

Chapter 4

There's No Place Like Home: Implications of General and Specific Jurisdiction After *Goodyear* and *Nicastro*

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§ 4.01. Introduction.

After decades of silence, in 2011 the United States Supreme Court issued two thought-provoking opinions analyzing the exercise of state court jurisdiction over parent corporations and their subsidiaries. With regard to general jurisdiction, in *Goodyear Dunlop Tires Corporation, S.A. v. Brown*,² the Supreme Court concluded that jurisdiction exists where an entity is “essentially at home” in the forum state. With regard to specific jurisdiction, in *J. McIntyre Machinery, Ltd. v. Nicastro*,³ the Court unsuccessfully attempted to resolve prior dueling pluralities advocating the adoption of either the conservative “purposeful availment” doctrine advocated by Justice O’Connor or the broader “stream of commerce” doctrine championed by Justice Brennan. This chapter will analyze *Goodyear, Nicastro*, and their progeny, highlight specific factors that can be used to determine where a

² *Goodyear Dunlop Tires Corp., S.A. v. Brown*, 131 S. Ct. 2846 (2011).

³ *J. McIntyre Machinery, Ltd. v. Nicastro*, 131 S. Ct. 2780 (2011).

business entity is “essentially at home,” illustrate how a parent’s actions and/or pronouncements might render it “at home” in a subsidiary’s forum state, and discuss the viability of the “stream of commerce” doctrine in the wake of *Nicastro*.

§ 4.02. Overview of Personal Jurisdiction: Specific and General Jurisdiction.

[1] — Foundations of Personal Jurisdiction.

For a court to have personal jurisdiction over an out-of-state defendant, the defendant must have “certain minimum contacts” with the forum, and “maintenance of the suit [cannot] offend traditional notions of fair play and substantial justice.”⁴ There are two bases on which to determine whether a corporation has sufficient minimum contacts: general jurisdiction and specific jurisdiction.⁵ General jurisdiction is found where a “corporation’s in-state activity is ‘continuous and systematic.’”⁶ Specific jurisdiction is found where the corporation has committed “single or occasional” acts in a State” and the suit is related to those acts.⁷

[2] — Relationship Between General and Specific Jurisdiction.

General jurisdiction and specific jurisdiction are, in essence, two paths to the same goal. To require a corporation to appear and respond in a particular court, the plaintiff must show that the court has general jurisdiction, specific jurisdiction, or both.⁸ If a corporation’s affiliation with a specific forum — whether in a sister state or a foreign country — is so continuous and systematic that the corporation is “essentially at home” in that forum, the forum’s courts

⁴ *Goodyear Dunlop Tires Corporation, S.A. v. Brown*, 131 S. Ct. 2846, 2853 (2011) (quoting *Int’l Shoe v. State of Wash., Office of Unemployment Comp. & Placement*, 326 U.S. 310, 316 (1945)).

⁵ *Id.* (quoting *Int’l Shoe*, 326 U.S. at 317).

⁶ *Id.* at 2853 (quoting *Int’l Shoe*, 326 U.S. at 318).

⁷ *Id.* at 2851 (quoting *Int’l Shoe*, 326 U.S. at 317).

⁸ *Kulko v. Super. Ct. of California In & For City & Cnty. of San Francisco*, 436 U.S. 84, 91 (1978).