

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
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Opinion Number: _____

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Mark Reynolds

No. A-1-CA-42334

**INTERINSURANCE EXCHANGE
OF THE AUTOMOBILE CLUB,**

Plaintiff,

v.

GILBRALTAR INDUSTRIES, INC.,

Defendant,

and

AIR VENT, INC.,

Defendant/Cross-Claimant-Appellant,

v.

**POWERMAX ELECTRIC CO., LTD,
GUANGDONG,**

Cross-Defendant-Appellee,

and

**KING OF FANS, INC.; DM (ASIA) LIMITED;
and DOES 1 TO 10,**

Cross-Defendants.

1 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

2 **Beatrice J. Brickhouse, District Court Judge**

3 Conklin, Woodcock, Ziegler & Hazlett, P.C.

4 John K. Ziegler

5 Taylor F. Hartstein

6 Albuquerque, NM

7 for Appellant

8 Wilson, Elser, Moskowitz, Edelman & Dicker LLP

9 Judy C. Selmecei

10 New York, NY

11 Coleman Proctor

12 Dallas, TX

13 for Appellee

1 **OPINION**

2 **HANISEE, Judge.**

3 {1} Appellant Air Vent, Inc. (AVI) appeals the district court’s dismissal of their
4 cross-claims against Appellee Powermax Electric Co., Ltd., Guangdong
5 (Powermax). Both AVI and Powermax are defendants in a products liability lawsuit
6 regarding a defective fan motor that allegedly led to a house fire in Albuquerque,
7 New Mexico. AVI argues that Powermax, a Chinese company, established sufficient
8 minimum contacts with New Mexico to allow the district court to exercise specific
9 personal jurisdiction. Agreeing, we reverse and remand.

10 **BACKGROUND**

11 {2} In 2021, plaintiff Interinsurance Exchange of the Automobile Club, an
12 insurance carrier, filed a complaint on behalf of its insured, claiming damages from
13 a house fire caused by a defective ventilation fan allegedly designed, manufactured,
14 assembled, marketed, distributed, or sold by several defendants, including
15 Powermax and AVI. A couple months later, AVI filed cross-claims against
16 Powermax, alleging that to the extent that plaintiff insurance carrier was able to
17 prove that the fan in question was an AVI product and that it was defective, any
18 alleged defect would have arisen solely from the fan motor, which was designed,
19 manufactured, and supplied by Powermax. In 2023, Powermax moved to dismiss
20 AVI’s cross-claims for lack of personal jurisdiction. Last year, the district court

1 granted the motion. AVI appeals, arguing that it had presented a prima facie case
2 that personal jurisdiction may be asserted over Powermax in New Mexico.

3 {3} In support of its argument, AVI contends that Powermax purposefully availed
4 itself of the New Mexico market through placing its products into a nationwide
5 stream of commerce. In the district court and now on appeal, AVI specifically alleges
6 the following: (1) Powermax sold fan motors to intermediaries in the United States;
7 (2) Powermax itself shipped its fan motors from China directly to AVI through U.S.
8 ports, though some of its sales were arranged through a third-party customer known
9 as Direct Marketing Asia, Ltd.; (3) Powermax has a joint venture relationship with
10 Florida-based supplier, King of Fans; (4) Powermax’s website states that Powermax
11 has an “important status in . . . American markets”; (5) Powermax’s website lists a
12 U.S. phone number; (6) Powermax maintains worldwide insurance coverage; (7)
13 Powermax’s products are designed to comply with U.S. safety standards; (8)
14 Powermax sold 99 percent of its products in the United States through stores
15 including Home Depot, Lowe’s, Grainger, Harbor Freight, and Wal-Mart; and (9)
16 Powermax sold 2.8 million electric fan motors to AVI during the at-issue time
17 period. To determine whether the district court was correct to grant Powermax’s
18 motion to dismiss, we examine the legal landscape that governs personal jurisdiction
19 in New Mexico. We then explain the proffered law and consider the allegations in
20 determining whether Powermax is subject to personal jurisdiction in New Mexico.

