

DESTINATION COURT OF ARBITRATION

EX CORPORATION)

v.)

Case No. 3276-1A

TRAVELERS and OUT TRANSPORT)

SUPPLEMENTAL DECISION

In the interest of justice and to establish important precedent, the Destination Court of Arbitration has considered the issue of personal jurisdiction and has determined this court will follow American Law as established by the United States Supreme Court and the Ninth Circuit Court of Appeals.

To satisfy ‘traditional notions of fair play and substantial justice’ the defendant must have ‘minimum contacts’ with the forum before the defendant is required to defend a suit in that forum. *See Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158 (1945). Whether a court has jurisdiction over a defendant turns on “the nature and extent of the defendant’s relationship to the forum State.” *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. ___, 141 S. Ct. 1017, 1024 (2021). A court can have general jurisdiction over a Defendant for all cases or specific jurisdiction over a Defendant for a specific case. *Id.* at 1024.

I. General Jurisdiction

“General jurisdiction exists only when a defendant is ‘essentially at home’.” *Ford Motor Co.*, 141 S. Ct. at 1024 (*citing Goodyear Dunlop Tires Operations, S. A. v. Brown*, 564 U.S. 915, 919, 131 S. Ct. 2846 (2011)).

In what we have called the "paradigm" case, an individual is subject to general jurisdiction in her place of domicile.

Id. (*citing Daimler AG v. Bauman*, 571 U.S. 117, 137, 134 S. Ct. 746 (2014)).

For corporations, general jurisdiction exists where the company is incorporated and has its principal place of business. *Id.*, 141 S. Ct. at 1024. This general jurisdiction extends over “any and all claims” against the defendant concerning “events and conduct anywhere in the world.” *Id.*

EX Corp. did not assert general jurisdiction exists. Neither Out Transport nor Travelers was incorporated or has its principal place of business on Destination. This Decision will focus on specific jurisdiction.

II. Specific Jurisdiction

Specific jurisdiction exists where the defendant’s purposeful actions are sufficiently related to the dispute and the forum that the defendant could reasonably anticipate being sued in the forum. *Ford Motor Co.*, 141 S. Ct. at 1024-25.

We have established a three-prong test for analyzing a claim of specific personal jurisdiction:

(1) The non-resident defendant must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws;

(2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and

(3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e., it must be reasonable.

Schwarzenegger v. Fred Martin Superstore, 374 F.3d 797, 802 (9th Cir. 2004) (citing *Lake v. Lake*, 817 F.2d 1416, 1421 (9th Cir.1987)); accord *Herbal Brands, Inc. v. Photoplaza, Inc.*, 72 F.4th 1085, 1090 (9th Cir. 2023).

[A]vailment and direction are, in fact, two distinct concepts. A purposeful availment analysis is most often used in suits sounding in contract. See, e.g., *Doe v. Unocal Corp.*, 248 F.3d 915, 924 (9th Cir. 2001). A purposeful direction analysis, on the other hand, is most often used in suits sounding in tort. See, e.g., *Dole Food Co., Inc. v. Watts*, 303 F.3d 1104, 1111 (9th Cir. 2002); cf. *Ziegler v. Indian River County*, 64 F.3d 470, 473 (9th Cir. 1995) (noting that “we apply different purposeful availment tests to contract and tort cases”).

Schwarzenegger, 374 F.3d at 802.

A. Purposeful Availment—Contract Claims

A showing that a defendant purposefully availed himself of the privilege of doing business in a forum state typically consists of evidence of the defendant's actions in the forum, such as executing or performing a contract there. By taking such actions, a defendant “purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.” *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S. Ct. 1228, 2 L.Ed.2d 1283 (1958). In return for these “benefits and protections,” a defendant must - as a quid pro quo - “submit to the burdens of litigation in that forum.” *Burger King [Corp. v Rudzewicz]*, 471 U.S. 462, 476, 105 S. Ct. 2174.

Schwarzenegger, 374 F.3d at 802.

