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VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

AVIATION IS GLOBALLY INTERCONNECTED

Most aviation accidents touch many venues

- Location of crash
- Manufacturers (US, France, Canada, Brazil)
- Maintenance and Overhaul
- Operator
- Training (US)
- Passenger domicile

VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

AVIATION IS GLOBALLY INTERCONNECTED

Where should cases be litigated - Plaintiff

- Jurisdiction
- Reasonable Damages
- Impartial Judiciary
- Discovery
- Timely Resolution

VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

AVIATION IS GLOBALLY INTERCONNECTED

Where should cases be litigated - Defendant

- Convenience
- Reasonable Damages
- Impartial Judiciary
- Predictability
- Maximize Legal Defenses



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

AVIATION IS GLOBALLY INTERCONNECTED

Not all cases should be litigated in Cook County

- Plaintiffs' Attorneys Known to Overreach
- Pendulum has Swung too Far
- Needs to be Reasonable Balance
- MH 370 Discovery Petition Dismissed



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

ANNUAL AVIATION CONFERENCE



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PERSONAL JURISDICTION

Recent Cases

- *Daimler AG v. Bauman*
- *J. McIntyre Machinery v. Nicastro*
- *York v. Tropic Air*
- *Walden v. Fiore*



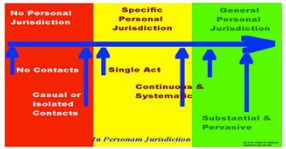
Yes, we have "general" jurisdiction.

VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

PERSONAL JURISDICTION

Daimler AG v. Bauman

- US subsidiary doesn't confer PJ
- Limited causal nexus to US
- Narrowed scope of general jurisdiction




VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

PERSONAL JURISDICTION

J. McIntyre Machinery v. Nicastro

- Target US as whole
- All machines sold through distributors
- PJ where distributors, not across US
- Limited stream of commerce to few states




VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

PERSONAL JURISDICTION

York v. Tropic Air

- Contacts reviewed *in toto*
- Standard not in TX but with TX
- Highly fact sensitive analysis
- Interactive website with sales to TX




VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

PERSONAL JURISDICTION

Walden v. Fiore

- Specific jurisdiction case
- Expanded specific jurisdiction
- Relation of defendant, forum, litigation
- Turned away from purposeful availment
- Look at contacts defendant created



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

SMALLEST INTERNATIONAL AIRPORT?



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VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

Lewis v. Lycoming

- Crash in England
- Lycoming & Schweizer in PA
- Wreckage in US
- Technical evidence & witnesses in PA
- FNC denied




VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

Cabrera v. Robinson Helicopter

- 1st R-66 crash occurred in Columbia
- Product liability evidence in CA
- Warranties made in CA
- Delivery of new helicopter in CA
- FNC denied



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

Bapiste v. West Caribbean Airways

- Case dismissed to Martinique
- Highest French court held no Montreal jurisdiction in Martinique
- Ps moved to vacate prior FNC order
- Denied because Ps failed to make sufficient to reverse FNC




VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

In re: Diamond Offshore Drilling, Inc.


- Scottish citizen injured in Malaysia
- Bermuda employer
- Case filed in Houston state court
- FNC denied
- TX Supreme Court denied review



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS


- Defendants have abusing FNC
- Not about convenience . . . About damages
- FNC does not equal game over
- Lack of Predictability
- Can your client live with the conditions to get FNC dismissal?



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS


- Bring all witnesses to forum
- Translate all documents
- Waive limitations defenses
- Post bond
- Bound by judgment
- Agree to personal jurisdiction
- Apply the law of the forum



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

- Blocking statutes
- Anti American Sentiment
- Defenses Unavailable
 - GARA
 - Liability as Type Certificate Holder



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

- Be careful what you ask for – You might get it
 - *Chevron Corp. v. Naranjo*
 - *Hubei Gezhouba Salian Indust. v. Robinson Helicopter*
- Lack of Contribution and Indemnity
- Waiver of Corruption Defense
- What does the future hold?



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

RUNWAY WITH A MOGUL AND JUMP



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RUNWAY WITH A MOGUL AND JUMP



VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

- *Chevron v. Naranjo*
 - FNC to Ecuador
 - Plaintiffs awarded \$17.2 billion in damages
 - Chevron sought to prevent collection of award in US under Recognition Act
 - 2nd Circuit denied injunction

VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

FORUM NON CONVENIENS

- *Hubei Gezhouba Salian Indust. v. Robinson Helicopter*
 - R-44 crash in China
 - Suit file in CA, RHC successful in FNC dismissal
 - RHC agreed to be bound by judgment in China
 - \$6.5 million awarded
 - 9th Circuit affirmed judgment

VENUE, JURISDICTION, AND CASE EVALUATION FROM THE PLAINTIFF'S PERSPECTIVE

SLACK & DAVIS

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