

SUPREME COURT OF GEORGIA

Innovative Clinical & Consulting Services, LLC v. First National Bank of Ames, Iowa, 279 Ga. 672

620 S.E.2d 352 (2005) · No. No. S04G1413 · Decided October 3, 2005

SUMMARY

The Supreme Court of Georgia addressed the scope of personal jurisdiction over nonresident defendants under Georgia's long-arm statute, OCGA § 9-10-91. The court reaffirmed that subsections (2) and (3) require the statutory acts and limitations stated in the statute, while holding that subsection (1), concerning transacting business in Georgia, must be construed broadly to the maximum extent permitted by constitutional due process. The court affirmed in part, vacated in part, and remanded for further consideration of jurisdiction under subsection (1).

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Presiding Justice
JURISDICTION	Georgia
DECIDED	October 3, 2005
DOCKET	No. S04G1413
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Georgia granted certiorari to review the Court of Appeals' decision concerning whether Georgia courts could exercise personal jurisdiction over the Iowa bank under OCGA § 9-10-91.
STANDARD OF REVIEW	The court reviewed the construction and application of Georgia's long-arm statute and the personal-jurisdiction ruling; it noted that no question of fact remained concerning the bank's contacts and conduct.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential
PARTIES	Innovative Clinical & Consulting Services, LLC v. First National Bank of Ames, Iowa

TOPICS

- personal jurisdiction
- statutory interpretation
- plain meaning rule
- due process
- commercial litigation

PRACTICE AREAS

civil procedure

constitutional law

commercial litigation

QUESTIONS PRESENTED

1. Whether OCGA § 9-10-91(2) permits personal jurisdiction over a nonresident whose tortious act or omission occurred outside Georgia but whose injury occurred in Georgia.
2. Whether OCGA § 9-10-91(3) permits personal jurisdiction over a nonresident whose out-of-state act caused a tortious injury in Georgia absent regular or persistent Georgia contacts or substantial revenue from Georgia.
3. Whether OCGA § 9-10-91(1)'s authorization for jurisdiction over a nonresident who transacts any business in Georgia is limited by a physical-presence requirement, a contract-claim limitation, or other judicially created restrictions.
4. Whether the bank's contacts and conduct required further consideration of personal jurisdiction under OCGA § 9-10-91(1).

HOLDINGS

1. Subsection (2) applies when a nonresident commits a tortious act or omission within Georgia, subject to constitutional due process; subsection (3) applies when a nonresident commits a tortious injury in Georgia caused by an act or omission outside Georgia, but only if the statutory regular, persistent, or substantial-contact conditions are satisfied.
2. OCGA § 9-10-91(1) authorizes Georgia courts to exercise personal jurisdiction over any nonresident who transacts any business in Georgia, without a statutory requirement of physical presence, a contract claim, or diminished significance for intangible contacts, subject only to the maximum reach permitted by constitutional procedural due process.
3. The Court of Appeals' limited review of personal jurisdiction under OCGA § 9-10-91(1) was no longer appropriate; the subsection (1) issue had to be reconsidered under the broader construction announced by the Supreme Court.

KEY QUOTATIONS

“The rule that controls is our statute, which requires that an out-of-state defendant must do certain acts within the State of Georgia before he can be subjected to personal jurisdiction.” (279 Ga. at 673)

“The courts cannot reject the plain language of a statute unless it will lead to unreasonable consequences or absurd results not contemplated by the Legislature.” (279 Ga. at 675)

“Accordingly, under that literal construction, OCGA § 9-10-91(1) grants Georgia courts the unlimited authority to exercise personal jurisdiction over any nonresident who transacts any business in this State.” (279 Ga. at 676)

FACTUAL BACKGROUND

The defendant was an Iowa bank sued by Innovative Clinical & Consulting Services, LLC. The bank did not commit a tortious act within Georgia, did not regularly conduct or solicit business there, did not engage in a persistent course of conduct there, and did not derive substantial revenue from goods used or services rendered there. The record identified postal and telephonic contacts with Georgia, and the Court of Appeals had considered those contacts only in relation to the plaintiff's breach-of-contract claim.

PROCEDURAL HISTORY

The Court of Appeals held that the trial court lacked personal jurisdiction over the Iowa bank under subsections (2) and (3) of Georgia's long-arm statute and considered only the breach-of-contract claim under subsection (1). The Supreme Court affirmed the Court of Appeals' ruling under subsections (2) and (3), disapproved part of its analysis, and vacated and remanded the subsection (1) issue for further consideration.

DISPOSITION

other

REMAND INSTRUCTIONS

The Court of Appeals must reconsider the subsection (1) personal-jurisdiction issue under the Supreme Court's literal construction of OCGA § 9-10-91(1), without limiting the analysis to breach-of-contract claims or requiring physical contacts. Division 2 was affirmed, Division 3 was disapproved, and Division 1 was vacated and remanded for action consistent with the opinion.

CASES CITED

- First National Bank of Ames, Iowa v. Innovative Clinical & Consulting Services, LLC, 266 Ga. App. 842, 598 S.E.2d 530 (2004)
- Gust v. Flint, 257 Ga. 129, 356 S.E.2d 513 (1987)
- Clarkson Power Flow v. Thompson, 244 Ga. 300, 260 S.E.2d 9 (1979)
- Shellenberger v. Tanner, 138 Ga. App. 399, 227 S.E.2d 266 (1976)
- Coe & Payne Co. v. Wood-Mosaic Corp., 230 Ga. 58, 195 S.E.2d 399 (1972)
- First United Bank of Miss. v. First Nat. Bank of Atlanta, 255 Ga. 505, 340 S.E.2d 597 (1986)
- Haugen v. Henry County, 277 Ga. 743, 594 S.E.2d 324 (2004)
- Hollowell v. Jove, 247 Ga. 678, 279 S.E.2d 430 (1981)
- Phears v. Doyne, 220 Ga. App. 550, 470 S.E.2d 236 (1996)
- Whitaker v. Krestmark of Alabama, Inc., 157 Ga. App. 536, 278 S.E.2d 116 (1981)
- Wise v. State Board of Registration for Professional Engineers and Land Surveyors, 247 Ga. 206, 274 S.E.2d 544 (1981)
- Six Flags Over Ga. II v. Kull, 276 Ga. 210, 576 S.E.2d 880 (2003)
- Beasley v. Beasley, 260 Ga. 419, 396 S.E.2d 222 (1990)
- Asahi Metal Indus. Co. v. Superior Court of California, 480 U.S. 102, 107 S. Ct. 1026, 94 L. Ed. 2d 92 (1987)

- Allstate Ins. Co. v. Klein, 262 Ga. 599, 422 S.E.2d 863 (1992)
- Francosteel Corp. v. M/V Charm, 19 F.3d 624 (11th Cir. 1994)
- CareKeeper Software Dev. Co. v. Silver, 46 F. Supp. 2d 1366 (N.D. Ga. 1999)

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