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Casenotes: Constitutional Law — in Personam Jurisdiction — Nonresident Insurer's Solicitation of Modification to Insurance Contract Provides Sufficient Minimum Contact with Forum State to Satisfy Due Process Jurisdictional Requirements. *August v. HBA Life Insurance Co.*, 734 F.2d 168 (4th Cir. 1984)

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CONSTITUTIONAL LAW - *IN PERSONAM* JURISDICTION —  
NONRESIDENT INSURER'S SOLICITATION OF MODIFICA-  
TION TO INSURANCE CONTRACT PROVIDES SUFFICIENT  
MINIMUM CONTACT WITH FORUM STATE TO SATISFY DUE  
PROCESS JURISDICTIONAL REQUIREMENTS. *August v. HBA  
Life Insurance Co.*, 734 F.2d 168 (4th Cir. 1984).

A husband and wife, while residents of Arizona, obtained a hospitalization-surgical care policy from an Arizona life insurance company.<sup>1</sup> After changing their residency to Virginia, the couple made a claim under the policy for medical expenses incurred at a Virginia hospital.<sup>2</sup> The insurance company denied the claim.<sup>3</sup> In its letter of denial, the insurance company enclosed a policy modification contract for signature by the couple.<sup>4</sup> The couple never signed the policy modification.<sup>5</sup> Alleging a breach of the insurance agreement, the couple obtained a default judgment against the insurance company in a Virginia state court.<sup>6</sup> The insurance company, which was not authorized to do business in Virginia, had no representative in Virginia and did not appear in the state court action.<sup>7</sup>

The couple then petitioned the United States Bankruptcy Court for relief under Chapter 13 of Title 11 of the United States Code.<sup>8</sup> To secure the insurance money, which was to fund their bankruptcy plan, the couple asked the court to order the insurance company to pay the sum due under the default judgment.<sup>9</sup> The bankruptcy court refused, ruling that the default judgment was void.<sup>10</sup> The court found that the insurance company's contacts with the state of Virginia were insufficient to satisfy the due process requirements for the valid assertion of *in personam* juris-

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1. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 170 (4th Cir. 1984). The policy was renewable monthly subject to the insurer's right to adjust premium rates. *Id.*
  2. *Id.* The couple paid regular monthly premiums to the insurance company on the policy. Four of the premiums were paid by checks drawn on the couple's account at a Virginia bank. *Id.*
  3. The letter of denial stated that the claim had been denied because the medical condition involved originated prior to the effective date of the policy. *Id.*
  4. The policy modification contract provided: "[I]n addition to the exceptions, reductions and limitations contained in the policy . . . no payment shall be made under the policy for loss . . . which results directly or indirectly from . . . [a]ny disease of the organs peculiar to females, [s]uffered by Sharon August." *Id.*
  5. *Id.* at 173.
  6. *Id.*
  7. The insurance company was served with process under Virginia's long arm statute, VA. CODE § 8.01-328.1 (Repl. Vol. 1984). *August v. HBA Life Ins. Co.*, 734 F.2d 168, 170 (4th Cir. 1984).
  8. 734 F.2d at 169. Chapter 13 provides a statutory scheme for the adjustment of debts of individuals with regular incomes. Pursuant to the scheme, the debtor is required to collect and reduce to money the property of his estate. The money is then used to fund the debtor's plan. 11 U.S.C. §§ 1301-30 (1982).
  9. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 170 (4th Cir. 1984).
  10. *August v. HBA Life Ins. Co. (In re August)*, 17 Bankr. 628 (Bankr. E.D. Va.), *aff'd*, No. CA82-0175-R (E.D. Va. May 26, 1982) (memorandum order), *rev'd*, 734 F.2d 168 (4th Cir. 1984).

diction over the insurer.<sup>11</sup> The United States District Court for the Eastern District of Virginia affirmed this holding.<sup>12</sup> The Fourth Circuit reversed, holding that the insurance company's solicitation of the policy modification in Virginia was sufficient contact with the state constitutionally to validate Virginia's assertion of *in personam* jurisdiction over the nonresident insurer.<sup>13</sup>

