No. 132080

IN THE SUPREME COURT OF ILLINOIS

MEAD JOHNSON & COMPANY, LLC, *et al.*, *Defendants-Petitioners*, v. DESTIN JUPITER and DANA JUPITER *et al.*, *Plaintiffs-Respondents*.	Petition for Leave to Appeal from the Illinois Appellate Court, Fifth District No. 5-23-0248 There On Appeal from the Circuit Court of Madison County Case No. 2021-L-000560 Judge Dennis Ruth

PETITION FOR LEAVE TO APPEAL OF MEAD JOHNSON & COMPANY, LLC AND MEAD JOHNSON NUTRITION COMPANY

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PRAYER FOR LEAVE TO APPEAL

Petitioners Mead Johnson & Company, LLC and Mead Johnson Nutrition Company (collectively "Mead Johnson") request leave to appeal a decision of the Appellate Court, Fifth District. That decision held—nearly two years after the Court granted leave to appeal and more than three years after Mead Johnson moved to dismiss these claims for lack of personal jurisdiction—that it lacked appellate jurisdiction over that issue.

Its reason? The caption of the Circuit Court order denying Mead Johnson's personal jurisdiction motion named one individual Plaintiff affected by that order, while most of the Circuit Court and appellate briefing used a caption employed in consolidated proceedings below. Because of that caption the Fifth District held it lacked the power to decide whether Mead Johnson is subject to personal jurisdiction in Illinois—an issue that directly impacts hundreds of pending cases involving thousands of plaintiffs in that District—even though (1) Mead Johnson's PLA was granted in full, (2) the relevant order was addressed throughout the PLA and included in its appendix, (3) the lion's share of the Plaintiffs' opposition to the PLA and both sides' merits briefing addressed that order, and (4) personal jurisdiction was addressed at oral argument. In using a technicality—and a factually incorrect one—to avoid addressing an identified, fully litigated and dispositive issue, the Fifth District ignored this Court's instruction that "the caption of a motion is not controlling; the

character of the pleading is determined from its content, not its label." *Sarkissian v. Chicago Bd. of Ed.*, 201 Ill.2d 95, 102 (2002).

Both that issue and the underlying merits deserve review. The Fifth District's decision insulates a ruling that affects hundreds of pending cases and thousands of plaintiffs, and that contravenes clear directives from the U.S. Supreme Court and this Court. (Among other things, the Circuit Court actually claimed it was not required to follow *Rios v. Bayer*, 2020 IL 125020, because of changes to this Court's composition.)

Additionally, the Fifth District again cited a technicality not raised by any party to reject Mead Johnson's venue arguments. It held that Mead Johnson could not use sales estimates to show it is not doing business in Madison County, even though this Court did just that in *Bucklew v. G.D. Searle & Co.*, 138 Ill.2d 282, 291 (1990). That issue also warrants review.

These cases present important issues. Preeminent physician groups and public health authorities have worried that this litigation could jeopardize access to products "essential" to health outcomes for already vulnerable premature infants. See *FDA, CDC, NIH Consensus Statement on Recent Advisory Council Report on Premature Infants and Necrotizing Enterocolitis*, https://perma.cc/BK33-BM7B ; *see also AAP president: NEC verdicts may jeopardize specialized preterm formula supply*, July 27, 2024, https://publications.aap.org/aapnews/news/29593/AAP-president-NEC-verdicts-may-jeopardize. To require the parties to reopen briefing on

a threshold issue fully ripe for adjudication unnecessarily implicates those concerns.

Mead Johnson requests that the Court grant this petition, including consideration of its personal jurisdiction arguments. In the alternative, it is contemporaneously filing a motion for supervisory order that asks that the Court direct the Fifth District to consider those arguments.

JUDGMENT BELOW

The Fifth District initially issued its decision on June 4, 2025. Mead Johnson and Co-Defendant Abbott Laboratories ("Abbott") timely sought rehearing. The Court denied rehearing and issued a modified opinion (A001-0020)[1] on July 2, 2025. 2025 IL App (5th) 230248. On July 30, 2025, this Court extended the time to file petitions for leave to appeal to September 10, 2025.

