

Testimony in support of HB 272
Offered by Edmond Mack
On behalf of the Ohio Association for Justice
Before the House Civil Justice Committee
October 8, 2019

Good afternoon, Chairman Hambley, Vice Chairman Patton, Ranking Member Brown, Members of the Committee,

I appreciate the opportunity to present testimony on HB 272, which will amend Ohio's Long-Arm personal jurisdiction statute, to ensure that outsiders that cause harm to our Ohio families and companies can be held accountable in our Ohio courts.

My name is Edmond Mack. I am an attorney by trade, and in that regard, very proud to be speaking on behalf of my colleagues with the Ohio Association for Justice. I am a native of Ohio by birth, but remain a resident of Ohio and Stark County by choice. I am a married father of 2. My interest in this legislation is personal and professional. In my practice, I have seen the impact the current Ohio law can have on a local family business, when it effectively allowed a Stark County business to be taken advantage of by an unscrupulous Mississippi contractor. For the benefit of both Ohio consumers and companies, I hope the General Assembly will change this through the passage of HB 272.

A court's personal jurisdiction over a non-resident defendant is limited by due process and permissible only if the forum state has either specific or general jurisdiction over the non-resident.

As to general jurisdiction, a defendant who maintains "continuous and systematic" contacts with a forum state may be subject to its jurisdiction, even where the conduct complained of did not arise from the continuous and systematic contacts. However, in recent decision captioned as *Daimler AG v. Bauman*, the Supreme Court significantly narrowed the scope of general jurisdiction, making it available primarily in an individual's domicile and a corporation's state of incorporation and principal place of business. Outside of those parameters, general jurisdiction will now be found "only on rare occasions."

Holding a non-Ohioan accountable, in large measure, must now depend upon a finding of specific personal jurisdiction. A court's exercise of such jurisdiction comports with due process if the non-resident has "certain minimum contacts" so that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice." An important limitation, as the Supreme Court made clear, is that "the defendant's suit-related conduct must create a substantial connection with the forum State." In turn, the cause of action must "relate to" this conduct.

It is not that simple in Ohio. Unlike other jurisdictions, Ohio does not have a long-arm statute that reaches to the limits of the Due Process Clause, and the analysis of Ohio's long-arm statute is a particularized inquiry wholly separate from the analysis of Federal Due Process law. Based upon the language of Ohio's Long-Arm statute, the Sixth Circuit in *Brunner v. Hampson* expressly held that this analysis requires that a plaintiff's injuries be "proximately caused" by the defendant's Ohio-related conduct in order subject the defendant to the jurisdiction of Ohio courts.

The long-arm statute of every other state in the Sixth Circuit extends to the limits of the Due Process Clause. The current state of the law hurts Ohioans and benefits non-Ohioans. The legislative solution to this problem is astoundingly simple. In light of the near elimination of general personal jurisdiction by recent U.S. Supreme Court decisions, the need for action by the General Assembly is immediate. This amendment to Ohio's Long-Arm Statute is constituency neutral, as Ohio families and corporations will equally benefit. Ohio's courthouse doors will be open to all Ohioans as far as the Due Process Clause will allow. Outsiders that cause harm to our Ohio families and companies can be held accountable in our Ohio courts.

As a long-time member of his constituency, I thank Rep. Oelslager for taking action on this issue, and I especially appreciate Rep. Hillyer for his sponsorship.

That concludes my remarks, Mr. Chairman. I greatly appreciate the time extended to me by this Committee. I hope you'll agree the proposed amendment to Ohio's long arm statute makes sense as it benefits your constituents by allowing them to hold non-residents accountable for injuries or damages caused to Ohioans. I urge you to report HB 272 with a favorable recommendation for passage.

At this point, Mr. Chairman, I am happy to try to answer questions you may have.