The due process clause of the fourteenth amendment<sup>14</sup> limits the power of a state court to render a valid personal judgment against a nonresident defendant.<sup>15</sup> A judgment rendered in violation of due process is void and is not entitled to full faith and credit.<sup>16</sup> Due process encompasses two separate and distinct concepts that must be satisfied to validate an *in personam* judgment against a defendant. First, the defendant must be given adequate notice of the suit and an opportunity to be heard.<sup>17</sup> Second, the defendant must be subject to the personal jurisdiction of the court.<sup>18</sup>

The personal jurisdiction of a court over a defendant historically has been grounded upon the presence of the defendant within the territorial limits of the court. In *Pennoyer v. Neff*,<sup>19</sup> the Supreme Court held that a state court's assertion of *in personam* jurisdiction over a defendant was valid only if the defendant was physically present in the forum state.<sup>20</sup> The Court subsequently expanded the *Pennoyer* rule by developing the concept of constructive presence to justify a state court's assertion of personal jurisdiction over a nonresident defendant. Thus, in *St. Clair v. Cox*,<sup>21</sup> the Court held that a nonresident corporation was present in any state in which it engaged in business.<sup>22</sup> The Court went further in *Kane v. New Jersey*,<sup>23</sup> finding the presence of a nonresident defendant in the

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11. *Id.*

12. August v. HBA Life Ins. Co., No. CA82-0175-R (E.D. Va. May 26, 1982) (memorandum order), *rev'd*, 734 F.2d 168 (4th Cir. 1984).

13. August v. HBA Life Ins. Co., 734 F.2d 168, 173 (4th Cir. 1984).

14. The fourteenth amendment provides in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . ." U.S. CONST. amend. XIV, § 1.

15. *Kulko v. California Superior Court*, 436 U.S. 84, 91 (1978). Compare *Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702-03 n.10 (1982) (limitation as a matter of individual liberty), with *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291-92 (1980) (limitation as a matter of state sovereignty and federalism).

16. *Pennoyer v. Neff*, 95 U.S. 714, 732-33 (1877). A valid state court judgment must be honored by other states under the full faith and credit clause. U.S. CONST. art. IV, § 1.

17. *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306, 313-14 (1950).

18. *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).

19. 95 U.S. 714 (1877). *Pennoyer* involved a collateral attack on a default judgment entered against a nonresident defendant.

20. *Id.* at 733.

21. 106 U.S. 350 (1882).

22. *Id.* at 354-56. The Court rejected the established doctrine that a corporation is present only in the state of its incorporation. *Id.*

23. 242 U.S. 160 (1916).

forum state through the nonresident's implied consent to suit there.<sup>24</sup>

In *International Shoe Co. v. Washington*,<sup>25</sup> the Court abandoned its use of the legal fiction of presence in determining the validity of a state court's *in personam* judgment against a nonresident defendant. *International Shoe* involved an attack on the state of Washington's assertion of personal jurisdiction over a nonresident corporation. The corporation was not "present" within the state in the traditional sense for several reasons: the corporation had no office in the state nor did it enter into contracts in the state; the corporation kept no merchandise in the state and made no in-state deliveries; the corporation had no salaried employees in the state, although it did utilize salesmen there to exhibit samples and solicit orders.<sup>26</sup> Despite the corporation's lack of presence within the state, the Court held that Washington's exercise of personal jurisdiction was proper in this suit to recover payments due the state's unemployment compensation fund.<sup>27</sup> In so holding, the Court set out a new jurisdictional test: A state court may exercise personal jurisdiction over a nonresident defendant if there exist certain minimum contacts between the defendant and the forum state "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice."<sup>28</sup>

Since its decision in *International Shoe*, the Court has explained the minimum contacts requirement. In *Shaffer v. Heitner*,<sup>29</sup> the Court stated that in judging minimum contacts it is necessary to focus on "the relationship among the defendant, the forum, and the litigation."<sup>30</sup> Thus stated, the minimum contacts analysis is one of balancing constitutionally recognized interests. The defendant's interest in being free from the burden of litigating in a distant forum<sup>31</sup> is balanced against the state's interest in adjudicating the particular type of dispute involved.<sup>32</sup> When a defendant's contacts with the forum state are substantial, the defendant incurs little burden litigating in that forum and the defendant's interest in being free from that burden will be overcome by the general interest of the state in seeing that its laws are enforced.<sup>33</sup> When a defendant's contacts with the forum state are minimal, the burden of litigating in that

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24. *Id.* at 167. *Kane* involved an attack on the constitutionality of New Jersey's nonresident motorist statute. The statute provided that any nonresident who drove an automobile on a New Jersey highway would be subject to suit in that state in any action arising out of operation of the automobile within the state. *Id.* at 165-66 n.1.

