

SCOTUS Case May Signal Significant Shift in Where Companies Can Be Sued



On April 25, 2022, the United States Supreme Court agreed to review a case involving a former Norfolk Southern Railway employee who sued the company in Pennsylvania. Neither the parties nor the case had any connection with Pennsylvania, but the state's consent-by-registration framework provided that corporations that register to do business in Pennsylvania consent to be sued there. The Pennsylvania Supreme Court struck down the consent-by-registration framework as unconstitutional. The U.S. Supreme Court's agreement to hear the case may signal a significant shift in where companies can be sued.

If a corporation is subject to general jurisdiction in a state, it may be sued there by any person for any reason. In its decisions in *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915 (2011) and *Daimler AG v. Bauman*, 571 U.S. 117 (2014), the Supreme Court limited general jurisdiction to states where (1) a corporation is incorporated and (2) a corporation is headquartered. But several states, including Pennsylvania, have sidestepped that limitation with consent-for-registration statutory schemes, which subject corporations that register to do business in those states to general jurisdiction there.

The outcome of this case will be significant no matter which party prevails. If the Court affirms the Pennsylvania Supreme Court's ruling and continues to limit general jurisdiction, corporations will no longer risk being hauled into court into court in a state simply by registering to do business there.

If, on the other hand, the Court upends its prior decisions and finds consent-by-registration statutes to be constitutional, economic and legal implications will abound. The significant increased exposure will impact corporations' decisions about whether and where to expand their business. Further, the expanded list of potential forums will empower plaintiffs to "forum shop" by filing suit where the law, jury pool, or judiciary are most favorable.

Phillips Murrah's attorneys will continue to monitor this case to provide up-to-date advice to our clients.

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