DISCUSSION

{4} Whether a party “is subject to specific personal jurisdiction in New Mexico courts is a question of law we review de novo.” *Chavez v. Bridgestone Americas Tire Operations, LLC*, 2023-NMCA-022, ¶ 6, 527 P.3d 652. “Further, where, as here, the district court base[d] its ruling on the parties’ pleadings, attachments, and non[evidentiary] hearings, we construe those pleadings and affidavits in the light most favorable to the complainant.” *Id.* (alterations, internal quotation marks, and citation omitted). “We construe the pleadings and affidavits in the light most favorable to the complainant, and the complainant need only make a prima facie showing that personal jurisdiction exists.” *Sproul v. Rob & Charlies, Inc.*, 2013-NMCA-072, ¶ 6, 304 P.3d 18 (internal quotation marks and citation omitted).

{5} New Mexico courts “may exercise specific personal jurisdiction over a nonresident defendant if that defendant purposefully availed itself of the privilege of conducting activities within [New Mexico], thus invoking the benefits and protections of its laws. [T]he central feature of minimum contacts is the requirement of purposeful availment.” *Chavez*, 2023-NMCA-022, ¶ 7 (alteration, omission, internal quotation marks, and citation omitted). Thus, specific personal jurisdiction analysis is somewhat like a series of nesting dolls: To determine specific personal jurisdiction, we look to minimum contacts. To determine minimum contacts, we

1 look to purposeful availment. What we look to in determining purposeful availment
2 is the precise question presented by this case.

3 {6} The parties sharply disagree over the proper basis for purposeful availment,
4 clashing over whether placing a product in the nationwide stream of commerce
5 suffices. We observe, however, that the United States Supreme Court has not
6 recently tussled over whether stream of commerce theory can be included in the
7 purposeful availment analysis, let alone rejected stream of commerce theory
8 outright, as Powermax implies. Rather, the United States Supreme Court has simply
9 leaned into purposeful availment as a predicate to specific personal jurisdiction. *See*
10 *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 359 (2021) (“The
11 defendant . . . must take some act by which [they] purposefully avail[] [themselves]
12 of the privilege of conducting activities within the forum [s]tate.” (internal quotation
13 marks and citation omitted)). As part of the purposeful availment analysis, this Court
14 has implicitly adopted the United States Supreme Court’s approach found in *World-*
15 *Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980)¹ and in doing so
16 acknowledged the continued viability of stream of commerce theory found therein:

¹We acknowledge the somewhat-splintered landscape regarding stream of commerce found in plurality United States Supreme Court opinions since *World-Wide Volkswagen*—see *Asahi Metal Indus. Co. v. Superior Ct. of Cal.*, 480 U.S. 102 (1987); *J. McIntyre Mach., Ltd. v. Nicaastro*, 564 U.S. 873 (2011)—and in New Mexico’s plurality opinion in *Sproul*. See 2013-NMCA-072. In *Sproul*, both Judge Vanzi’s opinion and then-Judge Vigil’s special concurrence helpfully detailed the United States Supreme Court’s “splintered view” regarding stream of commerce.

1 [I]f the sale of a product . . . is not simply an isolated occurrence, but arises
2 from the efforts of the manufacturer or distributor to serve directly or
3 indirectly, the market for its product in other [s]tates, it is not unreasonable to
4 subject it to suit in one of those [s]tates if its allegedly defective merchandise
5 has there been the source of injury to its owner or to others. The forum [s]tate
6 does not exceed its powers under the Due Process Clause if it asserts personal
7 jurisdiction over a corporation that delivers its products into the stream of
8 commerce with the expectation that they will be purchased by consumers in
9 the forum [s]tate.