25. 326 U.S. 310 (1945).

26. *Id.* at 313-14.

27. *Id.* at 321.

28. *Id.* at 316 (quoting *Milliken v. Meyer*, 311 U.S. 457, 463 (1940)).

29. 433 U.S. 186 (1977).

30. *Id.* at 204.

31. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980). No other interests of the defendant are relevant to the jurisdictional analysis. See *Calder v. Jones*, 104 S. Ct. 1482, 1486 (1984) (refusal to recognize defendant's first amendment free speech interests as part of the jurisdictional analysis).

32. See *McGee v. International Life Ins. Co.*, 355 U.S. 220, 223 (1957).

33. See *Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437 (1952).

forum is great and the defendant's interest will be overcome only by a compelling state interest in the particular dispute involved.<sup>34</sup> Compelling state interests can be found in disputes involving: (1) activities that are of direct economic importance to a state;<sup>35</sup> (2) activities that are heavily regulated by the state;<sup>36</sup> (3) the proper administration of the state's judicial system;<sup>37</sup> and (4) issues of substantive social importance to the state.<sup>38</sup>

The Court has utilized a variety of factors in its application of the minimum contacts balancing test. These factors include: whether there has been some contact with the state that results from an affirmative act of the defendant;<sup>39</sup> whether the cause of action arises out of or relates to the defendant's contact with the state;<sup>40</sup> and whether the state has a compelling interest in adjudicating the particular type of dispute involved.<sup>41</sup> Recently, in *Burger King Corp. v. Rudzewicz*,<sup>42</sup> the Court reaffirmed its use of this balancing test and restated the principle that a state's interest in adjudicating a particular dispute is properly a part of the due process analysis and may be given great weight when that interest is

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34. *See Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694 (1984).

35. *See International Shoe Co. v. Washington*, 326 U.S. 310 (1945) (state's interest in collecting money due its unemployment compensation fund).

36. *See McGee v. International Life Ins. Co.*, 355 U.S. 220 (1957) (insurance industry); *see also Hess v. Pawloski*, 274 U.S. 352 (1927) (transportation), *cited with approval in McGee*, 355 U.S. at 223.

37. *See Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694 (1984) (punishment for failure to comply with court-ordered discovery).

38. *McGee v. International Life Ins. Co.*, 355 U.S. 220 (1957) (state's interest in assuring that its sick be adequately compensated by their insurance companies).

39. *See Kulko v. Superior Court*, 436 U.S. 84 (1978) (defendant's involuntary contacts with the forum state, standing alone, are not a sufficient basis to sustain an assertion of *in personam* jurisdiction over him).

40. *Compare Helicopteros Nacionales de Colombia v. Hall*, 104 S. Ct. 1868 (1984) (occasional purchases and trips unrelated to the cause of action, standing alone, are not a sufficient basis for the assertion of *in personam* jurisdiction), *and Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437 (1952) (continuous and systematic contact with the forum state unrelated to the cause of action is a sufficient basis for the assertion of *in personam* jurisdiction), *with Hess v. Pawloski*, 274 U.S. 352 (1927) (single contact with the forum state from which the cause of action arises is a sufficient basis for the assertion of *in personam* jurisdiction), *cited with approval in McGee v. International Life Ins. Co.*, 355 U.S. 220, 223 (1957).

41. *See Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694 (1984) (compelling forum interest provides the basis for jurisdiction where it otherwise would not exist). The plaintiff's interest is not a part of the minimum contacts analysis. *See* notes 28-30 and accompanying text. The plaintiff's contacts with the forum state, however, are relevant to the determination of the state's interest. A state's interest in adjudicating a dispute is increased as a plaintiff's contacts with the state increase. *See Calder v. Jones*, 104 S. Ct. 1482, 1486 (1984) (plaintiff's lack of contact with the forum state will not of itself defeat jurisdiction, but plaintiff's contacts may be so significant as to permit jurisdiction where it otherwise would not exist).

