

Personal jurisdiction over a non-resident defendant in a product liability case to be argued before the US Supreme Court today: the consolidated Ford Motor cases

The US Supreme Court will hear oral arguments today (7-Oct-2020) concerning two consolidated cases: *Ford Motor Co. v. Montana Eighth Judicial District Court* and *Ford Motor Co. v. Bandemer*. The consolidated cases deal with the difficult issue of personal jurisdiction over a non-resident defendant, where there is a split in federal courts of appeals and state courts of last resort. These cases are significant because they will have a direct impact on the ease with which plaintiffs can lodge a complaint in product liability cases against big automobile companies (and others) before the courts of their own state. In a nutshell, it can be argued that besides jurisdictional matters relating to the defendant, these cases deal with fundamental notions of access to justice for consumers.

The oral argument was originally scheduled for April 2020 but given the Covid-19 pandemic was rescheduled for the October 2020 term. Please note that the Supreme Court can hear oral arguments even though they are currently only 8 justices. According to Rule 4 of the Supreme Court of the United States, six Members of the Court constitute a quorum. Nevertheless, complications may arise if there is a 4-4 split during the deliberations. Given the great experience and expertise of Justice Ginsburg in this area (see our previous post here), it is a pity that she could not partake in this oral argument and decision, and she will be greatly missed.

Below I include the question presented. More information will follow soon, stay tuned!

Petition for a writ of certiorari on behalf of Ford Motor Company

“The Due Process Clause permits a state court to exercise specific personal jurisdiction over a non-resident defendant only when the plaintiff’s claims “arise

out of or relate to” the defendant’s forum activities. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985) (internal quotation marks omitted).”

The question presented is:

“Whether the “arise out of or relate to” requirement is met when none of the defendant’s forum contacts caused the plaintiff’s claims, such that the plaintiff’s claims would be the same even if the defendant had no forum contacts.”