

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: TOYOTA HYBRID BRAKE
LITIGATION

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Consolidated Case No. 4:20-CV-127
Judge Mazzant

MEMORANDUM OPINION & ORDER

Pending before the Court is Defendant Toyota Motor Corporation’s Motion to Dismiss Pursuant to F.R.C.P. Rule 12(b)(2) (Dkt. #39). Having considered the Motion, the relevant pleadings, and the arguments of counsel, the Court concludes that the Motion should be granted in part and denied in part.

BACKGROUND

A more thorough background of the case can be found in the Court’s October 21, 2020 Memorandum Opinion and Order. *In re Toyota Hybrid Brake Litig.*, 2020 WL 6161495, at *1–4 (E.D. Tex. Oct. 21, 2020). In brief, this action arises out of Plaintiffs’ allegations that, along with Toyota Motor Sales, U.S.A., Inc. (“TMS”), Toyota Motor North America, Inc. (“TMNA”), Toyota Engineering & Manufacturing North America, Inc. (“TEMA”), Toyota Motor Corporation (“TMC”) did not properly design or manufacture “break booster pump assemblies” for the Class Vehicles, leading the braking systems of these vehicles to fail (Dkt. #28 at p. 8). Defendants contest these allegations.

On July 20, 2020, TMC filed its Motion to Dismiss Pursuant to F.R.C.P. Rule 12(b)(2) (Dkt. #39), currently before the Court. On August 17, 2020, Plaintiffs filed their response (Dkt. #45). On August 31, 2020, TMC filed its reply (Dkt. #49). On September 7, 2020, Plaintiffs filed

their sur-reply (Dkt. #53). And on October 30, 2020, the Court held a hearing on the Motion (*see* Dkt. #59).

LEGAL STANDARD

“[P]ersonal jurisdiction ‘is an essential element of the jurisdiction of a district court, without which . . . court[s are] powerless to proceed to an adjudication.’” *First Inv. Corp. of Marsh. Is. v. Fujian Mawei Shipbuilding, Ltd.*, 703 F.3d 742, 749 (5th Cir. 2012) (original alteration omitted) (quoting *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 584 (1999)). On motion of a nonresident defendant, a case must be dismissed if the court does not have personal jurisdiction over the moving defendant. FED. R. CIV. P. 12(b)(2). When such a motion is filed, the party invoking jurisdiction must “present sufficient facts as to make out only a *prima facie* case supporting jurisdiction.” *Alpine View Co. v. Atlas Copco AB*, 205 F.3d 208, 215 (5th Cir. 2000). “In determining whether that *prima facie* case exists, [courts] ‘must accept as true the plaintiff’s uncontroverted allegations and resolve in his favor all conflicts between the jurisdictional facts contained in the parties’ affidavits and other documentation.’”¹ *Adams v. Unione Mediterranea Di Sicurta*, 364 F.3d 646, 650 (5th Cir. 2004) (original alterations omitted) (quoting *Nuovo Pignone, SpA v. STORMAN ASIA M/V*, 310 F.3d 374, 378 (5th Cir. 2002), *abrogated on other grounds by Water Splash, Inc. v. Menon*, 137 S. Ct. 1504 (2017)).

A federal court sitting in diversity may exercise personal jurisdiction “where the forum state’s long-arm statute extends to the nonresident defendant and the exercise of jurisdiction

¹ While Plaintiffs must only make out “a *prima facie* case at the Rule 12(b)(2) stage, [their] burden escalates to ‘preponderance of the evidence’ ‘by the end of trial.’” *In re DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prod. Liab. Litig.*, 888 F.3d 753, 778 (5th Cir. 2018) (quoting *Travelers Indem. Co. v. Calvert Fire Ins. Co.*, 798 F.2d 826, 831 (5th Cir. 1986)). Even though this burden subsequently intensifies, determining whether personal jurisdiction exists depends on the facts as they were at the outset of the proceedings. *Harvest Nat. Res., Inc. v. Ramirez Carreno*, No. CV H-18-483, 2020 WL 3063940, at *10 (S.D. Tex. June 9, 2020); *see Mich. Tr. Co. v. Ferry*, 228 U.S. 346, 353 (1913) (“[I]f a judicial proceeding is begun with jurisdiction over the person of the party concerned, it is within the power of a state to bind him by every subsequent order in the cause.”).

comports with due process.” *Def. Distrib. v. Grewal*, 971 F.3d 485, 490 (5th Cir. 2020); *see Douglass v. Nippon Yusen Kabushiki Kaisha*, 996 F.3d 289, 301 (5th Cir. 2021) (Elrod, J., specially concurring) (“The Supreme Court [has] emphasized that ‘principles of interstate federalism’ are central to its analysis of Fourteenth Amendment due process limitations on personal jurisdiction.” (quoting *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 141 S. Ct. 1017, 1030 (2021))), *reh’g granted en banc*, 2021 WL 2766866 (5th Cir. July 2, 2021) (mem.). “Service of process” is how federal courts “get[] jurisdiction over [a] person,” *Lisak v. Mercantile Bancorp, Inc.*, 834 F.2d 668, 671 (7th Cir. 1987), and courts may exert this power over any nondefendant resident “subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located,” FED. R. CIV. P. 4(k)(1)(A).² Because “Texas gives its courts of general jurisdiction all of the power allowed by the Due Process Clause,” Texas courts need only determine “whether the exercise of jurisdiction comports with the limits imposed by federal due process on the State of Texas.” *Sayers Constr., L.L.C. v. Timberline Constr., Inc.*, 976 F.3d 570, 573 (5th Cir. 2020) (quoting *Walden v. Fiore*, 571 U.S. 277, 283 (2014)); *see* TEX. CIV. PRAC. & REM. CODE ANN. § 17.042 (Texas long-arm statute).

