Reversed and Rendered and Memorandum Opinion filed November 4, 2025

In The

Fourteenth Court of Appeals

NO. 14-24-00622-CV

ODYSSEA PHOENIX, LLC, Appellant

V.

HOWARD WILCOX-CARLETON, Appellee

On Appeal from the 80th District Court
Harris County, Texas
Trial Court Cause No. 2023-37425

M E M O R A N D U M O P I N I O N

Howard Wilcox-Carleton filed suit against Odyssea Marine, LLC, appellant Odyssea Phoenix, LLC, and others, alleging he sustained serious injuries while aboard an offshore vessel in the Gulf of Mexico. In this interlocutory appeal, Odyssea Phoenix challenges the trial court's denial of its amended special appearance. We conclude that Wilcox-Carleton failed to allege sufficient facts bringing Odyssea Phoenix within the provisions of the Texas long-arm statute and failed to prove that Odyssea Phoenix is Odyssea Marine's alter ego. Therefore, we

reverse the denial of Odyssea Phoenix's amended special appearance and render judgment dismissing Wilcox-Carleton's claims against Odyssea Phoenix for lack of personal jurisdiction.

Background

Odyssea Marine Holdings, Inc., is a Delaware corporation with its principal place of business in Louisiana. Odyssea Marine Holdings is the parent company of Odyssea Marine (f/k/a Odyssea Marine, Inc.), Odyssea Vessels, LLC (f/k/a Odyssea Vessels, Inc.), and Odyssea Phoenix.[1] Odyssea Marine, Odyssea Vessels, and Odyssea Phoenix are also Delaware companies with their principal place of business in Louisiana. Only Odyssea Marine Holdings and Odyssea Vessels are registered to conduct business in Texas. David Dantin is the President and CEO of all Odyssea entities. Three wholly-owned subsidiaries of Odyssea Marine Holdings—Odyssea Vessels, Rem Corporation, and Odyssea Phoenix—own a total of fourteen vessels: Odyssea Vessels owns twelve, while Rem and Odyssea Phoenix each own one. M/V ODYSSEA PHOENIX, an offshore supply vessel, is owned by Odyssea Phoenix but operated and managed by Odyssea Marine.

Years before the present lawsuit involving Wilcox-Carleton, Odyssea Marine and Anadarko Petroleum Corporation, an oil and gas Delaware corporation with its principal place of business in Texas, entered into a contract known as the "Master Time Charter Agreement." Anadarko chartered vessels from Odyssea Marine "from time to time," and the parties agreed that "in the event that litigation arises . . . any action will be brought in Harris County, Texas." Pursuant to the time charter, Anadarko chartered M/V ODYSSEA PHOENIX to deliver supplies to Valaris DS-

[1] At the time the lawsuit was filed, Odyssea Marine and Odyssea Vessels were corporations, but they have since converted to limited liability companies.

16, a drilling vessel presumably owned and/or operated by "Ensco."[2] At the time of the charter agreement, Wilcox-Carleton, an Alabama resident, was employed by Odyssea Marine and assigned to M/V ODYSSEA PHOENIX. As previously stated, M/V ODYSSEA PHOENIX is owned by Odyssea Phoenix but operated and managed by Odyssea Marine.

In June 2023, Wilcox-Carleton filed suit against three Odyssea companies—Odyssea Marine, Odyssea Vessels, and Odyssea Marine Holdings—and two Ensco companies—Ensco Offshore, LLC and Ensco Incorporated, asserting claims for negligence and gross negligence, unseaworthiness, and failure to pay maintenance and cure. He alleged an Ensco crane operator aboard Valaris DS-16 struck him with an equipment basket and pinned him under the load, resulting in a fractured hip and separated pelvis. It is unclear whether Wilcox-Carleton was aboard Valaris DS-16 or M/V ODYSSEA PHOENIX at the time he sustained his injuries, but the record establishes the accident occurred in the Gulf of Mexico outside of Texas's coastal waters.

