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WORLDWIDE COVERAGE NOT ENOUGH FOR PERSONAL JURISDICTION OVER FOREIGN INSURERS

In September, the U.S. Court of Appeals for the Seventh Circuit affirmed a Wisconsin court's decision dismissing an indemnification action brought by a Massachusetts insurer against two Taiwanese insurers for lack of personal jurisdiction. The Massachusetts insurer did not persuade the Court of Appeals that the insured's status as an additional insured on the Taiwan policies, nor the promise of worldwide coverage satisfied the due process requirements of Wisconsin's long-arm statute without more evidence of purposeful contact with the forum state.

In *Lexington Insurance Company v. Hotai Insurance Company, Ltd., et al.*, 938 F.3d 874, Lexington Insurance Company, the Massachusetts insurer, provided CGL and commercial umbrella insurance to Wisconsin-based Trek Bicycle Corporation. Trek had entered into separate purchase agreements with two Taiwanese entities, each having a products-liability insurance policy issued by Taiwanese insurers that listed Trek as an additional insured and provided worldwide indemnity to the entities and Trek. Lexington later helped Trek settle a Texas bodily injury suit, and then sued the Taiwanese insurers after they declined to pay. The Wisconsin district court dismissed the case on grounds there was no personal jurisdiction over the Taiwanese insurers. Lexington appealed the dismissal order.

Personal jurisdiction is appropriate when permitted by both the forum state's long-arm statute and by the Constitution's due process clause. The parties agreed Wisconsin's long-arm statute reached the Taiwanese insurers. The focus was whether the exercise of personal jurisdiction over these foreign defendants satisfied the due process requirement. Lexington argued that because the Taiwanese policies added Trek as an additional insured and extended coverage for worldwide liabilities, there were sufficient contacts with the state of Wisconsin to satisfy due process.

The Seventh Circuit saw no evidence that the foreign insurers had purposefully reached out to the state of Wisconsin during the negotiations, execution or performance of the policies. The court emphasized the minimum contact's analysis focuses on a defendant's deliberate contact with the forum state itself and not the forum state's resident. The Seventh Circuit also rejected Lexington's argument that the worldwide coverage provision benefited the foreign insurers because a wider geographic territory resulted in a higher premium. The court ruled that including Wisconsin in its coverage territory is not the equivalent of "doing business in" Wisconsin citing precedent that a defendant's receipt of collateral financial benefits in relation to the forum state does not satisfy the minimum contacts requirement.