The “Long Arm” of the Law, or How to Pull Out-of-State Opponents into Court

By Justin O. Sorrell, RBE Attorney

Picture this: you provide services to an out-of-state company, and the company then refuses to pay. The company ignores your reasonable requests to pay, so you initiate an Indiana lawsuit against the out-of-state company. The out-of-state company then seeks dismissal of the lawsuit, claiming that the Indiana court has no power over them. What happens next?

The answer depends on whether the Indiana court has “personal jurisdiction” over the out-of-state defendant. This is because the law generally does not allow someone to be pulled into any court, anywhere, for any reason. There generally must be a connection between the defendant being pulled into court, and the location in which it is being pulled into court.

In particular, Indiana has what is known as a “long-arm” rule which allows an Indiana court to exercise power (also known as exercising jurisdiction) over an out-of-state defendant. This rule plays hand-in-hand with the Due Process Clause of the Fourteenth Amendment to the United States Constitution, which prohibits any state from depriving any person (including a corporation) from any property (including money) “without due process of law.” Courts have held that “due process” requires that, before a court may exercise jurisdiction over an out-of-state defendant, the defendant must have sufficient minimum contacts with the state so that it would not be unfair or unjust for the defendant to be sued in that state.

There are two types of jurisdiction: general jurisdiction and specific jurisdiction. General jurisdiction exists when a defendant’s contacts with Indiana are so “continuous and systematic” that the defendant should reasonably anticipate being called into court in Indiana for any matter. Specific jurisdiction
exists when a defendant takes advantage of the privilege of conducting business within Indiana such that the defendant should reasonably anticipate being called into court in Indiana. And, even if jurisdiction exists, it must be “reasonable” for a court to exercise jurisdiction over the defendant.

For example, in Oswald v. Shehadeh, 108 N.E.3d 911, 916 (Ind. Ct. App. 2018), the Indiana Court of Appeals determined that personal jurisdiction did exist so the Indiana plaintiff could sue the Arkansas defendants in Indiana for breach of contract. Facts which supported the existence of personal jurisdiction included: (1) the defendants solicited the plaintiff in Indiana to sell the plaintiff’s restaurants; (2) the sale contract was an agreement requiring the defendants to make payments to the plaintiff in Indiana; and (3) after the contract was executed the defendants maintained business relationships with Indiana companies and residents and maintained a mailbox in Indiana.

However, in Wolf’s Marine, Inc. v. Brar, 3 N.E.3d 12 (Ind. Ct. App. 2014), the Indiana Court of Appeals determined that personal jurisdiction did not exist, so the Indiana plaintiff could not sue the Michigan defendant in Indiana for property damage. The only deliberate contacts the defendant had with Indiana were limited to general advertising, emailing a form contract to the plaintiff at the plaintiff’s request, and invoicing and receiving payment from the plaintiff. No goods were delivered to or from Indiana, nor were any services performed in Indiana.

The takeaway is that, if you cannot establish that Indiana has jurisdiction over an out-of-state company, you likely will need to pursue your claims in the state where that company is located. In other words, doing business with out-of-state companies can create complicated issues. If you are conducting business with an out-of-state company, or considering doing so, we recommend consulting with an attorney to seek advice regarding the various issues which may arise.