Consent-Based Jurisdiction: Ontario

See *Mueller v. Resort Investors International, ULC*, [2006] O.J. No. 4952 (S.C.J.) (available here) for a straightforward rejection of the defendant's challenge to the jurisdiction of the Ontario court on the basis that the defendant served and filed both a notice of intent to defend and a statement of defence. The motions judge held there was no need to consider whether there was a "real and substantial connection" to Ontario; the defendant had attorned.

This should seem quite orthodox, for it is. But there have been several recent Ontario decisions threatening to upset that orthodoxy as part of the impact of *Morguard*. In my view, expressed in "Lost in Transition: Answering the Questions Raised by the Supreme Court of Canada's New Approach to Jurisdiction" (2006) 85 Can. Bar Rev. 61 (with C. Dusten of the Faskens firm in Toronto), *Morguard* and subsequent decisions of the Supreme Court of Canada have not displaced this traditional basis for jurisdiction. Cases like *Shekhdar v. K & M Engineering and Consulting Corp.* (2004), 71 O.R. (3d) 475 (S.C.J.), *Deakin v. Canadian Hockey Enterprises* (2005), 7 C.P.C. (6th) 295 (Ont. S.C.J.) and *R.M. Maromi Investments Ltd. v. Hasco Inc.* (2004), 73 O.R. (3d) 298 (S.C.J.) cannot be correct on this point.