Wilcox-Carleton later amended his petition to add Odyssea Phoenix as a defendant. In the amended petition, Wilcox-Carleton referred to the now four Odyssea companies collectively as "Odyssea" or the "Odyssea Defendants." The original three Odyssea defendants filed a special appearance in October 2023.[3] Odyssea Phoenix filed a separate special appearance on April 1, 2024, supported by the affidavit of Dantin. Odyssea Phoenix then amended its special appearance on July 24, 2024. Wilcox-Carlton responded on August 12, 2024, contending, among

[2] The parties refer to Ensco Offshore, LLC and Ensco Incorporated collectively as "Ensco." It is not clear from the record which entity is the owner and operator of Valaris DS-16.

[3] The trial court held a hearing on the special appearance filed by the original three Odyssea defendants on April 5, 2024. The special appearance was denied on April 8, 2024. The original Odyssea defendants challenge the denial in a separate appeal.

other things, that the Odyssea defendants should be treated as a single entity for jurisdictional purposes because "any distinction between the Odyssea entities exist[s] only on paper." On August 15, 2024, Odyssea Phoenix requested leave to reply to Wilcox-Carleton's response. The trial court granted leave to reply but then signed an order denying Odyssea Phoenix's amended special appearance on August 16.

Standard of Review

The question of whether a trial court may exercise personal jurisdiction over a nonresident defendant is an issue we review de novo. *Retamco Operating, Inc. v. Republic Drilling Co.*, 278 S.W.3d 333, 337 (Tex. 2009); *ERC Midstream LLC v. Am. Midstream Partners, LP*, 497 S.W.3d 99, 107 (Tex. App.—Houston [14th Dist.] 2016, no pet.). When, as here, the trial court does not issue findings of fact and conclusions of law with its special appearance ruling, all facts necessary to support the judgment and supported by the evidence are implied. *BMC Software Belgium, N.V. v. Marchand*, 83 S.W.3d 789, 795 (Tex. 2002); *ERC Midstream LLC*, 497 S.W.3d at 107. However, when the appellate record includes the reporter's and clerk's records, the trial court's implied findings are not conclusive and may be challenged for legal and factual sufficiency. *BMC Software*, 83 S.W.3d at 795.

Personal Jurisdiction

Texas courts may exercise personal jurisdiction over a nonresident defendant if the Texas long-arm statute authorizes the exercise of jurisdiction, and the exercise of jurisdiction is consistent with due-process guarantees. *Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 574 (Tex. 2007). The long-arm statute allows Texas courts to exercise personal jurisdiction over a nonresident defendant "doing business" in this state. Tex. Civ. Prac. & Rem. Code § 17.042(2). "Texas's long-arm statute extends Texas courts' personal jurisdiction as far as the federal

constitutional requirements of due process will permit." *M & F Worldwide Corp. v. Pepsi-Cola Metro. Bottling Co.*, 512 S.W.3d 878, 885 (Tex. 2017) (internal quotation marks omitted).

Consistent with federal due-process protections, a state may assert personal jurisdiction over a nonresident defendant only if the defendant has established "minimum contacts" with the forum state such that maintenance of the suit does not offend "traditional notions of fair play and substantial justice." *Luciano v. SprayFoamPolymers.com, LLC*, 625 S.W.3d 1, 8 (Tex. 2021). A defendant's contacts with the forum can give rise to either general or specific jurisdiction. *Id.* A court has general jurisdiction over a nonresident defendant whose "affiliations with the State are so 'continuous and systematic' as to render it essentially at home in the forum State." *Id.* (quoting *TV Azteca v. Ruiz*, 490 S.W.3d 29, 37 (Tex. 2016)). Conversely, specific jurisdiction "covers defendants less intimately connected with a State, but only as to a narrower class of claims." *Id.* (quoting *Ford Motor Co. v. Montana Eighth Judicial Dist. Ct.*, 592 U.S. 351, 352 (2021)).