B. Purposeful Direction—Tort Claims

A showing that a defendant purposefully directed his conduct toward a forum state, by contrast, usually consists of evidence of the defendant's actions outside the forum state that are directed at the forum, such as the distribution in the forum state of goods originating elsewhere. *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 774-75, 104 S. Ct. 1473, 79 L.Ed.2d 790 (1984) (finding purposeful direction where defendant published magazines in Ohio and circulated them in the forum state, New Hampshire).

Id., at 803.

The Supreme Court has held that due process permits the exercise of personal jurisdiction over a defendant who “purposefully direct[s]” his activities at residents of a forum, even in the “absence of physical contacts” with the forum. *Burger King*, 471 U.S. at 476 (citing *Keeton*, 465 U.S. at 774-75, 104 S. Ct. 1473).

Id.

[B]oth purposeful availment and purposeful direction ask whether defendants have voluntarily derived some benefit from their interstate activities such that they will not be haled into a jurisdiction solely as a result of random, fortuitous, or attenuated contacts.” *Global Commodities [Trading Group, Inc. v. Beneficio de Arroz Choloma, S.A.]*, 972 F.3d [1101,] 1107 [(9th Cir. 2020)]. So there’s no need to adhere to an iron-clad doctrinal dichotomy to analyze specific jurisdiction. Rather, when considering specific jurisdiction, courts should comprehensively evaluate the extent of the defendant’s contacts with the forum state and those contacts’ relationship to the plaintiffs’ claims—which may mean looking at both purposeful availment and purposeful direction.

Davis v. Cranfield Aerospace Solutions, Ltd., 71 F. 4th 1154, 1162 (9th Cir. 2023).

III. **Specific Jurisdiction Over Out Transport**

Plaintiff, EX Corp., owns and governs Destination. The transportation contract between EX Corp. and Out Transport obligated Out Transport to deliver human and AI passengers to Destination. Immigrants to Destination may originate on any world in the solar system. What all these transportation contracts have in common is arrival on Destination provided by Out Transport. Out Transport regularly provides these services under contracts with EX Corp. Once passengers arrive on Destination, Out Transport provides surface transportation.

Due to the cost and distance involved in relocating to Destination, EX Corp. pays the transportation expense and is repaid over time (typically 20 years) by the passengers as “immigration debt.”

A. **Purposeful Availment**

A defendant purposefully availed itself of the benefits of Destination Law if it

deliberately reached out beyond [its] home—by, for example, exploiting a market in the forum []or entering a contractual relationship centered there.

Ford Motor Co., 141 S. Ct. at 1024; accord *Davis*, 71 F. 4th at 1163; *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 503 (9th Cir. 2023).

Out Transport does not have its principal place of business on Destination, but the business relationship with Destination is “continuous and systematic.” *Helicopteros Nacionales de Columbia SA v. Hall*, 466 U.S. 408, 414-16, 104 S. Ct. 1868, 1872-74 (1984). These business activities (including the contract for specific transportation services to Destination at issue in this

case), establish Out Transport has “deliberately reached out” to exploit the market for transportation to Destination. Out Transport has entered into a “contractual relationship centered” on transportation to and on Destination. This business endeavor to transport immigrants to populate Destination “invokes the benefits and protections” of Destination law.” *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S. Ct. 1228 (1958). Indeed, Out Transport defended the negligence claim based on a release in the transportation contract (further demonstrating the contractual relationship centered on Destination).

The circumstances surrounding the contract support jurisdiction.

Purposeful availment can be established by a contract’s negotiations, its terms, its contemplated future consequences, and the parties’ actual course of dealing. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 479 (1985).

Davis, 71 F. 4th at 1163.

The Out Transport contract terms, the contemplated consequences, and the course of dealing all focus on transporting immigrants to Destination. Out Transport continues to perform obligations to immigrants after their arrival in the form of surface transportation on Destination. See *Silk v. Bond*, 65 F.4th 445, 457 (9th Cir. 2023), *pet. for cert. filed*, No. 22-1167 (U.S. June 2, 2023) (business activity constitutes purposeful availment when that activity reaches out and creates “continuing relationships and obligations” in the forum state).

[C]ourts must evaluate the parties’ entire course of dealing, not solely the particular contract or tortious conduct giving rise to the claim, when assessing whether a defendant has minimum contacts with a forum. . . .