10 *World-Wide Volkswagen*, 444 U.S. at 297-98; *see also Chavez*, 2023-NMCA-022,
11 ¶¶ 6, 9 (acknowledging that personal jurisdiction may exist under a stream of
12 commerce theory). We therefore begin by explaining the United States Supreme
13 Court’s and New Mexico’s approach to determining specific personal jurisdiction.
14 We then mention the parties’ opposing views and address their arguments. We

See id. ¶ 19. But Judge Vanzi ultimately relied on *World-Wide Volkswagen*, noting that “because the plurality opinions in [*Asahi* and *J. McIntyre Machinery*] are not the precedential holdings of the Court, a defendant’s contacts with New Mexico continue to be evaluated by the stream of commerce standard as described in *World-Wide Volkswagen*.” *Sproul*, 2013-NMCA-072, ¶ 19. Judge Vigil specially concurred, implicitly verifying *World-Wide Volkswagen* when he explained that the facts of *Sproul* did not require this Court to reject or adopt any view of the United States Supreme Court, but that the defendant’s conduct and activities were sufficient to confer specific jurisdiction under either the majority opinion in *World-Wide Volkswagen* or the plurality opinions of *Asahi* and *J. McIntyre Machinery*. *Sproul*, 2013-NMCA-072, ¶ 48 (Vigil, J., specially concurring).

Because the most recent United States Supreme Court majority opinion on the subject, *World-Wide Volkswagen*, is still good law, however, and because this Court has issued binding precedent acknowledging stream of commerce since *Sproul*, *see Chavez*, 2023-NMCA-022, ¶¶ 6, 9, we simply rely on *World-Wide Volkswagen* and *Chavez* to guide our analysis here.

conclude by analyzing whether the district court has personal jurisdiction over Powermax.

I. The Legal Landscape of Specific Personal Jurisdiction

{7} New Mexico courts “may exercise specific personal jurisdiction over a nonresident defendant if that defendant purposefully availed itself of the privilege of conducting activities [in New Mexico], thus invoking the benefits and protections of its laws.” *Chavez*, 2023-NMCA-022, ¶ 7 (alteration, internal quotation marks, and citation omitted). New Mexico’s most recent precedent on the issue of what establishes purposeful availment follows:

As explained recently by the United States Supreme Court, a defendant is considered to have purposefully availed itself of the privilege of conducting activities within the forum state—and, in turn, establishing the minimum contacts necessary to be subject to specific personal jurisdiction—where the defendant’s contacts are “the defendant’s own choice and not random, isolated, or fortuitous,” and where the defendant “deliberately reached out beyond its home—by, for example, exploiting a market in the forum state or entering a contractual relationship centered there.” Further, “there must be an affiliation between the forum and the underlying controversy, principally, an activity or an occurrence that takes place in the forum state and is therefore subject to the state’s regulation.”

Id. ¶ 8 (alterations omitted) (quoting *Ford Motor Co.*, 592 U.S. at 359-60). In sum, New Mexico, like the United States Supreme Court, bestows specific personal jurisdiction on courts when (1) defendants purposefully avail themselves of the privilege of conducting activities within the forum state and (2) a plaintiff’s claims are affiliated with or arise out of that purposeful availment. *See id.* Additionally, as

1 part of the first prong, “[o]ur courts may exercise specific personal jurisdiction over
2 a defendant despite the absence of continuous and systematic contacts if the
3 defendant has certain minimum contacts with the forum state such that the
4 maintenance of the suit does not offend traditional notions of fair play and
5 substantial justice and the cause of action is related to those contacts.” *Id.* ¶ 7
6 (internal quotation marks and citation omitted). The parties do not dispute the second
7 prong, whether AVI’s claims arise out of Powermax’s contacts with New Mexico.
8 We therefore focus our analysis on the first prong.

