

## Product Liability

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# A L E R T

## ALL COMPANIES REGISTERED TO DO BUSINESS IN PENNSYLVANIA ARE SUBJECT TO THE COURTS' GENERAL JURISDICTION

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In a decision not following developing nationwide rulings regarding the effect of registration to do business, the Pennsylvania Superior Court, in a unanimous decision, held that foreign companies that register to do business in Pennsylvania have “consented” to general personal jurisdiction in the Commonwealth. The Court in *Webb-Benjamin, LLC v. International Rug Group, LLC*, rejected the trial court’s holding that Pennsylvania courts lacked general jurisdiction over the foreign defendant for its out-of-state activities. The Court reasoned that general jurisdiction by consent survives due process analysis even under the Supreme Court of the United States’ restrictive decision in *Daimler AG v. Bauman* (without addressing the Supreme Court’s decision in *Goodyear Dunlop Tires Operations, S.A. v. Brown* or their progeny).

*Webb-Benjamin* is the first appellate-level authority in Pennsylvania on the issue of whether registration establishes general jurisdiction by consent. The Superior Court’s opinion likely means that any foreign company that has registered to do business in Pennsylvania can be subject to suit here, regardless of where the actions complained of occurred or had any connection to Pennsylvania. For example, under this ruling, a foreign company that is registered to do business in Pennsylvania can be sued in Philadelphia’s Court

of Common Pleas for alleged actions that occurred in Alaska. The ruling could encourage plaintiffs to forum shop if they believe that the Courts here will be more favorable to their claims.

In *Webb-Benjamin*, the plaintiff, a Pennsylvania company, brought suit against International Rug Group (IRG), a Connecticut LLC, alleging breach of contract related to sales that took place in Calgary, Canada in 2016 and 2017.

The parties ended their business relationship in January 2017, and the next month IRG registered to do business in Pennsylvania as a foreign company. In May 2017, after wrapping up activities of the parties, plaintiff alleged that defendant did not make a payment under the prior contract and brought suit in the Court of Common Pleas of Westmoreland County.

IRG filed preliminary objections seeking, in relevant part, dismissal on the grounds of lack of general jurisdiction.

The Court rejected defendant’s argument that Pennsylvania’s consent-by-registration statute violated the Due Process Clause of the Fourteenth Amendment.

Rather than engaging in an analysis of whether defendant was “at home” in Pennsylvania, per

*Daimler*, the Court turned to recent decisions of the United States District Courts for the Eastern and Middle Districts of Pennsylvania, which held that foreign companies that registered to do business in Pennsylvania consented to general jurisdiction here. Unlike other states' statutes, Pennsylvania's long-arm statute states that registration to do business equals consent for general jurisdiction. The Court, relying on federal district court decisions analyzing that language, held that consent under the statute was a substitute for jurisdictional analysis. The Court held that consent under the long-arm statute was sufficient for due process purposes, reasoning that "Daimler . . . makes a clear distinction between jurisdiction by consent, and the method of establishing personal jurisdiction that forms the basis of its analysis and holding." The Court did not address whether compelled "consent" in the registration statute was inconsistent with due process in light of *Daimler*—an argument at least one other lower court had relied upon in finding a lack of jurisdiction in these circumstances. See, e.g., *Robert Mallory v. Norfolk Southern Railway Co.*, No. 1961, (Philadelphia Court of Common Pleas, May 30, 2018).

This issue is ripe for review by the Pennsylvania Supreme Court. The Pennsylvania Supreme Court needs to address whether consent by registration is viable in light of the United States Supreme Court's decisions limiting general jurisdiction. ♦

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