[Defendant] maintained numerous contacts with California during the course of its years-long business relationship with Global. Those contacts gave rise to this dispute, and it was reasonable for [Defendant] to expect that it would be haled into court in California to fulfill its obligations and to account for harm it foreseeably caused there.

Global Commodities Trading Group, Inc. v. Beneficio de Arroz Choloma, S.A., 972 F.3d 1101, 1108 - 09 (9th Cir. 2020).

B. Purposeful Direction

Out Transport purposely directed its transportation services at immigrants to Destination resulting in harm suffered by EX Corp. on Destination. Defendant Out Transport must be shown to have

(1) committed an intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum state.”

Schwarzenegger, 374 F.3d at 803. *Accord Herbal Brands*, 72 F.4th at 1091; *Yahoo! Inc. v. La Ligue Contre Le Racisme Et L’Antisemitisme*, 433 F.3d 1199, 1206 (9th Cir. 2006). See *Calder v. Jones*, 465 U.S. 783, 789–90, 104 S. Ct. 1482 (1984) (defamation was intentionally directed at California resident and had the effect of damaging her reputation there).

An action may be directed at a forum state even if it occurred elsewhere. *Morrill v. Scott Fin. Corp.*, 873 F.3d 1136, 1142 (9th Cir. 2017). The alleged negligent action (or failure to act) occurred on an Out Transport vessel during passage to Destination. The contract for passage was directed at immigrants to Destination and was intentionally entered into by Out Transport.

“Harm suffered in the forum state is a necessary element in establishing purposeful direction.” *Id.*, 873 F.3d at 1144. All four deceased immigrants to Destination had contracted for employment on Destination. Upon arrival these passengers would begin repayment of the immigration debt to Plaintiff EX Corp and payment of rent for EX Corp. provided housing. Destination has a strong interest in providing judicial redress for injuries to its citizens (including repayment of the immigration debt of the four deceased passengers to plaintiff EX Corp.). Although EX Corp., was not incorporated on Destination and does not have its principal place of business on Destination, EX Corp. has systematic and continuous activity on Destination amounting to residence and citizenship. Out Transport intentionally provided transportation services aimed at Destination and EX Corp.

C. The Claims Arise out of or Relate to Out Transport’s Forum-related Activities

The EX Corp. contract and negligence claims arise out of transportation provided by Out Transport and directed toward Destination. The specific claims asserted arise from injuries that would not have occurred but for the contract to transport passengers to Destination and the alleged negligence. See *Burger King Corp.*, 471 U.S. at 472-73. The resulting harm was suffered on Destination.

Out Transport has the necessary minimum contacts with Destination to satisfy the requirements of due process. *International Shoe*, 326 U.S. at 316. Specific jurisdiction over Out Transport exists for both the contract and negligence claims.

IV. Specific Jurisdiction Over Travelers.

EX Corp. alleged Travelers contracted to provided insurance in the amount of the immigration debt for the four deceased passengers to Destination. Travelers alleged there was a failure to agree to a key provision, whether the insurance covered the passengers to Destination on the *Peerless*.

No jurisdictional motion was filed, but, for the reasons stated above, the court is addressing the question of jurisdiction *sua sponte*. The allegations of the complaint would have been presumed true if a motion to dismiss had been filed.

Where, as here, the motion is based on written materials rather than an evidentiary hearing, "the plaintiff need only make a *prima facie* showing of jurisdictional facts."

Schwarzenegger, 374 F.3d at 800 (quoting *Sher v. Johnson*, 911 F.2d 1357, 1361 (9th Cir. 1990)). For purposes of determining jurisdiction, an insurance contract for passengers to Destination on the *Peerless* is presumed to exist.

Accepting the allegations of the complaint, Travelers agreed to insure safe arrival of the immigrants on Destination. Plaintiff EX Corp. demands payment of the insurance policy benefits based on indemnity for the loss resulting from the deaths of four immigrants in transit to Destination.