42. 105 S. Ct. 2174 (1985).

compelling.<sup>43</sup>

One of the first cases to utilize the interest of a forum state in its minimum contacts analysis was *McGee v. International Life Insurance Co.*<sup>44</sup> In *McGee*, a California resident, the beneficiary of a life insurance policy, obtained a default judgment in a California state court against the nonresident insurer.<sup>45</sup> The insurer's only contacts with California consisted of the delivery of the insurance contract into California by mail and the receipt of premium payments mailed from California.<sup>46</sup> Because the contract sued upon was delivered into the forum state by an affirmative act of the defendant and because the contract was executed in the forum state,<sup>47</sup> the *McGee* Court held that due process did not preclude the California state court from entering a binding judgment against the insurer.<sup>48</sup> In so holding, the *McGee* Court noted that a state "has a manifest interest in providing effective means of redress for its residents when their insurers refuse to pay claims."<sup>49</sup>

In *August v. HBA Life Insurance Co.*,<sup>50</sup> the Court of Appeals for the Fourth Circuit decided whether a nonresident insurer's contacts with the state of Virginia were sufficient to satisfy due process jurisdictional requirements.<sup>51</sup> The insurer's only contacts with Virginia consisted of the solicitation of a modification of a policy held by residents of the state and the receipt of premium payments drawn on a Virginia bank.<sup>52</sup> The court made a two-fold analysis of Virginia's assertion of *in personam* jurisdiction over the nonresident insurer.<sup>53</sup>

First, the court decided whether Virginia's long arm statute author-

43. *Id.* at 2184-85; *Keeton v. Hustler Magazine, Inc.*, 104 S. Ct. 1473, 1479 (1984); see *Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694 (1982) (compelling interest in punishing failure to comply with court-ordered discovery of jurisdictional facts provides for jurisdiction over a nonresident defendant where it otherwise would not exist). For an argument that the forum state's interest is not properly a part of the jurisdictional analysis, see Lewis, *The "Forum State Interest" Factor in Personal Jurisdiction Adjudication: Home-Court Horses Hauling Constitutional Carts*, 33 MERCER L. REV. 769 (1982).

44. 355 U.S. 220 (1957).

45. *Id.* at 221-22.

46. *Id.*

47. *Id.* There has been some disagreement as to whether the holding in *McGee* is limited to insurance contracts. Compare *Webb v. Stanker & Galetto, Inc.*, 84 N.J. Super. 178, 201 A.2d 387 (interpreting *McGee* as limited to insurance contracts or contracts in which the state has a unique interest), *cert. denied*, 380 U.S. 907 (1964), with *Terasse v. Wisconsin Feeder Pig Mktg. Coop.*, 202 So. 2d 330 (La. Ct. App. 1967) (interpreting *McGee* as applicable to all contractual situations).

48. *McGee*, 355 U.S. at 223.

49. *Id.* at 223.

50. 734 F.2d 168 (4th Cir. 1984).

51. *Id.* The minimum contacts analysis must be done on a case-by-case basis and is, necessarily, a most "imprecise inquiry." *Calder v. Jones*, 104 S. Ct. 1481, 1482 (1984).

52. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 170 (4th Cir. 1984).

53. This type of analysis was previously enunciated by the Fourth Circuit in *Haynes v. Carr, Inc.*, 427 F.2d 700 (4th Cir.) (jurisdiction is proper only if a state statute permits service of process on the nonresident defendant, and the assertion of juris-

ized service of process on the insurer.<sup>54</sup> The court noted that Virginia state courts have construed liberally the long arm statute<sup>55</sup> and concluded that service of process on the insurer was proper.<sup>56</sup>

Second, the court determined whether the insurer had sufficient contacts with Virginia to satisfy the jurisdictional requirements of due process.<sup>57</sup> The court recognized that it was foreseeable by the insurer that a cause of action under the insurance policy might arise in another state. This foreseeability alone, however, was too tenuous to justify Virginia's assertion of personal jurisdiction over the nonresident insurer.<sup>58</sup> Therefore, the *August* court focused on the solicitation of the policy modification by the insurer.<sup>59</sup> The court reasoned that although the suit did not arise out of the solicitation, the solicitation was substantially related to the cause of action, thus providing the state more power over the defendant than it would have had if the solicitation were unrelated to the cause of action.<sup>60</sup> The majority held that the solicitation, in addition to the acceptance of premium payments drawn on a Virginia bank, provided sufficient contact with Virginia to permit the state's assertion of personal jurisdiction over the nonresident insurer.<sup>61</sup>

The dissent argued that the solicitation was not an attempt to modify the insurance policy and, therefore, that this contact with the forum state was insufficient to satisfy the jurisdictional requirements of due pro-

cedure under the particular facts does not offend due process), *cert. denied*, 400 U.S. 942 (1970).

