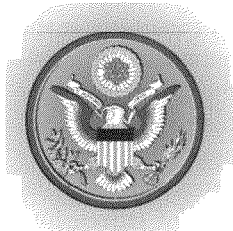


---

## Cole v. Mileti



United States  
Court of Appeals,  
Sixth Circuit, 1998.  
133 F.3d 433.

<http://www.law.emory.edu/6circuit/jan98/index.html><sup>a</sup>

### IN THE LANGUAGE OF THE COURT

**BACKGROUND AND FACTS** Nick Mileti, a resident of California, co-produced a movie called *Streamers* and organized a corporation, *Streamers International Distributors, Inc.*, to distribute the film. Joseph Cole, a resident of Ohio, bought two hundred shares of *Streamers* stock. Cole also lent the firm \$475,000, which he borrowed from Equitable Bank of Baltimore. The film was unsuccessful. Mileti agreed to repay Cole's loan in a contract arranged through phone calls and correspondence between California and Ohio. When Mileti did not repay the loan, the bank sued Cole, who in turn filed a suit against Mileti in a federal district court in Ohio. The court entered a judgment against Mileti. He appealed to the U.S. Court of Appeals for the Sixth Circuit, arguing in part that the district court's exercise of jurisdiction over him was unfair.<sup>b</sup>

MERRITT, Circuit Judge.

\* \* \* \*

\* \* \* [There is] a three-part test to determine whether specific jurisdiction exists over a nonresident defendant like Mileti. First, the defendant must purposefully avail himself of the privilege of conducting activities within the forum state [the state in which the lawsuit is initiated]; second, the cause of action must arise from the defendant's activities there; and third, the acts of the defendant or consequences caused by the defendant must have a substantial enough connection with the forum state to make its exercise of jurisdiction over the defendant fundamentally fair.

If, as here, a nonresident defendant transacts business by negotiating and executing a contract via telephone calls and letters to an Ohio resident, then the defendant has purposefully availed himself of the forum by creating a continuing obligation in Ohio. Furthermore, if the cause of action is for breach of that contract, as it is here, then the cause of action naturally arises from the defendant's activities in Ohio. Finally, when we find that a defendant like Mileti purposefully availed himself of the forum and that the cause of action arose directly from that contact, we presume the specific assertion of personal jurisdiction was proper.

### DECISION AND REMEDY

*The U.S. Court of Appeals for the Sixth Circuit held that the district court could exercise personal jurisdiction over Mileti. The appellate court reasoned that a federal district court in Ohio can exercise personal jurisdiction over a resident of California who does business in Ohio via phone calls and letters.*

---

a. This page, which is part of the Web site of the Emory University School of Law, lists the published opinions of the U.S. Court of Appeals for the Sixth Circuit for January 1998. Scroll down the list of cases to the *Cole* case. To access the opinion, click on the case name.

b. As will be discussed shortly, federal courts can exercise jurisdiction over disputes between parties living in different states. This is called diversity-of-citizenship jurisdiction. When a federal court exercises diversity jurisdiction, the court normally applies the law of the state in which the court sits—in this case, the law of Ohio.

---