

SUPREME COURT OF NEW HAMPSHIRE

State v. North Atlantic Refining Limited, 160 N.H. 275

999 A.2d 396 (2010) · No. 2009-545 · Decided May 7, 2010

SUMMARY

The Supreme Court of New Hampshire held that North Atlantic Refining Limited was subject to specific personal jurisdiction in New Hampshire in the State's MTBE groundwater-contamination lawsuit. The court concluded that North Atlantic's production and design of MTBE-containing gasoline for the northeastern United States market, together with shipments to New Hampshire, satisfied relatedness and purposeful avilment requirements. The court also determined that exercising jurisdiction was fair and reasonable, and affirmed the denial of North Atlantic's motion to dismiss.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Dalianis, J.; Broderick, C.J.; Duggan, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	May 7, 2010
DOCKET	2009-545
DISPOSITION	affirmed
PROCEDURAL POSTURE	North Atlantic appealed the Superior Court's denial of its motion to dismiss the State's complaint for lack of personal jurisdiction.
STANDARD OF REVIEW	When a motion to dismiss for lack of personal jurisdiction is decided without an evidentiary hearing, the plaintiff must make a prima facie showing, the court accepts properly documented factual proffers as true, and the appellate court reviews the jurisdictional decision de novo.
PRECEDENTIAL VALUE	Published New Hampshire Supreme Court opinion; precedential.
PARTIES	North Atlantic Refining Limited v. State of New Hampshire

TOPICS

- personal jurisdiction
- civil procedure
- due process
- strict liability
- environmental law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether New Hampshire's long-arm statute and the Federal Due Process Clause authorized specific personal jurisdiction over North Atlantic.
2. Whether North Atlantic's contacts with New Hampshire were sufficiently related to the State's claims.
3. Whether North Atlantic purposefully availed itself of the privilege of conducting activities in New Hampshire under the stream-of-commerce-plus theory.
4. Whether exercising jurisdiction over North Atlantic was fair and reasonable under the applicable gestalt factors.

HOLDINGS

1. North Atlantic's production and design of MTBE-containing gasoline for the northeastern United States market and the shipment of thirty-seven loads to a New Hampshire location were contacts that related to the State's claims for contamination-related injuries.
2. North Atlantic purposefully availed itself of the privilege of conducting activities in New Hampshire because it specifically produced and designed MTBE-containing gasoline for a northeastern United States market that included New Hampshire and voluntarily participated in the distribution system.
3. Exercising specific personal jurisdiction over North Atlantic in New Hampshire was fair and reasonable.

KEY QUOTATIONS

"Purposeful availment requires both foreseeability and voluntariness." (406)

"We hold that these contacts are sufficient to satisfy the 'plus' component of the 'stream of commerce plus' theory." (407)

"For all of the above reasons, therefore, we hold that North Atlantic is subject to specific personal jurisdiction in New Hampshire." (409)

FACTUAL BACKGROUND

North Atlantic operated an oil refinery in Newfoundland and Labrador, Canada, and produced reformulated gasoline containing MTBE from 1995 through 2006 for related Vitol companies. The gasoline was produced for the northeastern United States market, and thirty-seven shipments of the gasoline were sent from North Atlantic's refinery to a New Hampshire location. North Atlantic knew that most of its MTBE gasoline was destined for the United States and that concerns existed regarding MTBE contamination of groundwater and drinking water.

PROCEDURAL HISTORY

The State sued refiners and manufacturers allegedly involved in supplying MTBE-containing gasoline to New Hampshire, seeking damages for groundwater and surface-water contamination. After jurisdictional discovery,

the Superior Court denied North Atlantic's motion to dismiss, finding that the State had made a prima facie showing supporting specific personal jurisdiction. The Supreme Court of New Hampshire affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hess Corp., 159 N.H. 256, 258, 982 A.2d 388 (2009)
- State v. City of Dover, 153 N.H. 181, 183-84, 891 A.2d 524 (2006)
- Boit v. Gar-Tec Products, Inc., 967 F.2d 671, 674-78, 682-83 (1st Cir. 1992)
- United States v. Swiss American Bank, Ltd., 274 F.3d 610, 618, 621 (1st Cir. 2001)
- D'Jamoos v. Atlas Aircraft Center, Inc., 669 F. Supp. 2d 167, 169-70, 172 (D.N.H. 2009)
- Vermont Wholesale Building Products v. J.W. Jones Lumber Co., 154 N.H. 625, 628-29, 635-36, 914 A.2d 818 (2006)
- Phillips v. Prairie Eye Center, 530 F.3d 22, 26-28 (1st Cir. 2008)
- Foster-Miller, Inc. v. Babcock & Wilcox Canada, 46 F.3d 138, 145 (1st Cir. 1995)
- Thomas v. Telegraph Publishing Co., 151 N.H. 435, 437-38, 859 A.2d 1166 (2004)
- Massachusetts School of Law at Andover v. American Bar Association, 142 F.3d 26, 34 (1st Cir. 1998)
- Daynard v. Ness, Motley, Loadholt, Richardson & Poole, P.A., 290 F.3d 42, 52 (1st Cir. 2002)
- Tom's of Maine v. Acme-Hardesty Co., 565 F. Supp. 2d 171, 180-83 (D. Me. 2008)
- Merrimack Valley Wood Products v. Near, 152 N.H. 192, 201-02, 876 A.2d 757 (2005)
- Astro-Med, Inc. v. Nihon Kohden America, Inc., 591 F.3d 1, 9-10 (1st Cir. 2009)
- Unicom, Inc. v. Harcros Pigments, Inc., 994 F. Supp. 24, 25-26 (D. Me. 1998)
- Pritzker v. Yari, 42 F.3d 53, 60, 64 (1st Cir. 1994)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980)
- Asahi Metal Industry Co. v. Superior Court, 480 U.S. 102, 108-14 (1987)
- Tobin v. Astra Pharmaceutical Products, Inc., 993 F.2d 528, 544 (6th Cir. 1993)
- In re Perrier Bottled Water Litigation, 754 F. Supp. 264, 265, 268 (D. Conn. 1990)
- Clune v. Alimak AB, 233 F.3d 538, 544 (8th Cir. 2000)
- Bartow v. Extec Screens and Crushers, Ltd., 53 F. Supp. 2d 518, 528 (D. Mass. 1999)
- Aristech Chemical International v. Acrylic Fabricators, 138 F.3d 624, 628-29 (6th Cir. 1998)