Travelers frequently insures passengers to Destination in the amount of the immigration debt. Travelers contracted to provide this insurance to EX Corp., which owns the Charter for Destination, rents housing to residents and advances immigration costs to attract residents to Destination. The advanced immigration costs (“immigration debt”) and future rents cannot be repaid if the immigrant does not survive the journey to Destination.

A. Purposeful Availment

Travelers purposefully availed itself of the opportunity to insure passengers to Destination. Due Process requires Travelers to

“take some act by which it purposefully avails itself of the privilege of conducting activities within the forum State,” and that the plaintiff’s claims “arise out of or relate to the defendant’s contacts with the forum.”

Yamashita, 62 F.4th at 503 (quoting *Ford*, 141 S. Ct. at 1024-25) (cleaned up)).

Insurance for transportation of immigrants to a safe arrival on Destination was the purpose of the contract. Travelers’ act of insuring passengers arrive safely on Destination was purposeful. The indemnity claim is for the specific harm suffered by EX Corp. on Destination – nonpayment of the immigration debt. Travelers’ contractual indemnity for safe arrival is a contact with Destination and the EX Corp. claim arises out of that contact.

Like Out Transport, Travelers

deliberately reached out beyond [its] home—by, for example, exploiting a market in the forum State or entering a contractual relationship centered there.

Ford Motor Co., 141 S. Ct. at 1024; accord *Yamashita*, 62 F. 4th at 503; *Davis*, 71 F. 4th at 1163. The Travelers insurance policies for immigrants deliberately exploited a market on Destination by “entering a contractual relationship centered there.” The insured risk was safe arrival on Destination.

Destination is the most remote Earth colony and is the first colony outside the solar system. Arrival on Destination was fundamental to the insurance contract. Travelers was necessarily aware of and influenced by the contract condition for indemnity – injury to an immigrant on the journey to Destination. See *Eli Lilly and Co. v. Home Insurance Co.*, 794 F.2d 710, 720-21 (D.C. Cir. 1986) (insurer has a commercial interest in knowing its insured's contacts with the forum state; presumably, premiums reflect the risk exposure).

Insurance policies covering immigrants to Destination’ and paid for by reimbursements to EX Corp by the immigrants after they arrive on Destination, subject Travelers to suit on Destination.

Blue Cross, by voluntarily and knowingly obligating itself to provide health care coverage to Southwest's California employees, in exchange for premiums partly derived from premiums paid by California residents, purposefully availed itself of the benefits and protections of that forum.

Hirsch v. Blue Cross, Blue Shield of Kansas City, 800 F.2d 1474, 1480 (9th Cir. 1986). The Travelers' policy insured EX Corp. against the risk an immigrant did not arrive capable of working to repay the immigration debt. Travelers' insurance market for the policy, and Travelers' insured risk, centered on Destination.

Destination was alleged to be central to the insurance "contract's negotiations, its terms, its contemplated future consequences, and the parties' actual course of dealing."

Purposeful availment can be established by a contract's negotiations, its terms, its contemplated future consequences, and the parties' actual course of dealing. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 479 (1985).

Davis, 71 F.4th at 1163. Travelers purposefully availed itself of the benefit of Destination law.

A. Purposeful Direction

Although the claim against Travelers is a contract claim, usually evaluated under the purposeful availment test,

when considering specific jurisdiction, courts should comprehensively evaluate the extent of the defendant's contacts with the forum state and those contacts' relationship to the plaintiffs' claims—which may mean looking at both purposeful availment and purposeful direction.

Davis, 71 F. 4th at 1162. *Accord Global Commodities*, 972 F.3d at 1108.

EX Corp., the insured, governs Destination. EX Corp. literally owns all the land on Destination and is owed an immigration debt by all the residents of Destination. Travelers' contacts with EX Corp. are relevant to Travelers' contacts with Destination.

[P]laintiff's residence in the forum may, because of defendant's relationship with the plaintiff, enhance defendant's contacts with the forum. Plaintiff's residence may be the focus of the activities of the defendant out of which the suit arises.

Keeton, 465 U.S. at 780, 104 S. Ct. at 1481 (*Keeton* was a tort case).

