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WLF Urges Pennsylvania Court to Reject “Consent” Theory of Personal Jurisdiction

(*Murray v. American LaFrance, LLC*)

“In its seminal 2014 *Daimler* decision, the U.S. Supreme Court made clear that a corporate defendant may be sued outside its ‘home’ State only if the plaintiff’s claim arises in the forum State. In their efforts to avoid *Daimler*, Pennsylvania courts have adopted the unwarranted fiction that out-of-state businesses consent to jurisdiction.”

—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) yesterday called on the Pennsylvania Superior Court to overturn rulings that have authorized courts in that State to exercise general personal jurisdiction over out-of-state defendants. In a brief filed in *Murray v. American LaFrance, LLC*, WLF argues that the U.S. Constitution’s Due Process Clause bars state courts from exercising jurisdiction over an out-of-state company merely because the company registered to do business in the State. Registration does not constitute consent to general jurisdiction, WLF argues. WLF filed its brief with substantial *pro bono* assistance from James M. Beck, an attorney with the Philadelphia office of Reed Smith LLP.

The plaintiffs are New York firefighters who allege that they suffered hearing loss because sirens manufactured by the defendant are too loud. The defendant is registered to do business in Pennsylvania because it sells some products there. However, the plaintiffs’ claims lack any connection with Pennsylvania, and neither the defendant’s headquarters nor its manufacturing facilities are located there. A three-judge panel of the Pennsylvania Superior Court (the State’s intermediate appellate court) nonetheless ruled that the defendant could be sued in Pennsylvania on any and all claims (“general” jurisdiction) because it “consented” to suit by registering to do business—a step required of any company that sells products in the State. Several other Superior Court panels issued similar decisions. In December 2018, the Superior Court agreed to rehear this case *en banc* to reconsider whether its ruling is consistent with *Daimler AG v. Bauman*, in which the U.S. Supreme Court imposed strict constitutional limits on state-court jurisdiction.

In its brief, WLF notes that in the five years since the *Daimler* decision, every court outside of Pennsylvania to address the issue has held that due process prohibits a state court from asserting personal jurisdiction over an out-of-state business based solely on registration to do business in the State. WLF argues that “consent” to jurisdiction presupposes a voluntary relinquishment of constitutional rights and that the mandatory nature of registration requirements precludes any finding that defendants have acted voluntarily. WLF further argues that the panel’s decision, if upheld, would essentially eliminate the protections granted by *Daimler* to out-of-state litigants.

Celebrating its 42nd year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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