As Wilcox-Carleton does not allege general jurisdiction exists, we focus on specific jurisdiction, which requires that the evidence satisfy a two-prong test. *See LG Chem Am., Inc. v. Morgan*, 670 S.W.3d 341, 347 (Tex. 2023). First, the defendant must have purposefully availed itself of the privilege of conducting activities in Texas. *Luciano*, 625 S.W.3d at 8. A "purposeful availment" inquiry, as the supreme court has explained, consists of three parts: (1) "only the defendant's contacts with the forum state are relevant"; (2) "the contacts relied upon must be purposeful rather than random, fortuitous, or attenuated"; and (3) "the defendant must seek some benefit, advantage or profit by availing itself of the jurisdiction." *Moki Mac*, 221 S.W.3d at 575 (internal quotation marks omitted).

Second, the plaintiff's claim must arise out of or relate to the defendant's

contacts with Texas. *Luciano*, 625 S.W.3d at 9. "This so-called relatedness inquiry defines the appropriate 'nexus between the nonresident defendant, the litigation, and the forum.'" *Id.* at 14 (quoting *Moki Mac*, 221 S.W.3d at 579). Under our supreme court precedent, the plaintiff must demonstrate a "substantial connection" between the defendant's contacts and the operative facts of the litigation, *see Moki Mac*, 221 S.W.3d at 585, but as the U.S. Supreme Court has recently explained, the plaintiff need not establish a causal relationship between the defendant's contacts and the plaintiff's claim, *see Ford Motor Co.*, 592 U.S. at 362–63.

A plaintiff bears the initial burden of alleging facts sufficient to bring a nonresident defendant within the terms of the Texas long-arm statute. *See LG Chem Am.*, 670 S.W.3d at 346; *Moncrief Oil Intl Inc. v. OAO Gazprom*, 414 S.W.3d 142, 149 (Tex. 2013). We consider both the plaintiff's original pleadings and response to the defendant's special appearance in determining whether the plaintiff satisfied its burden to allege jurisdictional facts. *Alattar v. Kay Holdings, Inc.*, 485 S.W.3d 113, 117 (Tex. App.—Houston [14th Dist.] 2016, no pet.). If the plaintiff meets this initial burden, the burden shifts to the nonresident defendant to negate all potential bases for personal jurisdiction the plaintiff pleaded. *See LG Chem Am.*, 670 S.W.3d at 346 (citing *Kelly v. Gen. Interior Const., Inc.*, 301 S.W.3d 653, 659 (Tex. 2010)); *Moncrief Oil*, 414 S.W.3d at 149.

A nonresident defendant may negate jurisdiction on either a factual or legal basis. *Kelly*, 301 S.W.3d at 659. Factually, the defendant may present evidence that it has insufficient contacts with Texas, effectively disproving the plaintiff's allegations; the plaintiff may respond with his own evidence that affirms his allegations. *Id.* Legally, the defendant may show that even if the plaintiff's alleged facts are true, the evidence is legally insufficient to establish jurisdiction. *Id.* "If the plaintiff fails to plead facts bringing the defendant within reach of the long-arm

statute (i.e., for a tort claim, that the defendant committed tortious acts in Texas), the defendant need only prove that it does not live in Texas to negate jurisdiction." *Id.* at 658–59 (citing *Siskind v. Villa Found. for Educ., Inc.*, 642 S.W.2d 434, 438 (Tex. 1982)).

Analysis

In three issues on appeal, Odyssea Phoenix alleges the trial court erred in exercising jurisdiction because (1) Wilcox-Carleton failed to plead facts bringing Odyssea Phoenix within reach of the Texas long-arm statute, (2) Wilcox-Carleton failed to overcome the presumption that separate companies are distinct, and (3) assuming Odyssea Marine's forum contacts could be imputed to Odyssea Phoenix, Wilcox-Carleton failed to establish a substantial connection between Odyssea Phoenix's contacts with Texas and the operative facts of this case.