The extent of the contacts between EX Corp and Destination and the relationship of Destination to immigrants covered by the insurance contract confirm Destination was Travelers' focus when issuing the policy. The resulting contacts with Destination were intentional and purposeful and the effects on Destination were foreseeable.

B. The Insurance Claim Arises out of or Relates to Travelers' Forum-related Activities

The EX Corp. contract claim arises out of insurance for immigrants to Destination. The insurance policies provided by Travelers were directed toward safe arrival on Destination. The claim asserted for policy benefits arise from harm suffered on Destination.

Travelers has the necessary minimum contacts with Destination to satisfy the requirements of due process. *International Shoe*, 326 U.S. at 316, 66 S. Ct. at 158.

Walden v. Fiore, 571 U.S. 277, 134 S. Ct. 1115 (2014), is inapposite. Fiore and Gipson, Nevada residents, sued Walden, a Georgia police officer and “deputized DEA agent,” for conducting an allegedly unlawful search when Fiore and Gipson were in Georgia preparing to board a flight connecting to Nevada. The Supreme Court held that the Nevada court lacked specific jurisdiction. Because the “*relevant* conduct occurred entirely in Georgi[a] ... the mere fact that [this] conduct affected plaintiffs with connections to the forum State d[id] not suffice to authorize jurisdiction.” *Id.*, 134 S. Ct. at 1126 (emphasis added).

Walden “never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada. *Id.*, at 1124. Moreover “none of [Walden’s] challenged conduct had anything to do with Nevada itself .” *Id.*, at 1125.

First, the claim against Travelers was breach of contract, not a tort, and the alleged contract was to insure passengers immigrating to Destination.

[W]e have upheld the assertion of jurisdiction over defendants who have purposefully “reach[ed] out beyond” their State and into another by, for example, entering a contractual relationship that “envisioned continuing and wide-reaching contacts” in the forum State[.] *Burger King*, *supra*, at 479-480, 105 S. Ct. 2174.

Walden, 134 S. Ct. at 1122.

Second, Travelers frequently insured travel to Destination. The specific claims asserted by EX Corp. arise from injuries that would not have occurred but for the alleged contract to insure passengers to Destination.

Travelers has a more attenuated relationship with Destination than Out Transport does. Still, if the insurance claim was proven, there would necessarily be a connection between the insurance contract and the passengers to Destination. If the claim was not proven, there simply would be a final determination Travelers issued no insurance contract covering the four deceased humans and incurred no liability.

Based on the allegations, specific jurisdiction exists over Travelers for the insurance contract claim.

V. The Exercise of Jurisdiction is Reasonable

Finally, once both purposeful direction (or availment) and activity related to the forum are established,

“the burden then shifts to the defendant to “present a compelling case” that the exercise of jurisdiction would not be reasonable. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476-78, 105 S. Ct. 2174, 85 L.Ed.2d 528 (1985).”

Schwarzenegger, 374 F.3d at 802.

The relevant factors that the court examines may include: the extent of the defendant's purposeful interjection into the forum state's affairs; the burdens 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. See *Burger King*, [471 U.S. at 477,] 105 S. Ct. at 2184.

Hirsch v. Blue Cross, Blue Shield of Kansas City, 800 F.2d 1474, 1481 (9th Cir. 1986).

Neither Out Transport nor Travelers established the exercise of jurisdiction is not reasonable under the factors established in *Burger King*, 471 U.S. at 476-77, 105 S. Ct. at 2184-85. Based on the record, all of the *Burger King* factors either support jurisdiction or are neutral.

Destination as a forum for legal disputes “has a manifest interest in providing its residents with a forum for reaching insurance companies who refuse to honor legitimate claims.” *Haisten v. Grass Valley Medical Reimbursement Fund, Ltd.*, 784 F.2d 1392, 1398-99 (9th Cir. 1986).

Perhaps Travelers did not raise the jurisdiction issue in order to quickly establish there is no liability. Time to trial here on Destination is faster than anywhere else in human space.

It is hereby ordered, adjudged, and decreed, confirming personal jurisdiction exists over Out Transport and Travelers.

The Clerk is ordered to enter judgment in accordance with the foregoing.

/s/ AI Judge
