



## AVOIDING FORUM SHOPPING - DAIMLER CHRYSLER V. BAUMAN AND PROGENY

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## Personal Jurisdiction after *DaimlerAG v. Bauman*



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## Personal Jurisdiction *Pre-Daimler*

### Specific Jurisdiction

- Cause of action is related to or arises out of forum conduct
- Purposeful availment
- Reasonable
- Focus on conduct

### General Jurisdiction

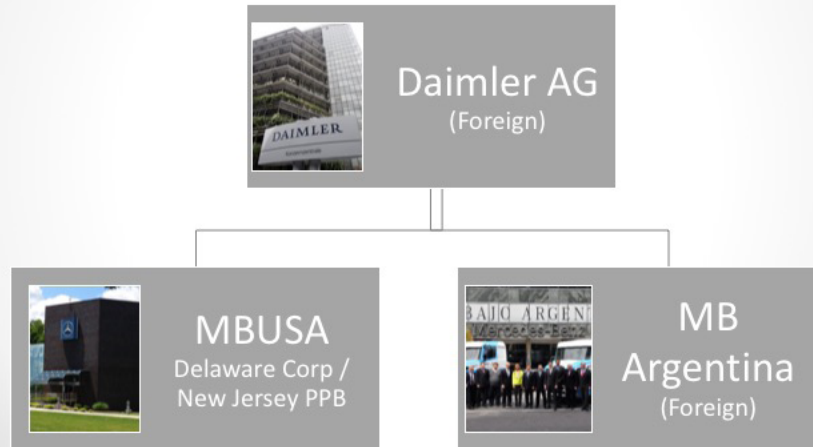
- *International Shoe* – “Continuous and systematic contacts” with forum
- *Goodyear* – Are contacts so “continuous and systematic such that the defendant may be “fairly regarded as home?”

## *DaimlerAG v. Bauman*

- Argentinian workers sued in California under U.S. Alien Tort Claims Act (ATCA)
- Alleged Daimler complicit in human rights abuses during 1974-83 “Dirty War”



## ***DaimlerAG v. Bauman***



## ***DaimlerAG v. Bauman***

- To sue Daimler in U.S. required personal jurisdiction over defendant
- Because the alleged wrongdoing did not occur in any U.S. state, the "minimum contacts" test for specific jurisdiction used in *International Shoe* did not apply
- Instead, "general" personal jurisdiction over Daimler was required to establish jurisdiction in California

## ***DaimlerAG v. Bauman***

Holding:

- General personal jurisdiction could only exist in a forum where party is “at home,” not just any jurisdiction where their contacts are “systematic and continuous”
- “At home” is limited to (1) Place of Incorporation or (2) Principal Place of Business, unless there are exceptional circumstances
- Contact must be “so substantial and of such a nature as to justify suit ... on causes of action arising from dealings entirely distinct from those activities.”

## ***DaimlerAG v. Bauman***

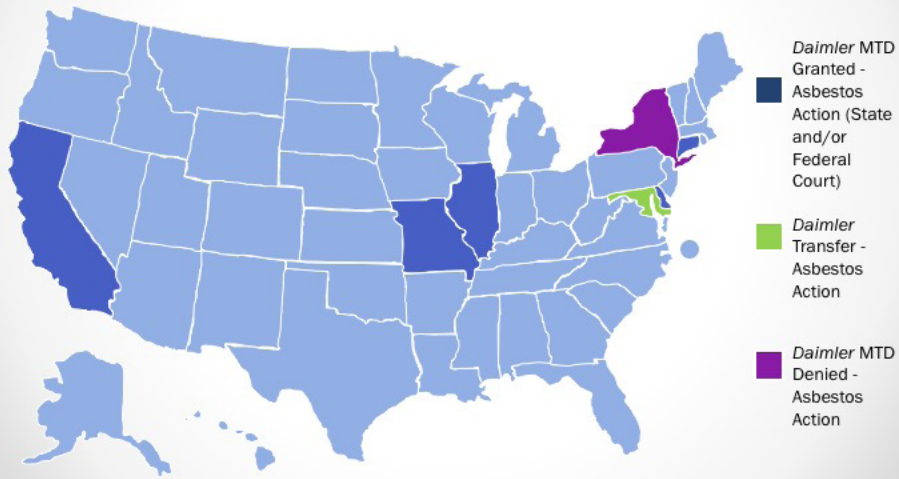
Recent Decisions and Issues

- Alter Ego
- Waiver
- Registered/Qualified to do business
- Other





## Daimler in Asbestos



## Let My People Go



## FACULTY BIOGRAPHY

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Joshua Metcalf's litigation involvement includes the national asbestos defense of a Fortune 100 company, developing defense strategy, negotiating settlements and ensuring the efficient defense of all matters; the defense of numerous claims for noise-induced hearing loss; the litigation of construction claims, obtaining numerous judgments and favorable outcomes on behalf of material suppliers; the defense of thousands of claims for personal injury and property damage allegedly caused by organic solvents, formaldehyde and numerous other industrial chemicals and substances; and the defense of more than 1,500 claims of exposure to dioxin, pentachlorophenol and creosote, achieving a very favorable outcome for the client.

### **Specific Areas of Practice / Main Focus**

- Appellate
- Asbestos
- Chemical and Mold Exposure
- Commercial Litigation
- Construction Litigation
- Drugs and Medical Devices
- Environmental Litigation
- Hearing Loss
- Personal Injury
- Product Liability

### **Professional Recognition**

- Martindale-Hubbell® Preeminent AV™ Peer Review Rated
- Mid-South Rising Stars® since 2010: Personal Injury Defense: Products
- Selected as one of Mississippi Business Journal's 2013 Leaders in Law

### **Ongoing Peer Education & Seminar Presentations**

- Co-Chair, Litigation Management in a New York Minute - A Concentrated Curriculum For In-House Counsel Managing Litigation. Network of Trial Law Firms, August 2015
- "Keeping Your Client out of the Crosshairs," Network of Trial Law Firms Litigation Management Conference, April 2015, Napa, California
- "Lung Cancer: Preparing for and Cross-Examining Experts (what to look for in medical records)," DRI Asbestos Medicine Conference, November 2014, San Francisco, California

### **Education**

- University of Virginia School of Law, J.D.
- Virginia Military Institute, B.A.
- University of St Andrews, Scotland, Study Abroad Program