

Re-examining Personal Jurisdiction in Products Liability Cases in Texas

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Texas Supreme Court Hears Oral Arguments in Products Liability Case Regarding Personal Jurisdiction of a Non-Resident Defendant

Personal Jurisdiction allows a court to exercise power over a non-resident defendant. Without personal jurisdiction, a court could not hear a case filed against a non-resident defendant. Most lawyers equate personal jurisdiction with the phrase “minimum contacts.” At first glance, the phrase “minimum contacts” seems like a simple concept. We frequently hear the word minimum being used, such as the minimum bid at an auction or the minimum age to drive a car/vote.

In actuality, the concept of minimum contacts can be difficult to understand. Is one contact enough, ten contacts, one hundred contacts? Establishing personal jurisdiction over non-resident defendant is critical for a Plaintiff, and on January 8, 2020, the Texas Supreme Court heard oral arguments on this issue in *Luciano SprayFoamPolymers.com, LLC*. The Supreme Court agreeing to hear oral arguments in this case is interesting since they originally declined to hear the case in March of 2019.

According to the Lucianos, SprayFoamPolymer did not make the product in Texas, but had more than enough contacts in Texas to establish personal jurisdiction. SprayFoamPolymer made the product, which was sold in Texas to Texas residents. The Texas residents purchased the product from a Texas sales representative using both a Texas distribution center and a Texas installer.[1]

SprayFoamPolymer contends that a Texas court cannot exercise personal jurisdiction over it for numerous reasons, some of which include the following: The company's principal office and place of business are located in Connecticut; it doesn't have an agent for service in Texas; there are no employees working for the company in Texas; the company does not own or lease any property in Texas; the company doesn't have a Texas phone number; and it has never advertised in Texas. Furthermore, SprayFoamPolymer claims the Texas sales representative that the homeowners used was an "independent contractor." [2] However, the Texas sales representative indicated on his LinkedIn profile that he was SprayFoam's Southwest Sales Manager.[3]

The Court of Appeals stated that none of these contacts were enough to establish "the level of substantial and continuous contacts with Texas" to establish general jurisdiction over SprayFoamPolymer.[4]

This case is one to watch, as the ruling could be critical for both plaintiffs and defendants because it may establish new guidelines for determining the requirements for establishing personal jurisdiction over non-resident defendants in products liability cases.

[1] *SprayFoamPolymers.com, LLC v. Luciano*, 584 S.W.3d 44, 50 (Tex. App.—Austin 2018, pet. granted).

[2] *Id.* at 48-49.

[3] *Id.* at 50.

[4] *Id.* at 51.

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