54. Virginia's long arm statute, VA. CODE § 8.01-328.1(A) (1984 Repl. Vol.) provides in relevant part:

A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth; or . . .
7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

The term "person" includes any legal or commercial entity. *Id.* § 8.01-328.

55. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 171 (4th Cir. 1984); see *Danville Plywood Corp. v. Plain & Fancy Kitchens*, 218 Va. 533, 238 S.E.2d 800 (1977); *John J. Kolbe, Inc. v. Chromodern Chair Co.*, 211 Va. 736, 180 S.E.2d 664 (1971).
56. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 172 (4th Cir. 1984).
57. *Id.* at 172-73. The court utilized the jurisdictional test set forth in *International Shoe*. See *supra* note 28 and accompanying text.
58. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 172-73 (4th Cir. 1984). Due process requires more than foreseeability alone:
- [T]he foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum state. Rather, it is that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.
- World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980); see *Burger King Corp. v. Rudzewicz*, 105 S. Ct. 2174, 2183 (1985).
59. See *supra* note 4 and accompanying text. The court distinguished *McGee*, noting that delivery into the forum state of the contract sued upon was absent from HBA's contacts with Virginia. *August*, 734 F.2d at 172.
60. See *supra* note 40 and accompanying text.
61. *August*, 734 F.2d at 173.

cess.<sup>62</sup> Even assuming an attempt to modify the policy, the dissent maintained that the minimum contacts requirement still was not satisfied because the solicitation was not undertaken until after the cause of action arose.<sup>63</sup> Further, no business transaction between the parties had been conducted in Virginia because the policy modification agreement had never been executed.<sup>64</sup> The dissenting opinion would hold that the insurer lacked sufficient contacts with the state of Virginia to permit jurisdiction.<sup>65</sup>

It is the majority holding, however, that is consistent with the current trend in cases reviewing the validity of an assertion of *in personam* jurisdiction over nonresidents. *August* is consistent with this trend in two ways. First, courts in many states have construed liberally seemingly restrictive long arm statutes to permit service of process on nonresidents whose activities within the state do not fall within a literal reading of the statute.<sup>66</sup>

Second, the minimum contacts requirement has been greatly expanded, particularly where the forum state has a substantial interest in the litigation.<sup>67</sup> Although the defendant must have some contact with the forum state resulting from an affirmative act of the defendant to justify a state's exertion of personal jurisdiction over him,<sup>68</sup> the state's interest in adjudicating a particular type of dispute may be so compelling as to permit jurisdiction where it otherwise would not exist.<sup>69</sup>

In *August*, the forum state had a compelling interest in providing its residents with an effective means of redress against nonresident insurers who refuse to pay claims.<sup>70</sup> In this era of high medical costs, even a relatively short hospital stay may be financially devastating to a claimant. Generally, such claimants cannot afford to bring suit against their insurers in a foreign forum; as a result, the insurer becomes judgment proof and state resources must be used to pay for medical services.<sup>71</sup>

62. *Id.* at 173-74 (Hall, J., dissenting).

63. *Id.* (Hall, J., dissenting).

64. *Id.* at 174 (Hall, J., dissenting).

65. *Id.* (Hall, J., dissenting).

66. *See, e.g.,* *Waters v. Deutz Corp.*, 460 A.2d 1332 (Del. Sup. Ct. 1983); *Mohamed v. Michael*, 279 Md. 653, 370 A.2d 551 (1978); *Danville Plywood Corp. v. Plain & Fancy Kitchens*, 218 Va. 533, 238 S.E.2d 800 (1977). Legislatures from at least two states have reacted favorably to this trend. They have done away with attempting to categorize activities for the purpose of service of process and permit service on any nonresident whenever due process is not offended. *See* CAL. CIV. PROC. CODE § 410.10 (West 1973); R.I. GEN. LAWS § 9-5-33 (1970).