In the personal-jurisdiction context, “[t]he Due Process Clause protects an individual’s liberty interest in not being subject to the binding judgment of a forum with which he has established no meaningful ‘contacts, ties, or relations.’” *ITL Int’l, Inc. v. Constenla, S.A.*, 669 F.3d 493, 498 (5th Cir. 2012) (quoting *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945)); *see Ins. Corp. of Ir. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702–03 (1982). “Federal court jurisdiction satisfies Due Process if two conditions are met: ‘(1) the nonresident must have

² Here, the laws of Texas govern the analysis. *Bulkley & Assocs., L.L.C. v. Div. of Occupational Safety & Health of Cal.*, ___ F.4th ___, ___, No. 20-40020, 2021 WL 2374295, at *3 (5th Cir. June 10, 2021) (“Personal jurisdiction in federal court is governed by the law of the state in which the federal court sits.”).

minimum contacts with the forum state, and (2) subjecting the nonresident to jurisdiction must be consistent with traditional notions of fair play and substantial justice.” *E. Concrete Materials, Inc. v. ACE Am. Ins. Co.*, 948 F.3d 289, 296 (5th Cir. 2020) (quoting *Freudensprung v. Offshore Tech. Servs., Inc.*, 379 F.3d 327, 343 (5th Cir. 2004)). There are “two kinds of personal jurisdiction: general (sometimes called all-purpose) jurisdiction and specific (sometimes called case-linked jurisdiction) jurisdiction.” *Ford Motor Co.*, 141 S. Ct. at 1024; see *Steinberg v. Int’l Crim. Police Org.*, 672 F.2d 927, 928 (D.C. Cir. 1981) (Ginsburg, J.). Because general jurisdiction is not at issue, the Court only addresses specific jurisdiction.³

Specific jurisdiction exists “when a non-resident defendant ‘has purposefully directed its activities at the forum state and the litigation results from alleged injuries that arise out of or relate to those activities.’” *Halliburton Energy Servs., Inc. v. Ironshore Specialty Ins. Co.*, 921 F.3d 522, 539 (5th Cir. 2019) (quoting *Panda Brandywine Corp. v. Potomac Elec. Power Co.*, 253 F.3d 865, 868 (5th Cir. 2001) (per curiam)); see *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011). While this precept “can be ‘more aspirational than self-defining’ in practice,” a few principles guide this inquiry. *Power Invs., LLC v. SL EC, LLC*, 927 F.3d 914, 917–18 (6th Cir. 2019) (citation omitted) (quoting *Dudnikov v. Chalk & Vermilion Fine Arts, Inc.*, 514 F.3d 1063, 1071 (10th Cir. 2008) (Gorsuch, J.)). For instance, specific jurisdiction may exist over a nonresident defendant “whose contacts with the forum state are singular or sporadic[—but] only

³ While TMC addresses general jurisdiction in the Motion (Dkt. #39 at pp. 13–17), in neither the response nor the sur-reply do Plaintiffs contend TMC is subject to the Court’s general jurisdiction (see Dkts. #45, 53). Since Plaintiffs effectively concede the absence of general jurisdiction, the Court does not examine it (see Dkt. #45 at p. 6).

if the cause of action asserted arises out of or is related to those contacts.” *Int’l Energy Ventures Mgmt., L.L.C. v. United Energy Grp., Ltd.*, 818 F.3d 193, 212 (5th Cir. 2016) (emphasis omitted).

To determine whether specific jurisdiction exists, courts engage three separate lines of inquiry:

(1) whether the defendant has minimum contacts with the forum state, i.e., whether it purposely directed its activities toward the forum state or purposefully availed itself of the privileges of conducting activities there; (2) whether the plaintiff’s cause of action arises out of or results from the defendant’s forum-related contacts; and (3) whether the exercise of personal jurisdiction is fair and reasonable.

Seiferth v. Helicopteros Atuneros, Inc., 472 F.3d 266, 271 (5th Cir. 2006) (citation omitted). The 12(b)(2) inquiry is “fact intensive and no one element is decisive; rather the touchstone is whether the defendant’s conduct shows that it ‘reasonably anticipates being haled into court.’” *McFadin v. Gerber*, 587 F.3d 753, 759 (5th Cir. 2009) (quoting *Luv N’ Care v. Insta-Mix, Inc.*, 438 F.3d 465, 470 (5th Cir. 2006)); see *Tichenor v. Roman Cath. Church of Archdiocese of New Orleans*, 32 F.3d 953, 958 (5th Cir. 1994) (“This test is the aegis that protects a non-resident defendant’s due process rights as guaranteed by the Fourteenth Amendment.”). When considering a motion to dismiss for lack of personal jurisdiction, courts consider “the entire record, including the affidavits and documentary evidence filed by the parties.” *Stuart v. Spademan*, 772 F.2d 1185, 1192 (5th Cir. 1985).

If the party invoking jurisdiction “establishes the first two prongs, the burden shifts to the [movant] to make a ‘compelling case’ that the assertion of jurisdiction is not fair or reasonable.” *Carmona v. Leo Ship Mgmt., Inc.*, 924 F.3d 190, 193 (5th Cir. 2019). Seldom is an assertion of jurisdiction unfair or unreasonable after a plaintiff demonstrates minimum contacts. *Wien Air Alaska, Inc. v. Brandt*, 195 F.3d 208, 215 (5th Cir. 1999). To evaluate and weigh the “traditional notions of fair play and substantial justice,” courts examine: “(1) the burden on the nonresident

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