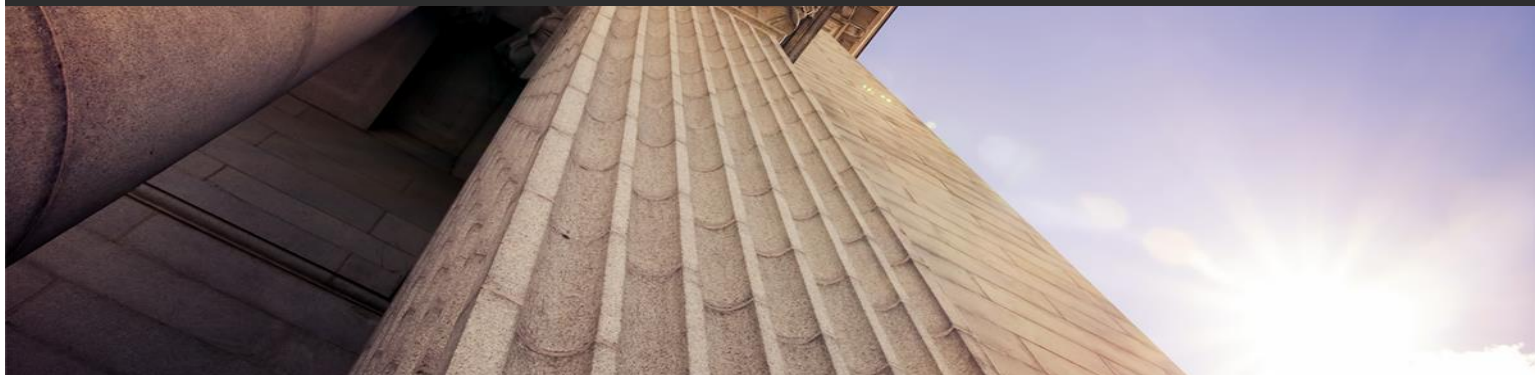


Alert | Litigation



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Registered to Do Business in Pennsylvania? PA Courts Say You Now Can Be Sued There in Any Matter

Summary

Two recent Pennsylvania appellate court decisions hold that any out-of-state company registered to do business in Pennsylvania is subject to suit in the Commonwealth even where the suit has no connection to Pennsylvania (see *Webb-Benjamin, LLC v. Int'l Rug Group, LLC*, No. 1514 WDA 2017, 2018 Pa. Super. 187 (June 28, 2018) and *Murray v. Am. LaFrance*, 2105 EDA 2016 (Sept. 25, 2018)). Each decision is reported and thus binds Pennsylvania trial courts. The Superior Court (Pennsylvania's intermediate appellate court) declined re-argument in *Webb-Benjamin*, and the appellant chose not to appeal further. In *Murray*, appellants have moved for re-argument, a request that is pending as of the time of this writing. *Murray* may lead to higher appellate review, as Judge Mary Jane Bowes penned a lengthy **dissent** questioning due process concerns inherent in Pennsylvania's current statutory scheme, which, in her view, "effectively snare[s] foreign corporations and draw[s] them into the Commonwealth's jurisdiction," even in cases with no relationship to Pennsylvania.

Overview

In the first decision, *Webb-Benjamin*, the Superior Court held that foreign corporations registered to do business in Pennsylvania are subject to general personal jurisdiction in Pennsylvania because the Commonwealth's long-arm statute, 42 Pa. C.S. § 5301(a)(2)(i), states that "the tribunals of this Commonwealth [may] exercise general personal jurisdiction over" corporations that are "qualifi[ed] as a foreign corporation under the laws of this Commonwealth." Pennsylvania's Associations Code, 15 Pa. C.S.

§§ 101–419, requires that a foreign business entity “may not do business in this Commonwealth until it registers with the [Pennsylvania Department of State] under this chapter.” 15 Pa. C.S. § 411(a). The Associations Code does not contain the long-arm statute and makes no mention of the jurisdictional consequences of registration.

Although a 1990 Superior Court decision came to the same conclusion as *Webb-Benjamin*, (see *Simmers v. American Cyanamid Corp.*, 576 A.2d 376 (Pa. Super. Ct. 1990)), recent U.S. Supreme Court precedents that corporations are subject to general personal jurisdiction only where they are incorporated or have their principal places of business have led observers to conclude that this part of Pennsylvania’s long-arm statute may be unconstitutional under Due Process Clause constraints, at least where the case otherwise lacks a connection to Pennsylvania. The *Webb-Benjamin* court, however, distinguished those cases, finding they did not address whether a company might consent to personal jurisdiction in a forum by registering to do business there.

Three short months later in *Murray*, the Superior Court, without reference to *Webb-Benjamin*, again came to the same conclusion, finding that a Pennsylvania court could exercise personal jurisdiction over a Delaware company with an Illinois principal place of business in a lawsuit brought by Massachusetts, New York, and Florida plaintiffs seeking to recover for injuries suffered in New York. Although the company argued that it had no corporate officers in Pennsylvania, did not own or lease property in Pennsylvania, did not have bank accounts in Pennsylvania, did not design or manufacture products in Pennsylvania, and had only minimal contacts in Pennsylvania, the court sustained jurisdiction over the defendant solely because it had registered to do business in Pennsylvania.

Webb-Benjamin was the first reported Pennsylvania appellate decision on this question since the U.S. Supreme Court addressed the scope of personal jurisdiction over a corporate defendant in *Daimler AG v. Bauman*, 571 U.S. 117 (2014). The *Daimler* court held that a corporate defendant is subject to *general* personal jurisdiction only in those places where it is “at home,” which, in all but “exceptional” circumstances, means its state of incorporation and principal place of business.

To distinguish *Daimler*, the *Webb-Benjamin* court held that non-Pennsylvania companies subject themselves to personal jurisdiction in Pennsylvania by filing a form with the Pennsylvania Department of State, without which a company may not lawfully conduct business within the Commonwealth. The Superior Court found that *Daimler* was no impediment because it made “a clear distinction between jurisdiction by consent, and the method of establishing personal jurisdiction that forms the basis of [*Daimler’s*] analysis and holding.” But the *Murray* dissent raises the question whether “consent that is coerced as a consequence of registration under a separate statute satisfies” due process.

Indeed, Pennsylvania’s corporate registration statute is not voluntary because a company “may not do business in the Commonwealth until it registers.” See 15 Pa. C.S. § 411(a). In Judge Bowes’ view, the recent interpretation of the statutory scheme presents foreign corporations with a “Hobson’s choice.” If foreign corporations register, they submit to jurisdiction for all purposes; however, if they do not register, they violate the Associations Code unless they avoid doing business in the Commonwealth altogether. *Murray* Dissent at 23.

Conclusion

Although the law may develop further, the recent Superior Court decisions suggest that registering to do business in Pennsylvania currently subjects foreign business entities to personal jurisdiction in Pennsylvania in any matter, regardless of its connection to the Commonwealth.

Authors

This GT Alert was prepared by **Brian Rubenstein**, **Gregory T. Sturges**, and **Kaitlyn R. Maxwell**. Questions about this information can be directed to:

- **Brian Rubenstein** | +1 215.988.7864 | rubensteinb@gtlaw.com
- **Gregory T. Sturges** | +1 215.988.7820 | sturgesg@gtlaw.com
- **Kaitlyn R. Maxwell** | +1 215.988.7814 | maxwellk@gtlaw.com
- Or your **Greenberg Traurig attorney**

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