

# THE NATIONAL LAW REVIEW

---

## States May Not “Hale” an Out-of-State Railroad: No Personal Jurisdiction, Supreme Court Rules

---

Tuesday, May 30, 2017

On May 30, 2017, the Supreme Court of the United States held that section 56 of the Federal Employers’ Liability Act (FELA) does not address personal jurisdiction over railroads. The two underlying lawsuits were filed in Montana state courts even though the injured workers did not reside in Montana and were not injured in Montana, and even though BNSF was not incorporated in Montana. Justice Ginsburg, writing for the majority, reversed the judgment of the Montana Supreme Court, reasoning that “the Fourteenth Amendment’s Due Process Clause does not permit a State to hale an out-of-state corporation before its courts when the corporation is not ‘at home’ in the State and the episode-in-suit occurred elsewhere.” *BNSF Railway Co. v. Tyrrell*, Supreme Court of the United States, No. 16-405 (May 30, 2017).

### Background

The case came to the Supreme Court on appeal from two lawsuits filed in Montana state courts. One was brought by a North Dakota resident who claimed that he suffered knee injuries while working for BNSF Railway Company. The other was brought by the wife of a former BNSF employee who was appointed in South Dakota as the administrator of her husband’s estate. The lawsuit claimed that the employee had developed cancer while working for BNSF.

BNSF, which operates railroad lines in 28 states but is incorporated in Delaware and has its principal place of business in Texas, moved to dismiss both suits for lack of personal jurisdiction, claiming that it is not “at home” in Montana. The Montana Supreme

Court consolidated the cases. According to the state supreme court, section 56 of FELA authorizes state courts to exercise personal jurisdiction over railroads “doing business” in the state, and Montana law provides for the exercise of general jurisdiction over “[a]ll persons found within” the state. Thus, the court held that Montana courts *could* exercise general personal jurisdiction over BNSF.

The Supreme Court agreed to hear the case “to resolve whether §56 authorizes state courts to exercise personal jurisdiction over railroads doing business in their States but not incorporated or headquartered there, and whether the Montana courts’ exercise of personal jurisdiction in these cases comports with due process.”

### The Supreme Court’s Decision

The Supreme Court first concluded that “FELA does not authorize state courts to exercise personal jurisdiction over a railroad solely on the ground that the railroad does some business in their States.” The court next considered the Montana courts’ assertion of personal jurisdiction over BNSF as “found within” Montana.

The Court acknowledged that BNSF has 2,061 miles of railroad track in Montana and employs approximately 2,100 workers in the state. It also noted, however, that BNSF is not incorporated in Montana, does not maintain its



Article By [Hera S. Arsen](#)  
[Todd C. Duffield](#)  
[Ogletree, Deakins, Nash, Smoak & Stewart, P.C.](#)  
[Our Insights](#) [Labor & Employment](#)  
[Personal Injury](#)  
[Litigation / Trial Practice](#)  
[Utilities & Transport](#)  
[All Federal](#)

principal place of business in Montana, and is not so “heavily engaged in activity in Montana ‘as to render [it] essentially at home’ in that State.”

Justice Ginsburg’s opinion concluded: “In short, the business BNSF does in Montana is sufficient to subject the railroad to specific personal jurisdiction in that State on claims related to the business it does in Montana. But in-state business . . . does not suffice to permit the assertion of general jurisdiction” over the workers’ claims here, which are unrelated to any activity occurring in Montana. The Supreme Court thus ruled that the judgment of the Montana Supreme Court is reversed.

## **Practical Impact**

The Supreme Court’s opinion reiterates the well-established principle that the exercise of personal jurisdiction over an out-of-state defendant must be premised on certain minimum contacts with the state such that bringing and maintaining a lawsuit there comports with fair play and substantial justice. As the Supreme Court noted, although this case arose in the context of a railroad, the Fourteenth Amendment’s due process constraint does not depend on the type of claim asserted or business enterprise sued. Thus, if a plaintiff is forum shopping and sues you in a state where you are not incorporated or headquartered and where no activities giving rise to the claim asserted against you occurred, the case may be ripe for early dismissal for lack of personal jurisdiction.

© 2019, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., All Rights Reserved.

**Source URL:** <https://www.natlawreview.com/article/states-may-not-hale-out-state-railroad-no-personal-jurisdiction-supreme-court-rules>