

The Saiber Construction Law Column: December 2023

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Courts may only hear and decide cases when they have been granted authority over particular matters and when they have personal jurisdiction over the parties to the matter. The U.S. Supreme Court has held that courts may exercise jurisdiction over a party when the party has “minimum contacts” with the state where the lawsuit has been filed. Minimum contacts can be demonstrated by showing that the claim arose from the defendant’s specific activities in the state (specific jurisdiction) or that the defendant has continuous, regular contacts in the state (general jurisdiction).

In September 2023, the Supreme Court of Tennessee decided *Baskin v. Pierce & Allred Constr., Inc.*, and upheld the dismissal of a lawsuit filed in Tennessee by a Tennessee resident against an Alabama construction company. The lawsuit claimed the construction company breached the parties’ contract and warranties in connection with the building of a custom lake house for the plaintiff in Alabama. The court found that the construction company did not have sufficient minimum contacts with Tennessee to be sued there.

In *Baskin*, the construction company was incorporated and had its principal place of business in Alabama. All of the company’s activities related to building the lake house occurred in Alabama (with certain minor exceptions unrelated to the plaintiff’s contract and warranty claims). The parties also signed the contract in Alabama; all of the project’s subcontractors were from Alabama; all payment meetings with the plaintiff occurred in Alabama; and, during the course of the project, the construction company only had a few insignificant contacts with Tennessee. Based on the lack of significant contacts with Tennessee, the court held that the Alabama construction company could not reasonably foresee being haled into a Tennessee court to be sued.

Interestingly, the plaintiff in *Baskin* did not contend that the construction company had general contacts with Tennessee, which could also have provided a basis for personal jurisdiction. General contacts can be established by showing that a party has an office, mailing address, employees, bank accounts, telephone listings, and the like in the forum state.

As in Tennessee, New Jersey courts will only exercise personal jurisdiction over a non-resident defendant consistent with principles of due process. The burden rests with the plaintiff to show the defendant has sufficient minimum contacts with New Jersey to establish that personal jurisdiction does, in fact, exist over the defendant. Accordingly, it behooves a plaintiff to make sure that a party it sues has sufficient contacts with the state to avoid an involuntary dismissal of a lawsuit. Likewise, defendants should also determine if they have sufficient contacts with the state because, if they do not, there could be a basis for seeking dismissal of the lawsuit.

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Each issue's Saiber Construction Law Column will discuss a recent decision by New Jersey courts or, like here, courts from other states which may be of interest to people in the construction industry.

The information in each article is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to ensure this information is up-to-date. The article is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

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