We begin our analysis by considering whether Wilcox-Carleton alleged sufficient facts bringing Odyssea Phoenix within reach of the Texas long-arm statute. In doing so, we consider Wilcox-Carleton's pleadings and response to Odyssea Phoenix's amended special appearance. *See Alattar*, 485 S.W.3d at 117. In his amended petition, Wilcox-Carleton alleged only that Odyssea Phoenix is a Delaware corporation with its principal place of business in Louisiana and that "all of the [Odyssea] defendants conduct a substantial amount of business in Texas, including through their agreements entered into with Texas residents to be performed in part in Texas."

In its amended special appearance, Odyssea Phoenix asserted that it is a Delaware corporation with its principal place of business in Louisiana and that Wilcox-Carleton failed to allege facts sufficient to establish specific jurisdiction in Texas. Odyssea Phoenix maintained that Wilcox-Carleton "pled no affiliation between Texas and any activity or occurrence that took place in Texas or that

Plaintiff's claims result from injuries that allegedly arose from or relate to Odyssea Phoenix, LLC's contacts with Texas." To support its position, Odyssea Phoenix submitted David Dantin's affidavit, stating that it has "no offices in Texas, no employees in Texas[,] and own[s] no property in the State of Texas." Wilcox-Carleton neither responded to Odyssea Phoenix's jurisdictional challenge nor produced evidence that Odyssea Phoenix had sufficient contacts with Texas to establish personal jurisdiction. Instead, he relied solely on an alter ego theory to attribute Odyssea Marine's contacts to Odyssea Phoenix. We conclude that Odyssea Phoenix met its burden of negating all bases of personal jurisdiction by proving that it does not live in Texas. *See Kelly*, 301 S.W.3d at 658–59.

We now turn to Odyssea Phoenix's second issue and determine whether Odyssea Marine's contacts can be imputed to Odyssea Phoenix to support personal jurisdiction. In his response to Odyssea's special appearance, Wilcox-Carleton asserted that "[t]he record demonstrates that the Odyssea Defendants have ceased to be separate for jurisdictional purposes [and,] Odyssea Marine's Texas ties are properly imputed onto the other Odyssea Defendants, including Odyssea Phoenix." Wilcox-Carleton does not specify Odyssea Marine's Texas contacts, but relying on our sister court's opinion in *El Puerto De Liverpool, S.A. De C.V. v. Servi Mundo Llantero S.A. De C.V.*, he suggests that each of the Odyssea companies are part of the same "corporate family" and "work together as an interlocking whole."[4] 82

[4] We note that the issue in *El Puerto* was whether the nonresident corporate defendant was subject to general jurisdiction in Texas. 82 S.W.3d at 627. Our sister court upheld the trial court's finding that the nonresident corporate defendant purposefully established and maintained sufficient minimum contacts to establish general jurisdiction in Texas. *Id.* at 631–33. Even if we were persuaded by our sister court, *El Puerto* has no application to this case because Wilcox-Carleton does not allege general jurisdiction exists. And even further, *El Puerto* predates the supreme court's decision in *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, which held that "Texas law presumes that two separate corporations are distinct entities," and a party seeking to overcome this presumption must prove it. 235 S.W.3d 163, 173 (Tex. 2007).

S.W.3d 622, 635 (Tex. App.—Corpus Christi–Edinburg 2002, pet. dism'd w.o.j.). To support his "one big, happy corporate family" theory, he argues the Odyssea companies share the same CEO, operate out of the same corporate headquarters, and "the record contains no evidence of any Odyssea entity, including Odyssea Phoenix, possessing or exerting independence from its parent company (Odyssea Marine Holdings)."

