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When Courts Grapple with Unsettled Precedent, Early Mediation May Be Worthwhile



The U.S. Supreme Court's Decision in *Ford Motor Co. v. Bandemer* left litigants – particularly product manufacturers – and courts across the country with more questions than answers. See 141 S.Ct. 1017 (2021). Private mediation may be worthwhile when fundamental questions of jurisdiction are unsettled.

Consider the Ninth Circuit Court of Appeals' recent decision in *LNS Enterprises LLC, et al., v. Continental Motors, Inc., et al.*, 2022 U.S. App. LEXIS 901 (9th Cir. 2022). In that case, the Court affirmed the United States District Court for the District of Arizona's dismissal of plaintiffs' claims against

Continental Motors, Inc. *n.k.a.* Continental Aerospace Technologies, Inc. and its denial of plaintiffs' request for jurisdictional discovery. The learned Court rendered this decision in the wake of *Ford Motor Co. v. Bandemer* ("Ford") after extensive briefing and oral argument last Fall.

The case arose from an Arizona aircraft accident resulting in property damage to the subject aircraft. Plaintiffs (Arizona residents) asserted multiple claims against multiple defendants, but their claim against Continental alleged that the engine it sold in 2006 to an unaffiliated customer in Oregon contained defects. The parties agreed that the Arizona courts lacked general personal jurisdiction over Continental. Therefore, like *Ford*, the Court's inquiry focused on the issue of specific personal jurisdiction.

Continental established that it had no contact whatsoever with the engine after its initial sale nor any knowledge of its whereabouts prior to being informed about the subject litigation. Indeed, the Oregon customer installed the engine into the accident aircraft, and 10 years later, plaintiffs purchased the aircraft from a Texas-based seller. Ultimately, one of the plaintiffs piloted the aircraft in Arizona where it crash landed.

Continental argued that the engine's eventual matriculation into the forum through the stream of commerce could not justify the exercise of personal jurisdiction over it. Plaintiffs argued that Continental's nationwide marketing and advertising activities and the existence of Arizona-based repair facilities that serviced Continental engines were contacts sufficient to establish specific personal jurisdiction over Continental. Plaintiffs also argued that the forum-based location of the accident and their Arizona-resident status should be considered in the Court's jurisdictional analysis. [READ MORE](#)

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