POINTS RELIED UPON FOR REVIEW

Three aspects of the Fifth District's decision independently merit review. *First*, by giving jurisdictional significance to the caption of a PLA the Court flouted precedent from this Court—as well as its own and that of other Districts—holding that the content of a pleading invoking appellate jurisdiction is what matters, not its caption. *See, e.g.*, *Sarkissian*, 201 Ill.2d at 102; *Waste Mgmt., Inc. v. Int'l Surplus Lines Ins. Co.*, 144 Ill.2d 178, 189 (1991) ("Although Cockrell is not formally named in the caption

[1] Citations to items included in the Appendix to this Petition take the form "A___," using corresponding page numbers.

portion of the notice, insurers were adequately apprised that Cockrell and insureds were seeking review… The defect is merely technical. Jurisdiction is proper."); *Worthen v. Vill. of Roxana*, 253 Ill.App.3d 378, 382 (5th Dist. 1993) ("Courts, as a general rule, should not find hypertechnical excuses to avoid deciding the merits of disputes… We, therefore, do not find that what appears to be a clerical error in failing to add the PCB's name to the caption of the petition for review… is a defect that justifies this court finding that it is without jurisdiction."); *Lenehan v. Twp. Officers Electoral Bd.*, 2013 IL App (1st) 130619, ¶28 (failure to list board members in notice of appeal "is a defect in form, not in content").

Second, the Fifth District's decision allows a deeply flawed ruling of the Circuit Court to stand, and forces Mead Johnson to continue to litigate in hundreds of cases involving thousands of claims brought by out-of-State plaintiffs in a court that lacks jurisdiction over it. Indeed, although the products at issue are sold and used nationwide, well over 90% of these claims filed nationally against Mead Johnson are in Madison and St. Clair Counties. Mead Johnson has been arguing since November 2021 that it is not subject to general jurisdiction in Illinois in the cases in this appeal and many like them because undisputed evidence shows that it moved its corporate "nerve center"—decisive for general jurisdiction—out of Illinois years before Plaintiffs started filing these cases, and that it is not subject to specific jurisdiction because no Plaintiff in these cases received Mead Johnson products, became ill, or was treated here. *See Harden v. Mead*

Johnson & Co., LLC, 2024 WL 2882214, at *5 (N.D. Ill. June 7, 2024) (dismissing Mead Johnson for lack of personal jurisdiction on same allegations). The Circuit Court rejected these arguments in direct (and even open) contravention of controlling precedent. By dodging these issues—nearly two years after agreeing to consider them—the Fifth District needlessly prolonged litigation pending before the wrong courts.

Third, in addressing venue the Fifth District held that sales estimates are insufficient to establish improper venue. Aside from ignoring that this Court has done so, that ruling would make it impossible for a defendant that does not (and cannot) track sales county-by-county to prove that venue is improper anywhere.

STATEMENT OF FACTS

Premature (or "preterm") infants face many challenges, but none more fundamental than the need to grow. Deprived by their premature birth of placental nutrition, they require protein, fats, minerals and calories to develop as they would *in utero*. Mead Johnson & Co., LLC has designed and manufactured infant formula for over 100 years, and for decades has supplied neonatal intensive care units ("NICUs") with life-saving products to feed preterm infants. (Mead Johnson Nutrition Co. is its parent.) The products at issue in this litigation, specialty preterm formulas and fortifiers designed for feeding preterm infants in NICUs, are regulated by the FDA because they are "not generally available at the retail level," "typically… prescribed by a physician," and "distributed directly to

institutions such as hospitals, clinics, and State or Federal agencies." 21 C.F.R. §107.50(c)(1).

Mead Johnson is now defending hundreds of cases in Madison County where plaintiffs allege—contrary to the views of federal health regulators and pediatricians—that these life-saving products cause Necrotizing Enterocolitis ("NEC"), a harmful and sometimes fatal condition. The vast majority of the claims in these cases have nothing to do with Illinois: plaintiffs do not live here and the infants involved did not consume Mead Johnson products, become sick or receive treatment here.

