

THE "LONG ARM" OF THE LAW

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You might think that, to win a lawsuit against someone, all you have to do is convince the judge or jury that you are right. But you might be wrong. Before you can even get to that point, you may have to convince the court that it has *personal jurisdiction* over the defendant — the legal power of the court — to render a judgment over that person.

The issue of personal jurisdiction can frequently arise in collector car cases. If, as often happens, the buyer lives in one state, and the seller in another (or in another country), the defendant may argue that the court where the plaintiff chose to file the action (typically in the plaintiff's home state) lacked personal jurisdiction over the defendant.

Such an argument was successfully made in *Amundson v. Jackson*, decided on July 28, 1993 (with a motion for reconsideration denied on October 13, 1993) by the Court of Appeals of Oregon.

According to the court, Amundson, a collector car dealer in Oregon, met Jackson, a California-based collector car dealer, at an auction in San Francisco. At Jackson's invitation, Amundson visited Jackson's warehouse. There, Amundson agreed to purchase a 1970 Boss 302 Mustang and a 1965 Pontiac GTO convertible. Amundson transported the cars from the warehouse. Some days after the agreement, Amundson paid for the cars with a check drawn on an Oregon bank. Jackson sent the car titles to Oregon.

Amundson later alleged that the Mustang and the GTO were not as represented because they did not have their original engines. He sued Jackson in Oregon, claiming breach of contract, fraud, and misrepresentation.

Jackson filed a motion to dismiss based on a lack of personal jurisdiction. That motion was denied. After other developments, he filed an answer to the

complaint, alleging lack of personal jurisdiction as a defense. The case went to trial. After Amundson presented his evidence, Jackson asked the court for a directed verdict in Jackson's favor, arguing that Amundson's evidence did not support personal jurisdiction. The court granted Jackson's motion and dismissed the case. Amundson appealed.

Amundson argued that Oregon courts had personal jurisdiction over Jackson under Oregon's "long arm" statute. "Long arm" statutes, found in many (if not all) states' laws, provide for personal jurisdiction over nonresidents that voluntarily enter or communicate with residents of the state, in lawsuits relating to such activities. Examples of qualifying activities typically include transacting business in the state, contracting to supply services or goods in the state, or selling goods outside the state when the seller knows that the goods will be used or consumed in the state.

Amundson cited a provision of the Oregon statute which conferred personal jurisdiction in any action which "[r]elates to goods, documents of title or other things of value actually received by the plaintiff in this state from the defendant ..." He argued that Oregon had personal jurisdiction over Jackson because Jackson had mailed the titles for the Mustang and the GTO to Oregon, and that the case "related" to the documents of title.

The Court of Appeals disagreed. It observed that Amundson's claims focused on the value of the Mustang and the GTO, and Jackson's alleged representations about their engines. Amundson had not alleged any claims regarding the receipt or condition of the car titles. Thus, for purposes of the statute, the case "related to" the vehicles but not the documents of title. As the court noted, "Whether the car titles were mailed to

Oregon or Timbuktu has no substantive relevance to plaintiff's cause of action, so [the statute] does not apply."

The court also rejected Amundson's argument that Jackson's acceptance of checks drawn on Oregon banks as payment for the two cars supported personal jurisdiction. Under civil procedure law, before a nonresident can be sued in a state, the nonresident's activity in the state must meet certain basic requirements. Specifically, the nonresident must have sufficient *minimum contacts* with the state such that allowing the lawsuit does not offend traditional notions of fair play and justice.

Applying those guidelines, the court noted that "The origin of a bank check is of 'little consequence' for purposes of determining contacts with the forum state" (the state where the suit is filed). It concluded: "Minimum contacts' refer to substantially relevant, forum-related facts.... The only facts that plaintiff cites in support of jurisdiction ... are the Oregon checks and the delivery of car titles in Oregon. Because these facts have negligible relevance, they cannot support jurisdiction...."

The *Amundson* case highlights the importance of determining in advance whether you can effectively sue a nonresident in your home state. If you cannot establish personal jurisdiction, you may be left with the more expensive and difficult option of having to sue him or her in the defendant's home state.

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