9 {8} In determining purposeful availment, the first prong, this Court aligns with
10 the United States Supreme Court in weighing whether a defendant “established
11 numerous purposeful contacts in New Mexico to do business in the state.” *Id.* ¶ 9;
12 *see also Ford Motor Co.*, 592 U.S. at 359-60 (affirming that specific personal
13 jurisdiction depends on a defendant’s having sufficient contacts with the forum
14 state). Courts analyze whether such contacts are “the defendant’s own choice and
15 not random, isolated, or fortuitous,” and whether the defendant “deliberately reached
16 out beyond its home—by, for example, exploiting a market in the forum state or
17 entering a contractual relationship centered there.” *Chavez*, 2023-NMCA-022, ¶ 8
18 (alteration, internal quotation marks, and citation omitted). Our state’s jurisprudence
19 also affirms the viability of stream of commerce considerations in its purposeful
20 availment analysis, specifically that “personal jurisdiction may exist over a

1 nonresident defendant that ‘delivers its products into the stream of commerce with
2 the *expectation* that they will be purchased by consumers in the forum state.’” *Id.*
3 ¶ 9 (quoting *Sproul*, 2013-NMCA-072, ¶ 20).

4 **A. AVI and Powermax Harbor Conflicting Views on Stream of Commerce**
5 **Theory**

6 {9} AVI argues that Powermax purposefully availed itself of the New Mexico
7 market by placing its products into the national stream of commerce, citing *Sproul*
8 for legal support that stream of commerce theory is a viable way to establish
9 purposeful availment. AVI encourages our continued adherence to *Sproul*, which,
10 acknowledging the fractured nature of then-current United States Supreme Court
11 opinions, noted the continued viability of stream of commerce theory found in
12 *World-Wide Volkswagen*. See *Sproul*, 2013-NMCA-072, ¶¶ 17, 20-26. AVI goes on
13 to argue that the district court erred when it relied on a case, *J. McIntyre Mach., Ltd.*
14 *v. Nicastro*, 564 U.S. 873 (2011), that veers away from stream of commerce theory,
15 since *J. McIntyre Machinery* is merely a plurality opinion.²

16 {10} But Powermax points to recent state and federal case law that, Powermax
17 argues, indicates a departure from stream of commerce theory. Powermax introduces
18 two cases that, in its view, support the position that stream of commerce theory can
19 no longer be a part of the purposeful availment analysis. See *Bristol-Myers Squibb*

²Powermax’s and the district court’s reliance on *J. McIntyre Machinery* is discussed in the next section.

1 *Co. v. Super. Ct. of Cal.*, 582 U.S. 255 (2017); *Ford Motor Co.*, 592 U.S. 351.
2 Powermax asks this Court to “formally reject” *Sproul*, to “align New Mexico law
3 with the U[nited] S[tates] Supreme Court’s current . . . approach under *Bristol-*
4 *Myers* and *Ford [Motor Co.]*,” and to “ensure compliance with due process and
5 harmonize New Mexico law with the evolution” of specific personal jurisdiction
6 jurisprudence.

7 {11} In sum, AVI urges us to reaffirm that stream of commerce theory can be part
8 of the purposeful availment analysis; Powermax asks us to reject stream of
9 commerce theory altogether, claiming it has been abandoned. Yet Powermax
10 misrepresents specific personal jurisdiction jurisprudence, and neither party cites
11 New Mexico’s most recent, binding precedent on the matter, *see Chavez*, 2023-
12 NMCA-022, ¶¶ 7, 10, which recognizes stream of commerce theory within specific
13 personal jurisdiction analysis.

14 {12} First, Powermax misrepresents specific personal jurisdiction jurisprudence by
15 arguing that *Ford Motor Co.* and *Bristol-Myers* reject the idea that stream of
16 commerce theory can be a part of the purposeful availment analysis. However, *Ford*
17 *Motor Co.* and *Bristol-Myers* merely focus on the second prong of the specific
18 personal jurisdiction analysis, which may explain the absence of discussion on the
19 stream of commerce in both. In *Bristol-Myers*, the issue is whether there was “a
20 connection between the forum and the specific claims at issue,” 582 U.S. at 265, and

1 in *Ford Motor Co.*, the issue is whether the requirement that there be a connection
2 included a causation element. 592 U.S. at 361-62. It is therefore inaccurate to imply
3 that the holdings of *Ford Motor Co.* and *Bristol-Myers*—which, again, revolve
4 around the second prong of the specific personal jurisdiction analysis—remove
5 stream of commerce theory, a component of the first prong of the analysis, from our
6 jurisprudence or support the district court’s finding that it lacked personal
7 jurisdiction over Powermax. As stated, it is the first prong that is at issue in our
8 inquiry.