But Texas law presumes that separate companies are distinct. *PHC-Minden, L.P. v. Kimberly Clark Corp.*, 235 S.W.3d 163, 173 (Tex. 2007). To "fuse" a parent company and its subsidiary for jurisdictional purposes, a plaintiff must prove the parent controls the internal business operations and affairs of its subsidiary to a greater extent than that normally associated with common ownership and directorship. *Amneal Pharm., Inc. v. Cnty. of Dall.*, 694 S.W.3d 875, 889 (Tex. App.—Houston [14th Dist.] 2024, no pet.) (citing *BMC Software*, 83 S.W.3d at 799). To treat the two—the parent and its subsidiary—as a single entity, the evidence must show that they have "ceased to be separate." *Id.* Here, Wilcox-Carleton seeks to treat Odyssea Phoenix and its corporate sibling, Odyssea Marine, as a single entity. Thus, as the party seeking to overcome the presumption of distinctness, Wilcox-Carleton bears the burden of proof. *See id.*

The relevant factors for jurisdictional veil-piercing include the amount of the subsidiary's stock owned by the parent corporation, the existence of separate headquarters, the observance of corporate formalities, and the degree of the parent's control over the general policy and administration of the subsidiary. *PHC-Minden*, 235 S.W.3d at 175. But above all, there must be evidence that the parent exercises "abnormal" or "atypical" control over the subsidiary. *Amneal Pharm.*, 694 S.W.3d

at 899 (citing *PHC-Minden*, 235 S.W.3d at 176 and *BMC Software*, 83 S.W.3d at 800).

Here, Wilcox-Carleton sought to impute Odyssea Marine's contacts to Odyssea Phoenix based primarily on common directorship and shared headquarters. But it is well-settled that the degree of control exercised "must be greater than that normally associated with common ownership and directorship." *BMC Software*, 83 S.W.3d at 799. Although a shared headquarters *may* suggest an abnormal or atypical degree of control, it alone is insufficient to overcome the presumption that the companies are distinct. *See Amneal Pharm.*, 694 S.W.3d at 889. Rather than producing evidence that Odyssea Marine and Odyssea Phoenix should be fused for jurisdictional purposes, Wilcox-Carleton attempts to shift his burden to Odyssea Phoenix by insisting that they failed to disprove their independence. Indeed, it was incumbent upon him—not Odyssea Phoenix—to ensure that the record contained evidence that the two companies should be treated as one. *See id.*

Our review of the record establishes that Wilcox-Carleton failed to overcome the presumption that Odyssea Marine and Odyssea Phoenix are separate companies and therefore did not allege sufficient facts bringing Odyssea Phoenix within the provisions of the Texas long-arm statute under an alter ego theory. As discussed above, Odyssea Phoenix met its burden by conclusively establishing that it is not a Texas resident. *See LG Chem Am.*, 670 S.W.3d at 346; *Kelly*, 301 S.W.3d at 658–59. Notably, during oral argument, Wilcox-Carleton conceded that if Odyssea Marine's contacts could not be imputed to Odyssea Phoenix, the trial court erred in not granting the special appearance.

Accordingly, we sustain Odyssea Phoenix's first and second issues and do not reach Odyssea Phoenix's remaining issue, asserting there is not a substantial connection between Odyssea Phoenix's contacts with Texas and the operative facts

of this case.[5]

Conclusion

We reverse the denial of Odyssea Phoenix's amended special appearance and render judgment dismissing Wilcox-Carleton's claims against Odyssea Phoenix for lack of personal jurisdiction.

/s/ Maritza Antú
Justice

Panel consists of Justices Bridges, Boatman, and Antú.

[5] To the extent Wilcox-Carleton alleges "the parties made an express agreement in front of [the trial court] that the first special appearance ruling [on the other three Odyssea defendants' motion] would be dispositive of Odyssea Phoenix's subsequent special appearance motion," this assertion is not supported by the record. And to the extent Wilcox-Carleton suggests Odyssea Phoenix waived its argument that Odyssea Marine's contacts could not be imputed, the record demonstrates that Wilcox-Carleton alleged for the first time in his response to the special appearance that Odyssea Marine's contacts should be imputed to Odyssea Phoenix. The record shows that the trial court granted Odyssea Phoenix leave to reply to Wilcox-Carleton's response. And in its reply, Odyssea Phoenix expressly argued that Wilcox-Carleton did not carry his burden to treat Odyssea Marine and Odyssea Phoenix as a single entity.