



Lawsuit Reform Alliance of New York

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OPPOSE

BILL:	S.5889 (Bonacic) / A.5918 (Weinstein)
SUBJECT:	Consent to General Jurisdiction
DATE:	May 10, 2017
CONTACT:	Adam Morey

Summary:

This bill purports to codify case law and subject all companies registered to do business in New York to “general jurisdiction” of the state’s courts, even when the lawsuit has nothing to do with activities that took place in New York. In reality, this legislation would attract out of state lawyers seeking to take advantage of New York’s notoriously plaintiff-friendly courts – all at the expense of taxpayers and businesses.

Why we oppose this legislation:

It runs counter to prevailing legal trends

- In *Daimler v. Bauman* (2014), the U.S. Supreme Court unanimously ruled that that general jurisdiction can be exercised only in states where an entity is “at home” – where it is incorporated or maintains its principal place of business. This ruling provided a clear indication that the Supreme Court intends to limit the circumstances under which general jurisdiction may be exercised. As Justice Ginsburg noted in *Daimler*: “general jurisdiction has come to occupy a less dominant place in the contemporary scene.”

New York should not be “America’s Courtroom”

- With regard to policy governing jurisdiction, the *Daimler* ruling brought America one step closer to harmony with much of the rest of the world. In most other countries, the exercise of general jurisdiction is limited to the defendant’s state of incorporation or place of principal business. This curbs “litigation tourism” and effectively balances the due process rights of both plaintiffs and defendants. We believe that disregarding the “at home” requirement gives rise to the very due process issues that *Daimler* sought to resolve.

New York’s jurisdictional policies should be allowed to evolve

- We agree with the Supreme Court’s unanimous opinion in *Daimler* and that granting general jurisdiction in states where a business is neither incorporated nor maintains its principal place of business represents an “exorbitant exercise of general jurisdiction, [which] would scarcely permit out-of-state defendants to ‘structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit.’” It would be imprudent to codify existing case law before the full impacts of *Daimler* are resolved. Indeed, New York’s existing case law may soon be challenged, and should be allowed to evolve to reflect changing attitudes toward general jurisdiction.

The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, professionals, health care providers, membership organizations, and taxpayers dedicated to reforming the legal system in order to foster a better business climate, promote job growth, and address the growing cost of lawsuit abuse.