

IN THE CIRCUIT COURT FOR BALTIMORE CITY

**IN RE: BALTIMORE CITY
ASBESTOS LITIGATION**

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* **Case No. 24X13000333**

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**AMY R. SMITH, Executrix of the Estate of
PAUL A. ROWLAND, Deceased, et al.,**

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Plaintiffs,

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vs.

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**AUTOMOTIVE PRODUCTS COMPANY,
LTD, et al.,**

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Defendants.

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MEMORANDUM OPINION & ORDER

The above-captioned matter came before the Circuit Court for Baltimore City, Part 30, on June 7, 2017. The Court heard arguments on motions, including Defendants’ Motion for Reconsideration of Order of February 3, 2016 (TID 58872653), Defendants’ Conditional Motion for a Protective Order (TID 58873261), and Plaintiffs’ Cross Motion for Reconsideration of Order of February 3, 2016 (TID 59030097). Upon consideration of the pleadings and arguments, and for the reasons stated herein, Defendants’ Motion for Reconsideration of Order of February 3, 2016 (TID 58872653) is GRANTED, Defendants’ Conditional Motion for a Protective Order (TID 58873261) is DENIED, and Plaintiffs’ Cross Motion for Reconsideration of Order of February 3, 2016 (TID 59030097), is DENIED.

Facts and Procedure

The decedent, Mr. Paul Rowland, was born and raised in England where his father worked as an automotive mechanic. Plaintiffs claim that Mr. Rowland was exposed to asbestos from the Defendants while visiting his father's workplace in England and from the clothes his father brought back home from work. Mr. Rowland moved to the United States in 1988. Plaintiffs claim Mr. Rowland was further exposed to asbestos as a result of his work with and around friction products in Maryland. Mr. Rowland lived in Maryland for eight years and then moved to Pennsylvania for the remainder of his life.

Mr. Rowland was diagnosed with mesothelioma in May, 2010, and passed away from his disease twenty-five months later at the age of forty-four on June 8, 2012. Prior to his death, Mr. Rowland initiated a personal injury suit in the Court of Common Pleas for Philadelphia County. Due to his rapidly declining health, Mr. Rowland's complaint named a limited number of readily identifiable Defendants and was filed on September 16, 2011. Mr. Rowland's deposition was taken to preserve his testimony, concluding on February 9, 2012.

Maryland affords parties three years to file suit for personal injury and wrongful death claims, while Pennsylvania allows only two years. Because various Philadelphia Defendants disavowed liability via summary judgments filed after expiration of Pennsylvania's statute of limitations, Plaintiffs filed suit in the Circuit Court of Baltimore City on May 4, 2013, naming the alleged proper parties.

On February 3, 2016, the Court issued an Order in regard to Motions to Dismiss for Lack of Personal Jurisdiction filed on behalf of the Moving Defendants. The Court reserved on the dismissal claim but allowed Plaintiffs to begin limited discovery to determine whether a Maryland court could exercise general jurisdiction over the Defendants. During the December 1,

2015, hearing on the Motions, the Court expressed doubt that such discovery would be fruitful and stated, “I don’t think this is going to work, but I will allow some limited discovery, see where we go.” The parties appeared in Court on January 6, 2016, to set the parameters around the limited discovery. The Court entered a Discovery Order on February 3, 2016, which allowed for written discovery consisting of no more than ten interrogatories and ten requests for production.

On April 15, 2016, the moving Defendants sought reconsideration for the Court’s order and a dismissal of the Plaintiffs’ case, alleging that discovery could not possibly uncover facts demonstrating the existence of general jurisdiction (TID 58872653). On the same day, moving Defendants sought a conditional protective order to prevent Plaintiffs from proceeding with their discovery requests (TID 58873261). On May 18, 2016, the Plaintiffs filed a cross-motion requesting the Court to remove the jurisdictional limitation on discovery and allow the Court to rule on a full record (TID 59030097). The Court heard arguments on the Motions on June 7, 2017. For reasons stated herein, the Defendants’ Motion for Reconsideration of Order of February 3, 2016, is granted; Plaintiffs’ Cross Motion for Reconsideration is denied; and Defendants’ Conditional Motion for Protective Order is denied as moot.

Discussion

In the instant case, Plaintiffs seek to lift the Court’s limitation on the scope of discovery to general jurisdiction and allow for discovery relevant to specific jurisdiction. Separately, Defendants seek a protective order either denying Plaintiffs the opportunity to conduct the discovery they have propounded or greatly limiting the scope of discovery. Further, Defendants advocate for reconsideration of an order the Court issued in regard to Motions to Dismiss for Lack of Personal Jurisdiction and for Plaintiffs’ case against the moving Defendants to be

dismissed. Since the Court's February 3, 2016, Order, the Supreme Court of the United States revisited issues relating to general and specific jurisdiction and reiterated due process limitations in *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County* and *BNSF Railway Co. v. Tyrrell*. Resolving the jurisdictional problem in the present case, and granting the motion to dismiss, obviates the discovery issues as discussed more fully herein.