9 {13} Second, this Court’s jurisprudence post *Bristol-Myers* and *Ford Motor Co.*—
10 which Powermax, AVI, and the district court all omitted from their arguments—
11 further suggests that stream of commerce theory has yet to be extinguished. *See*
12 *Chavez*, 2023-NMCA-022, ¶ 9 (implicitly affirming the viability of stream of
13 commerce considerations in purposeful availment analysis). Accordingly, there is
14 no need to resolve a debate the law has already settled; we simply apply existing
15 precedent.

16 **B. *J. McIntyre Machinery* Is a Nonprecedential Plurality Opinion That**
17 **Predates Current Precedent**

18 {14} In addition to mischaracterizing United States Supreme Court and New
19 Mexico precedent on specific personal jurisdiction, Powermax insists that *J.*
20 *McIntyre Machinery* “squarely rejected” the stream of commerce theory found in
21 *Sproul* and *World-Wide Volkswagen*. Powermax argues that *J. McIntyre Machinery*

1 “reflects the current state of the law” in New Mexico. However, because both *Sproul*
2 and *Chavez* postdate *J. McIntyre Machinery* and because *J. McIntyre Machinery* is
3 a nonprecedential plurality opinion of the United States Supreme Court, we agree
4 with AVI that the district court’s and Powermax’s reliance on *J. McIntyre Machinery*
5 was misplaced.

6 **C. Additional Case Law Integrates Rather Than Rejects Stream of**
7 **Commerce Theory**

8 {15} Beyond *Bristol-Myers* and *Ford Motor Co.*, the New Mexico state and federal
9 cases Powermax cites to support its assertion that *Sproul* and stream of commerce
10 theory are no longer good law are likewise inapposite. Specifically, *Grano v. HCA*
11 *Healthcare, Inc.*, A-1-CA-39669, mem. op. (N.M. Ct. App. Apr. 12, 2023)
12 (nonprecedential) and *Trei v. AMTX Hotel Corp.*, 2014-NMCA-104, 336 P.3d 393,
13 simply reiterate well-established standards of specific personal jurisdiction analysis
14 rather than abandon *Sproul*’s stream of commerce reasoning as Powermax avers.
15 *Grano* and *Trei* affirm that courts examine fact-bound issues on a case-by-case basis
16 to determine whether a defendant “purposefully directed its activities at New
17 Mexico,” *Grano*, A-1-CA-39669, mem. op. ¶ 8, or “purposely established contact
18 with New Mexico.” *Trei*, 2014-NMCA-104, ¶ 6. We disagree with Powermax that
19 *Grano* and *Trei* repudiate either stream of commerce theory or *Sproul*. Rather, both
20 cases cite *Sproul* and implement its guidance, as do we. See *Grano*, A-1-CA-39669,

1 mem. op. ¶ 8; *Trei*, 2014-NMCA-104, ¶¶ 5-6. Furthermore, *Grano* is not binding on
2 this Court.

3 **II. Powermax Purposefully Availed Itself of the New Mexico Market**

4 {16} We next analyze whether Powermax purposefully availed itself of the New
5 Mexico market. In response to Powermax’s request that we “ensure compliance with
6 due process and harmonize New Mexico law with the evolution” of specific personal
7 jurisdiction jurisprudence, we answer that to do so we must uphold current
8 jurisprudence, not abandon it.³ Therefore, we structure our analysis as we must—
9 within the confines of existing New Mexico and United States Supreme Court
10 precedent.

11 {17} As mentioned, to be subject to specific personal jurisdiction, a defendant must
12 have “purposefully availed itself of the privilege of conducting activities” within
13 New Mexico and the claims in the litigation must arise out of or relate to the
14 defendant’s conduct directed at that state.⁴ *Chavez*, 2023-NMCA-022, ¶ 8. Again
15 focusing on the first prong, “we look at what activities the defendant directed toward
16 New Mexico” to determine purposeful availment. *Id.* ¶ 7 (internal quotation marks

³We also note that to do as Powermax asks would impinge upon the most recent specific personal jurisdiction jurisprudence, *see Chavez*, 2023-NMCA-022, and exceed this Court’s purview.

