

471 U.S. 462, 85 L.Ed.2d 528

**BURGER KING
CORPORATION, Appellant**

v.

John RUDZEWICZ.

No. 83-2097.

Argued Jan. 8, 1985.

Decided May 20, 1985.

Franchisor brought action against franchisee alleging breach of franchise obligations and trademark infringement. The United States District Court for the Southern District of Florida entered judgment in favor of franchisor and franchisee appealed. The Court of Appeals for the Eleventh Circuit, 724 F.2d 1505, reversed and denied rehearing, 729 F.2d 1468. The Supreme Court, Justice Brennan, held that: (1) where it was not clear that Court of Appeals had found Florida long-arm statute unconstitutional as applied, Supreme Court did not have jurisdiction over appeal; (2) jurisdictional statement would be treated as petition for writ of certiorari; and (3) exercise of long-arm jurisdiction over Michigan franchisee in Florida did not offend due process.

Reversed and remanded.

Justice Stevens dissented and filed an opinion in which Justice White joined.

1. Federal Courts ⇌453

Where it was unclear whether Court of Appeals actually held statute unconstitutional as applied to the circumstances of the case, jurisdiction did not properly lie in the Supreme Court by appeal and appeal would be dismissed, with the jurisdictional statement treated as a petition for writ of certiorari, which would be granted. 28 U.S.C.A. § 1254(2).

2. Federal Courts ⇌455

Parties cannot stipulate to a particular construction of state law, and thereby obtain jurisdiction over appeal to Supreme Court, where state law might, in fact, be in harmony with the Federal Constitution;

Supreme Court's jurisdiction is properly invoked only where a Court of Appeals has squarely held that the statute is unconstitutional on its face or as applied and jurisdiction does not lie if the decision might rest on other grounds. 28 U.S.C.A. § 1254(2).

3. Constitutional Law ⇌305(5)

Due process clause protects an individual's liberty in not being subject to the binding judgments of a forum with which he has established no meaningful contacts, ties, or relations; although the protection operates to restrict state power, it is ultimately a function of the individual liberty interest preserved by the due process clause rather than a function of federalism concern. U.S.C.A. Const.Amend. 14.

4. Constitutional Law ⇌305(4)

Contracts ⇌127(4)

Where forum selection provisions have been obtained through freely negotiated agreements and are not unreasonable and unjust, their enforcement does not offend due process. U.S.C.A. Const.Amend. 14.

5. Federal Courts ⇌76.10

Where forum seeks to assert specific jurisdiction over an out-of-state defendant who has not consented to suit there, fair-warning requirement is satisfied if the defendant has purposefully directed his activities at residence of the forum and the litigation results from injuries that arise out of or relate to those activities.

6. Federal Courts ⇌84

Publisher who distributes magazines in a distant state may fairly be held accountable in that forum for damages resulting therefrom an allegedly defamatory story.

7. Federal Courts ⇌76.10

Parties who reach out beyond one state and create continuing relationships and obligations with citizens of another state are subject to regulation and sanctions in the other state for the consequences of their activities.

where the contacts proximately result from actions by the defendant *himself* that create a "substantial connection" with the forum State. *McGee v. International Life Insurance Co.*, *supra*, 355 U.S., at 223, 78 S.Ct., at 201; see also *Kulko v. California Superior Court*, *supra*, 436 U.S., at 94, n. 7, 98 S.Ct., at 1698, n. 7.¹⁸ Thus where the defendant "deliberately" has engaged in significant activities within a State, *Keeton v. Hustler Magazine, Inc.*, *supra*, 465 U.S., at 781, 104 S.Ct., at 1481, or has created "continuing obligations" between himself and residents of the forum, *Travelers Health Assn. v. Virginia*, 339 U.S., at 648, 70 S.Ct., at 929, he manifestly has availed himself of the privilege of conducting business there, and because his activities are shielded by "the benefits and protections" of the forum's laws it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.

[14, 15] Jurisdiction in these circumstances may not be avoided merely because the defendant did not *physically* enter the forum State. Although territorial presence frequently will enhance a potential defendant's affiliation with a State and reinforce the reasonable foreseeability of suit there, it is an inescapable fact of modern commercial life that a substantial amount of business is transacted solely by mail and wire communications across state lines, thus obviating the need for physical presence within a State in which business is conducted. So long as a commercial actor's efforts are "purposefully directed" toward residents of another State, we have consistently rejected the notion that an absence of physical contacts can defeat personal jurisdiction

burdensome litigation" there. *World-Wide Volkswagen Corp. v. Woodson*, *supra*, 444 U.S., at 297, 100 S.Ct., at 567.

18. So long as it creates a "substantial connection" with the forum, even a single act can support jurisdiction. *McGee v. International Life Insurance Co.*, 355 U.S., at 223, 78 S.Ct., at 201. The Court has noted, however, that "some single or occasional acts" related to the forum may not be sufficient to establish jurisdiction if "their nature and quality and the circumstances

there. *Keeton v. Hustler Magazine, Inc.*, *supra*, 465 U.S., at 774-775, 104 S.Ct., at 1478; see also *Calder v. Jones*, 465 U.S., at 778-790, 104 S.Ct., at 1486-1487; *McGee v. International Life Insurance Co.*, 355 U.S., at 222-223, 78 S.Ct., at 200-201. Cf. *Hoopston Canning Co. v. Cullen*, 318 U.S. 313, 317, 63 S.Ct. 602, 605, 87 L.Ed. 777 (1943).

[16-18] Once it has been decided that a defendant purposefully established minimum contacts within the forum State, these contacts may be considered in light of other factors to determine whether the assertion of personal jurisdiction would comport with "fair play and substantial justice." *International Shoe Co. v. Washington*, 326 U.S., at 320, 66 S.Ct., at 160. Thus courts in "appropriate case[s]" may evaluate "the burden on the defendant," "the forum State's interest in adjudicating the dispute," "the plaintiff's interest in obtaining convenient and effective relief," "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," and the "shared interest of the several States in furthering fundamental substantive social policies." *World-Wide Volkswagen Corp. v. Woodson*, *supra*, 444 U.S., at 292, 100 S.Ct., at 564. These considerations sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required. See, e.g., *Keeton v. Hustler Magazine, Inc.*, *supra*, 465 U.S., at 780, 104 S.Ct., at 1481; *Calder v. Jones*, *supra*, 465 U.S., at 788-789, 104 S.Ct., at 1486-1487; *McGee v. International Life Insurance Co.*, *supra*, 355 U.S., at 223-224, 78 S.Ct., at 201-202. On the other hand, where a defendant who purposefully has directed his activities at

of their commission" create only an "attenuated" affiliation with the forum. *International Shoe Co. v. Washington*, 326 U.S. 310, 318, 66 S.Ct. 154, 159, 90 L.Ed. 95 (1945); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S., at 299, 100 S.Ct., at 568. This distinction derives from the belief that, with respect to this category of "isolated" acts, *id.*, at 297, 100 S.Ct., at 567, the reasonable foreseeability of litigation in the forum is substantially diminished.