

Fact Pattern:

WaterCo manufactures reverse osmosis water systems. Its products are predominately sold in New Jersey. However, it recently sent its president to New York to market its product. Paula from New York City purchased one of WaterCo's systems. WaterCo sent the system to Paula from its warehouse in New Jersey with very detailed instructions on how to install the system. Paula and her friend Jerry installed the water system. After the system was installed, Paula went on a week vacation.

After she returned from her vacation, she came back to a flooded house. A manufacturing defect in the water system had caused the system to leak and flood Paula's house. Paula files a breach of contract and negligence action in the New York State District Court.

WaterCo files a Motion to Dismiss for Lack of Personal Jurisdiction within 30 days after it is served with process.

Questions:

How should the Court rule?

Example Answer:

**Personal Jurisdiction** refers to a court's power to bring parties before it and bind them to its judgment.

The New York Court will have personal jurisdiction if New York law grants personal jurisdiction and the New York law is constitutional. Under the New York law, there are three bases for personal jurisdiction: (1) consent; (2) presence; (3) long-arm statute.

There are two forms of consent, express and implied. In this case there does not appear to be express or implied consent. WaterCo filed its Motion to Dismiss timely because it was filed within 30 days.

The next issue is whether there is presence. In this case, there is no actual presence, no domicile, and it does not appear that WaterCo does business regularly in New York so there is no continuous systematic contact. Merely soliciting business is not presence.

Consequently, New York's long-arm statute must be considered. The long-arm statute provides for personal jurisdiction if WaterCo merely caused an event to occur in New York from which the lawsuit derives. Here, this exists because the contract action derived from the lawsuit.

Even if New York law grants personal jurisdiction, New York law must be constitutional. The law will be constitutional if the WaterCo has such minimum contacts that it would not offend the traditional notions of fair play and substantial justice. Here, WaterCo purposefully availed itself of New York's forum and it is reasonable anticipated that it would be sued in New York for one of its products.