

A popular food blogger from State A got into a heated online argument with the owner of a successful vegan restaurant located in State B about the merits of veganism. To get back at the owner, the blogger wrote a review of the owner's vegan restaurant in which she falsely claimed that the restaurant was infested with vermin and used animal products in its cuisine. The blogger had never eaten at the owner's restaurant or traveled to State B. The blog post had over 500,000 views from people around the United States. Within one month of the post, the restaurant shut down.

The owner sued the blogger in a federal court in State B for defamation. Based on the allegations in the owner's complaint, the blogger filed a motion to dismiss for lack of personal jurisdiction.

State B has a long-arm statute that gives its courts personal jurisdiction over out-of-state defendants that intentionally harm State B residents or businesses.

How will the federal court likely rule on the blogger's motion to dismiss?

- A. Deny the motion, because the blogger knew that her review would negatively impact the restaurant in State B.
- B. Deny the motion, unless the blogger failed to attach an affidavit to the motion demonstrating why personal jurisdiction does not exist.
- C. Grant the motion, because the blogger has never traveled to State B.
- D. Grant the motion, because the blogger wrote the review in State A.

Explanation:

Requirements for specific jurisdiction

Long-arm statute Forum state statute must authorize jurisdiction under specific circumstances

Due process	Minimum contacts	Purposeful availment of forum state's laws so suit is foreseeable: <ul style="list-style-type: none">• Stream of commerce test – defendant places goods in stream of commerce & takes action that intentionally targets forum state• Effects test – defendant commits intentional tort in one state with intent that effects will be felt in forum state
	Fair play & substantial justice	Reasonableness factors: <ul style="list-style-type: none">• Burden on defendant to appear & defend in forum state• Plaintiff's interest in obtaining relief in forum state• Forum state's interest• Interstate judicial system's interest in obtaining most efficient resolution of disputes• Interest of several states in furthering fundamental substantive social policies

A federal court* has **specific personal jurisdiction** over a nonresident defendant if (1) the forum state has a long-arm statute that authorizes jurisdiction under the specific circumstances and (2) applying that statute complies with due process. This due process requirement is met when:

- the plaintiff's claim arises from or is closely related to the defendant's **minimum contacts** with the forum state *and*
- the exercise of jurisdiction complies with notions of **fair play and substantial justice**.

Minimum contacts exist when the defendant purposefully avails him/herself of the state's protections and benefits so that the defendant should reasonably foresee being sued there. **Purposeful availment** can occur even if the defendant never physically enters the forum state—eg, committing an intentional tort in one state with the intent that the effects will be felt in the forum state (**Choices C & D**).

Here, State B's long-arm statute authorizes jurisdiction over out-of-state defendants (the blogger) who intentionally harm a State B business or resident (the owner). Applying the statute complies with due process because the blogger purposefully availed herself of State B's benefits when she wrote a review to harm the owner in State B—making this [defamation](#) suit foreseeable there. And since there is no indication that exercising jurisdiction would offend notions of fair play and substantial justice, the State B federal court has specific jurisdiction over the blogger. Therefore, her motion to dismiss will likely be denied.

*Federal courts have the same jurisdictional reach as courts of the state in which they sit.

(Choice B) When a defendant asserts lack of personal jurisdiction in a pre-answer motion to dismiss (as seen here), the defendant can use the allegations in the [pleadings](#) or an attached affidavit to show why personal jurisdiction does not exist.

Educational objective:

A defendant has minimum contacts with a forum state when he/she purposefully avails him/herself of the state's protections and benefits, so that a lawsuit is reasonably foreseeable there. This can occur when the defendant commits an intentional tort in one state with the purpose or knowledge that the effects will be felt in the forum state.

References

- *Calder v. Jones*, 465 U.S. 783, 789–90 (1984) (holding that out-of-state defendants were subject to specific jurisdiction because their libelous article intentionally targeted the forum state's resident).
- *Bristol-Myers Squibb Co. v. Super. Ct. of Cal.*, 137 S. Ct. 1773, 1780–82 (2017) (explaining the minimum contacts required for specific jurisdiction).