It has long been established that the Fourteenth Amendment limits the personal jurisdiction of state courts. *See World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291 (1980). Because “[a] state court’s assertion of jurisdiction exposes defendants to the State’s coercive power,” it is “subject to review for compatibility with the Fourteenth Amendment’s Due Process Clause,” *Goodyear Tires Operations, S.A. v. Brown*, 564 U.S. 915, 918 (2011), which “limits the power of a state court to render a valid personal judgment against a nonresident defendant.” *World-Wide Volkswagen*, 444 U.S. at 291. The primary focus of a personal jurisdiction inquiry is the defendant’s relationship to the forum State. *See Walden v. Fiore*, 134 S.Ct. 1115, 1121-24 (2014).

Since the Supreme Court’s landmark decision in *International Shoe*, two types of personal jurisdiction have been recognized: “general” jurisdiction and “specific” jurisdiction. *Goodyear*, 564 U.S. at 919. Specific jurisdiction is allowed “over a defendant in a suit arising out of or related to the defendant’s contacts with the forum.” *Helicopteros Nacionales de Columbia, S.A. v. Hall*, 466 U.S. 408, 14 n. 8 (1984). To determine whether a court may exercise specific jurisdiction over a defendant, the inquiry “focuses on the relationship among the defendant, the forum, and the litigation.” *Walden v. Fiore*, 134 S.Ct. at 1121. For specific jurisdiction to be established, the “defendant’s suit-related conduct must create a substantial connection with the forum state.” *Id.* This notion was recently reaffirmed by the Supreme Court in *Bristol-Myers*

Squibb Co. v. Superior Court of California, San Francisco County. No. 16–466, slip op. at 9 (U.S. Jun. 19, 2017).

As required by the Constitution, the Court of Appeals of Maryland applies the same requirement for specific jurisdiction as applied by the Supreme Court of the United States. *CSR, Ltd. v. Taylor*, 411 Md. 457, 477 (2009). When determining specific jurisdiction in Maryland, the Court “consider[s] (1) the extent to which the defendant has purposefully availed itself of the privilege of conducting activities in the State; (2) whether the plaintiffs’ claims arise out of those activities directed at the State; and (3) whether the exercise of personal jurisdiction would be constitutionally reasonable.” *Id.*

The Plaintiffs fail to satisfy all three factors listed by the Court of Appeals, especially the second factor. The moving Defendants’ alleged suit-related conduct occurred in the United Kingdom when Mr. Rowland was a child. However, this suit is unrelated to any alleged contact the Defendants may have had with the State of Maryland. Further, the Defendants in this suit have conducted virtually no business in the State of Maryland and, therefore, have not purposefully availed themselves of the privilege of conducting activities in the State. Therefore, this Court lacks specific jurisdiction over the Defendants in this suit.

Unlike specific jurisdiction, general jurisdiction confers on a court the power to hear any claim against a defendant, even if all the incidents underlying the claim occurred in a different State. *Goodyear*, 564 U.S. at 919. A court may assert general jurisdiction over a foreign corporation “when their affiliations with the State are so ‘continuous and systematic’ as to render them essentially at home in the forum State.” *Id.* As clarified in *Daimler AG v. Bauman*, the correct general jurisdiction inquiry is not when a foreign corporation’s contacts with the forum State are “continuous and systematic,” but whether the corporation’s affiliations with the State

are “continuous and systematic” enough to render them essentially at home there. 134 S.Ct. 746, 761 (2014). Therefore, the only relevant inquiry is whether the defendant is either incorporated or has its principle place of business in the forum state. *Id.* at 760. The Supreme Court recently reaffirmed this notion in *BNSF Railway Co. v. Tyrrell*, in which the Court noted that some in-state business is not enough to assert general jurisdiction over claims that are unrelated to any activity occurring in the forum state. No. 16–405, slip op. at 11-12 (U.S. May. 30, 2017).

It is clear that further discovery will not uncover facts demonstrating the existence of general jurisdiction over any of the moving Defendants. All of the Defendants are incorporated outside of Maryland. The Defendants’ principal places of business are all in Europe. None of the Defendants have offices in Maryland, conducted virtually any business in the State, or are otherwise “at home” in Maryland. Therefore, this Court lacks general jurisdiction over the moving Defendants in this suit.

Conclusion

For the reasons stated above, Plaintiffs’ Cross Motion for Reconsideration of Order of February 3, 2016 (TID 59030097), is DENIED, Defendants’ Motion for Reconsideration of Order of February 3, 2016 (TID 58872653), is GRANTED, and Defendants’ Conditional Motion for a Protective Order (TID 58873261) is DENIED.

/s/ Shannon E. Avery
Shannon E. Avery, Associate Judge
Circuit Court for Baltimore City