfolk Southern Ry. Co. v. Dolan*, 512 S.W.3d at 52.

Plaintiffs brought the instant action against numerous defendants alleging that Alan Edward Moore, Jr. developed mesothelioma due to exposure to asbestos. Plaintiffs allege that Mr. Moore was first exposed to asbestos in the 1950s in the state of Virginia, and was further exposed in the 1960s and 1970s in

Virginia, Maryland, and Washington, D.C. In their petition, plaintiffs allege, "Each Defendant is amenable to suit in the State of Missouri by reason of having sold, distributed and/or installed the aforementioned asbestos-containing products in Missouri or by reason of having placed the same into the stream of commerce for use in Missouri, and/or by maintaining a registered agent in Missouri." Plaintiffs do not allege that Mr. Moore was exposed to any product of defendant Genuine Parts Company ("GPC") in Missouri.

Defendant GPC argues that it must be dismissed because it is not subject to specific or general personal jurisdiction in Missouri. The Court permitted limited discovery on the issue of personal jurisdiction. The evidence of record shows that GPC manufactures and distributes automotive parts. Formerly, some of those parts, such as brake kits, contained asbestos. GPC at one time had a distribution center in Missouri, which is now closed, but at no time did any of GPC's products traverse from Missouri to Virginia, Maryland or the District of Columbia, where Mr. Moore lived and worked. Mr. Moore's exposure to automotive products allegedly occurred in the course of repairing his own or friends' automobiles. Petition, ¶2.

When deciding on a motion to dismiss for lack of personal jurisdiction, the allegations of the petition must be given an intendment most favorable to the existence of the jurisdictional fact. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297

(1980). Absent one of the traditional territorial bases of personal jurisdiction, presence, domicile or consent, a court may assert personal jurisdiction over a defendant only if certain minimum contacts between Missouri and the defendant are established. *Bryant v. Smith Interior Design Grp., Inc.*, 310 S.W.3d 227, 232 (Mo. banc 2010). When personal jurisdiction is contested, it is the plaintiff's burden to show "that defendant's contacts with the forum state were sufficient." *Id.* (citing *Angoff v. Marion A. Allen, Inc.*, 39 S.W.3d 483, 486 (Mo. banc 2001)).

First, as noted above, maintaining a registered agent in Missouri does not establish personal jurisdiction over GPC. *State ex rel. Norfolk S. Ry. Co. v. Dolan*, supra. Missouri cases which formerly held or indicated that a corporation which had a registered agent in Missouri and did substantial business in Missouri was subject to personal jurisdiction in Missouri, e.g., *State ex rel. K-Mart Corp. v. Holliger*, 986 S.W.2d 165 (Mo. banc 1999), are no longer good law.

Next, the Court finds that GPC is not subject to personal jurisdiction in Missouri by reason of having sold, distributed and/or installed the aforementioned asbestos-containing products in Missouri or by reason of having placed the same into the stream of commerce for use in Missouri. GPC is a Georgia corporation with its principal place of business in Georgia. GPC asserts that only about 1.3% of its employees nationwide work in Missouri; only 1.9% of GPC-owned automotive parts stores are located in Missouri; and

1.2% of real properties owned by GPC are in Missouri. There is no allegation nor evidence of record that Mr. Moore was exposed to any GPC product manufactured or sold in Missouri.

A court with general jurisdiction may hear *any* claim against that defendant, even if all the incidents underlying the claim occurred in a different State. *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. at 1780. However, “only a limited set of affiliations with a forum will render a defendant amenable to” general jurisdiction in that State. *Id.*

Under the United States Supreme Court’s analysis in *Bristol-Myers Squibb* and *BNSF Railway Co. v. Tyrrell*, 137 S.Ct 1549 (2017), the relevant inquiry for general jurisdiction is no longer the magnitude of the corporate defendant’s in-state contacts, but whether the corporate defendant is “essentially at home” in the state. A corporation that operates in many states cannot be “at home” in all of them, and in-state business does not suffice to permit the assertion of general jurisdiction over claims that are unrelated to any activity occurring in the state.

Plaintiffs have also failed to allege facts that would give rise to specific jurisdiction. “Specific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.” *Bristol-Myers Squibb*, 137 S. Ct. at 1780. “When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant’s unconnected activities in the State.” *Id.* at 1781.

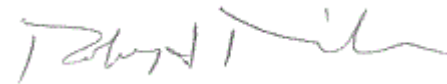
Because the claims against GPC in this matter are unrelated to any activity within the state of Missouri, the Court finds the Motion to Dismiss for Lack of Personal Jurisdiction must be granted.

ORDER AND JUDGMENT

In light of the foregoing, it is

ORDERED that Defendant Genuine Parts Company's Motion to Dismiss for lack of personal jurisdiction be and the same is hereby granted, and plaintiffs' claims against Defendant GPC are dismissed without prejudice for lack of personal jurisdiction, at plaintiffs' cost.

SO ORDERED:



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Robert H. Dierker  
Circuit Judge

Dated: October 31, 2017  
e/c Counsel