

Spring 2012

Personal Jurisdiction for the Twenty-First Century: The Implications of McIntyre and Goodyear Dunlop Tires

Howard B. Stravitz
University of South Carolina School of Law

Follow this and additional works at: <https://scholarcommons.sc.edu/sclr>



Part of the [Law Commons](#)

Recommended Citation

Stravitz, Howard B. (2012) "Personal Jurisdiction for the Twenty-First Century: The Implications of McIntyre and Goodyear Dunlop Tires," *South Carolina Law Review*. Vol. 63 : Iss. 3 , Article 2.
Available at: <https://scholarcommons.sc.edu/sclr/vol63/iss3/2>

This Article is brought to you by the Law Reviews and Journals at Scholar Commons. It has been accepted for inclusion in South Carolina Law Review by an authorized editor of Scholar Commons. For more information, please contact digres@mailbox.sc.edu.

**PERSONAL JURISDICTION FOR THE TWENTY-FIRST CENTURY:
THE IMPLICATIONS OF *MCINTYRE* AND *GOODYEAR DUNLOP TIRES***

INTRODUCTION

On June 27, 2011, the last day of its 2010 Term, the United States Supreme Court decided two personal jurisdiction cases: *J. McIntyre Machinery, Ltd. v. Nicastro* and *Goodyear Dunlop Tires, S.A. v. Brown*. These were the first cases on personal jurisdiction in twenty-two years, the first specific jurisdiction stream of commerce case since *Asahi Metal Industry Co. v. Superior Court*, in 1987, and the first general jurisdiction case over a foreign defendant arising out of a products liability claim since *Helicopteros Nacionales de Columbia, S.A. v. Hall*, in 1984.

Soon after both cases were argued on January 11, 2011, the *South Carolina Law Review* began planning a Symposium on these cases and the future of personal jurisdiction. The Court that decided *Helicopteros* had been entirely replaced, and only Justice Scalia remained from the Court that decided *Asahi*. It was anticipated that the decisions in *J. McIntyre* and *Goodyear Dunlop Tires* would break new ground, and provide guidance for analyzing personal jurisdiction issues under the due process clause for the new century.

The Symposium was held at the University of South Carolina School of Law on October 13 and 14, 2011. It commenced with a keynote address, on the evening of October 13, by Arthur R. Miller, University Professor at New York University School of Law, and formerly Bruce Bromley Professor of Law at Harvard Law School.

The keynote by our nation's preeminent proceduralist only briefly touched on personal jurisdiction. Instead, it focused on Supreme Court case law since 1986, that slowly, but deliberately, chipped away at that cherished American institution, the civil jury trial. Professor Miller's inspiring, insightful, and, at times, irreverent address lamented the barriers to federal civil justice erected by the Supreme Court. The keynote address is published as "*McIntyre in Context: A Very Personal Perspective.*"

On October 14, the Symposium continued with presentations, panel discussions, and concluding remarks by Lea Brilmayer, the Howard M. Holtzmann Professor of International Law at Yale Law School. The principal presenters were Adam N. Steinman (Seton Hall University School of Law) and John Vail (Center for Constitutional Litigation) on "*McIntyre: Specific Jurisdiction and Stream of Commerce*"; Allan R. Stein (Rutgers School of Law-Camden) on "*General Jurisdiction after Goodyear Dunlop*"; Richard D. Freer (Emory University School of Law) on "*Justice Brennan's Personal Jurisdiction Jurisprudence*"; and Linda J. Silberman (New York University School of Law) on "*Goodyear and Nicastro: A Transnational and Comparative Perspective.*" The first five articles published below are by these presenters. The sixth article is by Lea Brilmayer and Matthew Smith: "*The (Theoretical) Future of Personal Jurisdiction: Issues Left Open by Goodyear Dunlop Tires v. Brown and J. McIntyre Machinery v. Nicastro.*" The final six articles are by various panelists,

and by Professor Rodger D. Citron of Touro Law Center, whose article predicts how retired Justice John Paul Stevens would have voted in *J. McIntyre*.

The fifth panel consisted of the five Counsel of Record who argued in the Supreme Court. They discussed their strategies in seeking and opposing certiorari, in merits briefing, and oral argument.

The Symposium Agenda with the names of all participants is reproduced below in Appendix A.

The entire Symposium, from keynote through concluding remarks, was filmed, and the video is available at the *South Carolina Law Review* website, <http://www.sclawreview.org/symposium.aspx>.

Howard B. Stravitz