⁴The due process consideration that extends out of the first prong, whether exercising specific personal jurisdiction would offend traditional notions of fair play and substantial justice, is addressed in the final section of this opinion.

1 and citation omitted). Applying this specific personal jurisdiction framework, we
2 compare this case with others to determine whether personal jurisdiction over
3 Powermax existed. *See Sproul*, 2013-NMCA-072, ¶ 17 (“Whether or not personal
4 jurisdiction exists over a particular defendant is decided on a case-by-case basis.”).
5 Finally, “[w]e construe the pleadings and affidavits in the light most favorable to the
6 complainant [AVI], and [AVI] need only make a prima facie showing that personal
7 jurisdiction exists.” *Id.* ¶ 6 (internal quotation marks and citation omitted). Dismissal
8 is proper only if all the specific facts that AVI alleges “collectively fail to state a
9 prima facie case for jurisdiction” over Powermax. *See id.*

10 {18} In *Sproul*, the defendant was subject to personal jurisdiction primarily because
11 it was found to have sufficient minimum contacts with New Mexico under stream of
12 commerce theory.⁵ *See id.* ¶ 7. There, the defendant, a bicycle parts manufacturer
13 known as Joy Co., was—like Powermax—a foreign corporation with its principal
14 place of business in China and operating under the laws of the Republic of China.
15 *Id.* ¶ 28. Joy Co. had agents and suppliers in the United States that distributed parts
16 that Joy Co. manufactured, and Joy Co. knew that products bearing their

⁵Although some of their reasoning differed, Judge Vanzi and Judge Vigil (in his special concurrence) agreed that there was enough conduct and activity by the defendant to confer specific jurisdiction on the New Mexico district court under a theory of stream of commerce. *See* 2013-NMCA-072, ¶ 7; *see also id.* ¶¶ 47-53 (Vigil, J., specially concurring) (explaining that conduct was also sufficient under a “purposefully directed” test (internal quotation marks and citation omitted)).

1 manufactured bicycle parts were sold worldwide. *Id.* ¶ 29. Joy Co. complied with
2 United States safety standards. *Id.* ¶ 30. Joy Co. had a “full-time marketing and sales
3 employee” who, though located in California, sold Joy Co. products and provided
4 customer service and support to Joy Co.’s clients in New Mexico. *Id.* ¶ 28. This
5 Court held that the plaintiff had made a prima facie showing that personal
6 jurisdiction was proper in New Mexico. *Id.* ¶ 45. Importantly, like the case here,
7 there was no dispute in *Sproul* about the litigation arising out of or relating to
8 *Sproul*’s activities in New Mexico. The plaintiff was injured in New Mexico by a
9 *Sproul* product. The sole controversy was whether Sproul had established minimum
10 contacts with New Mexico by availing itself of the New Mexico market.

11 {19} In *Chavez*, Bridgestone, a tire manufacturer and the defendant, operated a
12 “copyrighted, interactive website in New Mexico to solicit business and establish
13 channels of communication with New Mexico residents.” 2023-NMCA-022, ¶ 9.
14 The record showed that Bridgestone was also a “frequent litigant in New Mexico
15 courts.” *Id.* This Court held that Bridgestone had established “numerous purposeful
16 contacts” sufficient to establish minimum contacts with New Mexico and that those
17 contacts were sufficiently related to the litigation because the plaintiff was injured
18 by a Bridgestone product in New Mexico—even though the plaintiff resided in
19 another state and had not purchased or serviced the defective Bridgestone product in
20 New Mexico.

