

## “Adverse Domination” Did Not Toll Statute of Limitations

*Shrock v. Ungaretti & Harris* addressed the doctrine of “adverse domination,” a concept that can toll statutes of limitations. A minority shareholder filed a series of actions against an individual and a limited liability company the individual controlled for 1) improperly paying compensation to himself and his family and 2) violating injunctions that limited such payments. Counsel for the individual and the LLC defended the payments, claiming compliance with

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the injunctions. Subsequently, the individual defendant admitted violating the injunctions. The minority shareholder was awarded a sizable judgment, including punitive damages. The minority shareholder and the LLC filed a legal malpractice claim against the lawyers who had assisted the wrongdoer. The court dismissed all the claims as time barred. As to the LLC's claims, the court rejected the argument that the LLC could not have knowledge of the wrongful conduct of the lawyers because it was "adversely dominated" by the individual wrongdoer and the statute was tolled. Because the plaintiff had knowledge of the wrongdoing and the ability to bring a derivative suit against the lawyers on behalf of the LLC, the statute of limitations was not tolled.

*Shrock v. Ungaretti & Harris*, 2019 IL App (1st) 181698.

## Denial of *Forum Non Conveniens* Motion an Abuse of Discretion

In *Shaw v. Haas*, the Illinois Appellate Court Fifth District held that the trial court abused its discretion when it denied a motion to transfer based upon *forum non conveniens* and ordered transfer of the case from St. Clair to Monroe County. The appellate court found that the public and private interest factors strongly favored transfer and that transfer would serve the ends of justice. The plaintiff claimed injury when an employee of a grocery store allegedly struck her with a line of shopping carts. The incident occurred in Monroe County and the employee resided there. The appellate court found that the plaintiff engaged in forum shopping because, though the grocery chain had operations in St. Clair County, the incident in this case did not occur there and she did not live there resulting in her choice of forum being entitled to less deference than usually accorded.

The appellate court decided to transfer the case even though the plaintiff received medical treatment in St. Clair County, stating that such treatment is not “at the heart of the issue” in cases not involving medical malpractice. The court took judicial notice of distances and travel times from Google Maps in determining the relative convenience of the two counties.

*Shaw v. Haas*, 2019 IL App (5th) 180588.

## Personal Jurisdiction Found Over North Carolina Auto Broker

In *Dixon v. GAA*, a plaintiff buyer sued the defendant online auto auctioneer for fraudulent misrepresentation, claiming that a 1973 Ford Bronco purchased by the plaintiff was not in the condition advertised. The circuit court dismissed the action on personal jurisdiction grounds, finding that the North Carolina-based auction web site did not have sufficient contacts with the State of Illinois.

The Illinois Appellate Court First District reversed the dismissal. The court found jurisdiction over the defendant corporation because it maintained a website that reached the entire country and directed emails and phone calls to the plaintiff in Illinois inviting him to bid on the vehicle. The existence of the website was not alone sufficient to confer personal jurisdiction; however, when viewed in concert with the emails which directed the payment of money and phone calls in which misrepresentations about the Bronco were allegedly made, the court found that Illinois courts could exercise jurisdiction. The court rejected the defendant's argument that a written forum selection provision, which was contained in a document never provided to the buyer, was incorporated by reference into the registration form he signed to participate in the auction.