Mead Johnson likewise lacks relevant ties to Illinois. Mead Johnson & Company, LLC is a Delaware limited liability company. A228. Mead Johnson Nutrition Company, a Delaware corporation formed in 2008, is the sole member of Mead Johnson & Company, LLC. *Id.* It is undisputed that, prior to 2009, the principal place of business of the Mead Johnson entities was Evansville, Indiana. In May 2009, though, it moved its corporate headquarters to Illinois for several years.

Much of the litigation on general personal jurisdiction below concerned whether Mead Johnson's principal place of business was *still* in Illinois when these lawsuits were filed, *i.e.,* May 2021 and thereafter. But it is undisputed that Mead Johnson was acquired by Reckitt Benckiser PLC ("Reckitt"), a U.K. company, in 2017, and that all actual management functions that had been conducted in Illinois since 2009 were moved out of Illinois by the end of 2018. A221-22, A228. For their part, Plaintiffs

contend, in an argument the Circuit Court accepted, that Mead Johnson's principal place of business remained in Illinois even after its headquarters left Illinois because the address listed on certain state forms and pleadings had not been updated. But Plaintiffs never really disputed, and the Circuit Court acknowledged, that the actual corporate management functions of Mead Johnson were gone from Illinois by the end of 2018.

Plaintiffs also contend that Mead Johnson's activities in Illinois over the last two decades are so significant that the Court should consider it to be "at home" here. The parties do not disagree on what those Illinois activities were after the Reckitt acquisition, though they disagree about their import. The Circuit Court found, for example, that Mead Johnson undertook significant marketing, manufacturing, and research and development activities in Illinois. A085. On the other hand, Mead Johnson showed, by deposition testimony and declarations from Mead Johnson employees, that the activities Plaintiffs rely on are not tethered to Mead Johnson's actual operations in Illinois and are immaterial to the claims of these Plaintiffs. *See, e.g.*, A221-22, A228, A251-54. No Plaintiff in these cases alleged facts or submitted evidence to support specific jurisdiction.

I. Proceedings In The Circuit Court.

Plaintiffs began filing complaints in Madison County in May 2021 and have continued to do so since. There are hundreds of such cases—many with multiple plaintiffs—pending against Mead Johnson in Madison and St. Clair Counties. The first-filed Madison County case was *Jupiter v.*

Abbott Laboratories, et al., No. 2020-L-000560. As filings in Madison County mounted, the parties filed a joint motion, under the *Jupiter* case caption, to reassign and consolidate ten of those cases for discovery and pretrial purposes. The Circuit Court granted that motion. A200-03.[2]

The vast majority of plaintiffs who filed in Madison County alleged no connection to Illinois. As a result, on March 18, 2022, Mead Johnson moved to dismiss the claims of nine plaintiffs in the consolidated cases based on lack of personal jurisdiction, but it did not so move in *Jupiter* itself for case-specific reasons. After oral and written discovery on jurisdiction, the issue was briefed; Plaintiffs responded under the *Jupiter* caption, citing the consolidation order. A232, A237 n.1. The Circuit Court heard argument on October 18, 2022, but did not rule until March 31, 2023, when it initially denied those motions orally and in a handwritten order under the *Jupiter* caption. A238. The Court then issued an order under the caption *Ogle, et al. v. Mead Johnson & Company, LLC, et al.*, No. 2021-L-000588, the earliest-filed consolidated case in which Mead Johnson had raised personal jurisdiction, and listed in a footnote the individual cases "before the Court for a ruling on personal jurisdiction." A083 n.*.