67. *See Keeton v. Hustler Magazine, Inc.*, 104 S. Ct. 1473, 1479 (1984); *Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxities de Guinee*, 456 U.S. 694, 702-03 n.10 (1982). For examples of these substantial state interests see *supra* notes 35-38 and accompanying text.

68. *See supra* note 39 and accompanying text.

69. *Keeton v. Hustler Magazine, Inc.*, 104 S. Ct. 1473, 1479 (1984); see *supra* notes 34-38 and accompanying text.

70. *See McGee v. International Life Ins. Co.*, 355 U.S. 220, 223 (1957).

71. *Id.*

The primary concern of the dissent in *August* is that the cause of action did not arise from the solicitation, which the majority utilized as the basis for jurisdiction.<sup>72</sup> This concern is justified and has arisen in past cases to deny the assertion of personal jurisdiction over nonresident defendants.<sup>73</sup> When jurisdiction has been denied on this ground, however, there has been no finding of a compelling state interest in adjudicating the particular type of dispute involved.<sup>74</sup> The dissent failed to recognize that the state of Virginia has a compelling interest in providing its residents with an effective means of redress against insurers who refuse to pay claims. Although not expressly relied upon by the majority, it is this compelling state interest that tips the balance in the minimum contacts analysis in *August* and provides the basis for jurisdiction.

The majority in *August* was correct in holding that Virginia's assertion of *in personam* jurisdiction over the nonresident insurer was proper. The solicitation of the policy modification was an affirmative act on the part of the insurer to make contact in the forum state.<sup>75</sup> This contact was slight and, therefore, the burden on the insurer to litigate in Virginia was great.<sup>76</sup> But the insurer's interest in being free from this burden was outweighed by the compelling interest of the state to assure that its residents have an effective means of redress against insurers who refuse to pay claims.<sup>77</sup> This compelling interest is evidenced by the devastating effect refusal to pay might have on residents of a state and on the state treasury<sup>78</sup> and by the heavy regulation states have imposed on the insurance industry.<sup>79</sup>

As a result of the holding in *August*, insurance companies should be wary of engaging in any type of activity within a state relating to policies of insurance issued in other jurisdictions. If an insurer undertakes any contact within the forum state, the insurer will be subject to the state's

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72. *August v. HBA Life Ins. Co.*, 734 F.2d 168, 173-74 (1984) (Hall, J., dissenting).

73. *See, e.g., Helicopteros Nacionales de Colombia v. Hall*, 104 S. Ct. 1868, 1874 (1984); *Rosenberg Bros. v. Curtis Brown Co.*, 260 U.S. 516 (1923); *Aanestad v. Beech Aircraft Corp.*, 521 F.2d 1298 (9th Cir.) (per curiam), *cert. denied*, 419 U.S. 998 (1974).

74. *See, e.g., Helicopteros Nacionales de Colombia v. Hall*, 104 S. Ct. 1868 (1984); *Rosenberg Bros. v. Curtis Brown Co.*, 260 U.S. 516 (1923); *Aanestad v. Beech Aircraft Corp.*, 521 F.2d 1298 (9th Cir.) (per curiam), *cert. denied*, 419 U.S. 998 (1974).

75. *See supra* note 39 and accompanying text.

The exercise [of the privilege of conducting activities within a state] may give rise to obligations, and, so far as those obligations arise out of or are connected with the activities within the state, a procedure which requires the corporation to respond to a suit brought to enforce them can, in most instances, hardly be said to be undue.

*International Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945).

76. *See supra* notes 31-34 and accompanying text.

77. *See supra* notes 31-38 and accompanying text.

78. *See supra* notes 70-71 and accompanying text.

79. *See Hanson v. Denckla*, 357 U.S. 235, 252 (1958); *supra* note 36 and accompanying text.

valid assertion of *in personam* jurisdiction.<sup>80</sup> This result may appear harsh, but it is necessary to protect the interest of the state, an interest that has long been recognized as a factor to be considered in the fourteenth amendment due process analysis.<sup>81</sup>

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80. See *Tate v. Blue Cross*, 59 Md. App. 206, 474 A.2d 1353 (1984). In *Tate*, the sole contact of the insurers with the state of Maryland was the partial payment of a medical claim. The Court of Special Appeals of Maryland found "no difficulty" in holding that this contact was sufficient to satisfy due process. *Id.* at 212, 474 A.2d at 1357.

81. See *supra* notes 29-38 and accompanying text.