1 {20} The similarities between the facts of the present appeal and the facts of *Sproul*
2 and *Chavez* support the conclusion that AVI has made a prima facie case with respect
3 to purposeful availment and therefore minimum contacts. Powermax is alleged to
4 have sold fan motors to intermediaries in the United States, including 2.8 million
5 fans to AVI during the at-issue time period; is alleged to have suppliers and joint
6 venture relationships in the United States that distribute its products nationally; is
7 not only aware of its presence throughout many states in America but claims an
8 “important status” in American markets; has a website that touts this status and lists
9 a U.S. phone number, offering nationwide customer service availability; maintains
10 worldwide insurance coverage, that, while not specific to New Mexico, presumably
11 protects New Mexicans and Powermax from insurance claims by New Mexicans;
12 complies with U.S. safety standards; and sells its products through stores like Home
13 Depot, Lowe’s, Grainger, Harbor Freight, and Wal-Mart.

14 {21} In our view, these actions are precisely the “efforts of the manufacturer or
15 distributor to serve directly or indirectly[] the market for its product in other [s]tates”
16 that the United States Supreme Court held warrants the exercise of personal
17 jurisdiction in *World-Wide Volkswagen*. 444 U.S. at 296-97. Additionally,
18 Powermax’s contacts with New Mexico seem to be of its “own choice and not
19 random, isolated, or fortuitous.” *Chavez*, 2023-NMCA-022, ¶ 8. They are evidence
20 of Powermax “deliberately reach[ing] out beyond its home” and “exploiting [the

1 New Mexico] market.” *Id.* Viewing the allegations and evidence in favor of AVI as
2 the complainant, we hold that AVI has met its burden of showing that personal
3 jurisdiction exists. *See Sproul*, 2013-NMCA-072, ¶ 6 (“[T]he complainant need only
4 make a prima facie showing that personal jurisdiction exists.” (internal quotation
5 marks and citation omitted)).

6 **III. Exercising Personal Jurisdiction Over Powermax Would Not Offend**
7 **Traditional Notions of Fair Play and Substantial Justice**

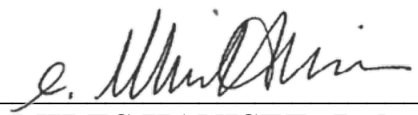
8 {22} “The United States Supreme Court has held that even if a defendant has
9 established sufficient minimum contacts with the forum state, the Due Process
10 Clause forbids the assertion of personal jurisdiction over that defendant under
11 circumstances that would offend traditional notions of fair play and substantial
12 justice.” *Id.* ¶ 35 (internal quotation marks and citation omitted); *accord World-Wide*
13 *Volkswagen Corp.*, 444 U.S. at 292. The question is whether the relationship
14 between the defendant and the forum state is such that it is “reasonable to require
15 the corporation to defend the particular suit which is brought there.” *World-Wide*
16 *Volkswagen Corp.*, 444 U.S. at 292 (text only) (citation omitted). To answer, we
17 balance five factors: “the burden on the defendant, New Mexico’s interest, the
18 plaintiff’s interest, the interest in an efficient judicial system, and the interest in
19 promoting public policy.” *Zavala v. El Paso Cnty. Hosp. Dist.*, 2007-NMCA-149,
20 ¶ 12, 143 N.M. 36, 172 P.3d 173.

{23} We conclude that asserting jurisdiction over Powermax is fair and reasonable. As stated, AVI has made a prima facie case of purposeful availment. AVI has an interest in adjudicating a controversy that involves the sale of a product and an ensuing injury for which Powermax claims indemnity. The State of New Mexico likewise has a substantial interest in protecting its residents from property damage allegedly caused by defective products. Finally, because the property damage caused by the allegedly defective Powermax product occurred in New Mexico, litigating the controversy in New Mexico promotes efficient resolution of controversies as well as public policy. For these reasons, requiring Powermax to litigate in New Mexico does not offend traditional notions of fair play and substantial justice and is not unreasonable.

CONCLUSION

{24} We reverse and remand.

{25} **IT IS SO ORDERED.**



J. MILES HANISEE, Judge

WE CONCUR:



ZACHARY A. IVES, Judge



JANE B. YOHALEM, Judge