

Montana Supreme Court Finds Minimum Contacts in Social Media Posts Targeting State Residents

Minding Your Business on November 30, 2023

Posting on social media about businesses located in another state could give rise to personal jurisdiction in that state, according to a recent landmark opinion by a sharply divided Montana Supreme Court. In [Groo v. Montana Eleventh Judicial District Court](#), the Court considered whether several Facebook posts made by Melissa Groo, a New York-based wildlife-photography ethicist, concerning Triple D Game Farm, a wildlife-photography farm in Montana, supported personal jurisdiction in an action by Triple D against Groo in Montana state court for tortious interference with contractual relations and prospective economic advantage. In the posts, Groo had tagged individuals and companies doing business with Triple D, three of whom resided in Montana, and encouraged them to cancel their business with the company because of its alleged mistreatment of animals. Four Justices found the posts sufficient to exercise specific personal jurisdiction over Groo; three dissented.

The split decision highlights the divergent approaches courts have taken to personal jurisdiction in online-speech cases following the U.S. Supreme Court's 2014 decision in [Walden v. Fiore](#), which held that constitutional due process requires minimum contacts that the nonresident defendant purposefully creates with the forum itself. Under *Walden*, a defendant cannot be haled into court if her only link to the forum is contact with the plaintiff or third parties who are affiliated with the forum.

In finding the exercise of personal jurisdiction proper under *Walden*, the majority in *Groo* reasoned that Groo had purposefully directed her Facebook posts at the state by engaging in a "targeted campaign" to undermine a Montana business. The majority emphasized that Groo had not simply posted information on the internet that could be read in Montana; instead, she had tagged Montana residents and those doing business in Montana in her posts and urged them not to engage with Triple D's Montana-based business. According to the majority, those actions amounted to contacts with Montana itself.

In the dissent's view, the majority's approach represented a "fundamental distortion" of the due-process principles articulated in *Walden*. The majority's primary error was its "failure to distinguish between targeting a specific individual and targeting the State of Montana," as *Walden* requires. In this case, the dissent reasoned, Groo targeted a specific Montana business and just three Montana residents doing business with it rather than Montana itself or a broader Montana audience. Because Groo had no other alleged contacts with the state, the dissent concluded that she had not purposefully availed herself of the privilege of conducting activities in Montana such that haling her into court there would comport with due process.

Whether *Groo* foreshadows a trend toward exercising personal jurisdiction based on targeted social-media posts remains to be seen. The majority principally found support for its approach in [Zehia v. Superior Court of San Diego](#), a California decision upholding jurisdiction on the basis of defamatory statements with a "distinct California focus" that were sent by a nonresident to California residents in private social media messages. According to the dissent, however, neither *Zehia* nor any other case has ever exercised personal jurisdiction based on a defendant's social media posts alone, without something more. Whatever the correct approach, targeted posts on social media may have serious jurisdictional implications in certain states.

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