



## ARE Amazon Marketplace Alert: Texas Court Finds No Jurisdiction Based Only on Use of Amazon's™ Fulfillment Services

Author(s): Douglas A. Miro,

The Eastern District of Texas recently dismissed two of Amster, Rothstein & Ebenstein's clients on the ground of lack of personal jurisdiction, providing jurisdictional arguments for Amazon or other e-commerce sellers sued in a forum where the seller has no presence beyond an accessible e-commerce storefront.

In *Viahart, LLC v. Arkview LLC d/b/a Moo Toys and d/b/a Lexivon et al.*, plaintiff tried to argue personal jurisdiction in Texas over the firm's clients based on sales of product through Amazon.com to Texas residents.

The court dismissed that argument, finding that "use of Amazon's fulfillment services" on its own is insufficient to demonstrate "intentional contact with Texas." The court found that sales through Amazon to Texas residents were nothing "more than the fortuitous result of [Amazon's] global presence." The court also found insufficient jurisdictional contact where a defendant maintained its presence (i.e., resided) on Amazon's e-commerce platform outside of Texas and the presence "was not targeted intentionally toward Texas."

These factors should be kept in mind by any Amazon or e-commerce seller faced with a lawsuit in a forum in which they have no contacts to the forum state beyond an accessible e-commerce website.

For further information, please contact partners Doug Miro at [dmiro@arelaw.com](mailto:dmiro@arelaw.com) or Mark Berkowitz at [mberkowitz@arelaw.com](mailto:mberkowitz@arelaw.com).