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Recent Developments in US AVIATION law: *Ford Motor Co. v. Montana Eighth Judicial District Court*

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FORD background and decision

- Decided by US Supreme Court in March 2021
- Plaintiffs — individuals injured in car accidents in Montana involving Ford vehicles — brought product liability claims against Ford in the state
- Though Ford admittedly did extensive business in Montana, it did not design, manufacture, or sell the accident vehicles in the state. Because its activities in the state did not *cause* plaintiffs' injuries, Ford argued it was not subject to jurisdiction there
- **Held:** Defendants are subject to personal jurisdiction for claims that “arise out of or relate to” their activities in the forum
- Ford’s advertising, dealerships, repair services, and sales in Montana created a market for the vehicles involved in the accidents, and were therefore “related enough” to support jurisdiction for plaintiffs’ claims
- **No causal link required between (1) defendant’s in-state activities and (2) plaintiff’s claim**



Key questions following FORD

- *If a causal link isn't required, what limits exist on jurisdiction over out-of-state defendants?*
- *When are a defendant's contacts "related enough"?*
- *Does Ford apply to contract disputes? Or only to torts?*

Answers aren't yet clear, but recent cases applying *Ford* provide some guidance



Good news

Federal courts have generally limited *Ford's* holding to cases with similar facts:

- *Esquivel v. Airbus Americas* (N. Dist. Illinois 2022)
 - After discovery, court found no jurisdiction over injury claims against airframe manufacturer where plaintiff failed to show relationship between her claims and defendant's extensive in-state activities
- *LNS Enterprises LLC v. Continental Motors, Inc.* (9th Cir. 2022)
 - No jurisdiction over injury claims against aircraft engine manufacturer where defendant's contacts with forum were insubstantial and case did not "arise out of or relate to" those contacts
- *Hardin v. United Airlines, Inc.* (S. Dist. Texas 2022)
 - No jurisdiction over employment law claims against airline where claims do not "arise out of or relate to" the airline's extensive contacts with the forum



Not so good news

State courts (and a few federal courts) have taken a broader view of *Ford*:

- *Duffy v. Kaman Aerospace* (Dist. Montana 2022)
 - Jurisdiction found over third-party wrongful death claims against helicopter manufacturer based on defendant's contacts with in-state operator regarding helicopter involved in accident
- *LG Chem, Ltd. v. Lemmerman* (Georgia St. Ct. 2021)
 - Jurisdiction found over personal injury claims against battery manufacturer that advertised products in forum state where plaintiff was injured
 - Defendant's in-state contacts *less* extensive than those in *Ford*
- **Expect to see *Ford* play out in different ways in different courts until Supreme Court gives further guidance**



Life after FORD : 3 Takeaways

Some expansion of jurisdiction over out-of-state defendants:

- Less impact than initially feared, but expect some expansion of jurisdiction over out-of-state defendants — especially in state courts

Prepare for jurisdictional discovery:

- *Ford's* emphasis on facts may trigger increased (and increasingly expensive) jurisdictional discovery into defendant's in-state activities

"Purposeful availment" still matters:

- Courts will focus on defendant's "purposeful" contacts with forum: Did defendant cultivate a market for its products in the state?
- Where are our insureds doing business?