Despite uncontroverted evidence that Mead Johnson removed its

[2] A more detailed description of the proceedings related to consolidation, and the ensuing appellate proceedings, can be found in Mead Johnson's supervisory order motion filed contemporaneously with this Petition.

corporate "nerve center" from Illinois by the end of 2018, A221-22, A228, the Circuit Court held that general jurisdiction still existed because it was once headquartered here, because it continued to have some peripheral, non-nerve-center operations here, and because in formal corporate filings and a handful of pleadings in other cases the headquarters address was not updated, which no one really disputes were simply errors. A084. And despite equally uncontroverted evidence that the claims of the individual Plaintiffs had no connection to Illinois, the Court found specific jurisdiction based on arguments of Plaintiffs' counsel, for which they offered no evidence, that mischaracterized Mead Johnson's ephemeral contacts with Illinois in connection with clinical trials, packaging, and marketing—none of which involved the products Plaintiffs' claims are actually about. And the Circuit Court acknowledged that *Rios* had rejected specific jurisdiction on even more compelling facts—Illinois clinical trials and marketing of the actual challenged product, 2020 IL 125020, ¶¶22-24—but remarkably declined to follow *Rios*, even though it had been decided less than three years earlier, claiming it was "perhaps not controlling" due to changes in the membership of this Court. A088 n.*.

The Circuit Court also ruled, in a two-page order, that Mead Johnson is subject to venue in Madison County because it found that Mead Johnson's co-Defendant Abbott "has 'other offices' in Madison County that establishes venue here against all Defendants." A090. And the

Court denied motions invoking *forum non conveniens* made by both Abbott and Mead Johnson. A092-95.

II. Proceedings In the Fifth District.

Mead Johnson petitioned the Fifth District for leave to appeal all three rulings. Because the venue and *forum non conveniens* orders were entered under the *Jupiter* caption, which had also been generally used for motion practice in the consolidated cases, its petition also used that caption, although it also listed the cases in which personal jurisdiction had been raised, including *Ogle*. *See* A033-36, A033 n.1. And of course the petition plainly identified the Circuit Court's personal jurisdiction order, included it in its required appendix and cited Supreme Court Rule 306(a)(3), which allows appeals from jurisdictional rulings. A028-30, A083-89. The body of the petition devoted eighteen pages to the issue. A042-60. Plaintiffs responded to the petition, also using the *Jupiter* caption, and extensively addressed both general and specific personal jurisdiction. A123, A129-31, A134-45.

On June 27, 2023, the Fifth District entered an order stating that "both the defendants' petitions for leave to appeal pursuant to Supreme Court Rule 306(a)(4) are GRANTED." A171. Perhaps realizing its reference to Rule 306(a)(4) could be construed as limiting its review to venue, the Court on its own issued a corrected order deleting that reference and granting the petitions in full three days later. A172 ("both the defendants' petitions for leave to appeal are hereby GRANTED"). The appeals were

briefed by both sides using the *Jupiter* caption, A173, A182, A194, and in those briefs and at oral argument in December 2023 no party or Justice raised any appellate-jurisdiction concerns. After argument both Defendants submitted supplemental authority under that caption. And as late as March 2025 the Fifth District, on its own motion, ordered Appellants to submit additional record items related to consolidation, also using the *Jupiter* caption. A199.

Even though all involved understood that Mead Johnson's appeal included personal jurisdiction, the Fifth District ultimately held that it lacked appellate jurisdiction to review "the circuit court's order entered on March 31, 2023, on Mead Johnson's motion to dismiss for lack of personal jurisdiction filed in the Ogle case No. 21-L-588," A005-06, ¶14, based on its mistaken belief that Mead Johnson's PLA "identified only the Jupiter case No. 21-L-560." A008-09, ¶19. According to the Fifth District, the mismatch between the caption on the PLA and the Circuit Court's order was fatal to its jurisdiction when coupled with the fact that, "[w]hile the Jupiter case and the Ogle case were consolidated, along with many other cases, each case retained its separate case number and remained separate cases for matters other than discovery matters and common pretrial issues." A008, ¶18 (citing *Ellis v. AAR Parts Trading, Inc.*, 357 Ill.App.3d 723, 731 (1st Dist. 2005)).

The Fifth District also rejected Mead Johnson's challenge to venue in Madison County, a place where it owns no property and performs no

manufacturing, scientific, research, medical regulatory, personnel, supply chain, or central business functions. While the Circuit Court had ruled that Mead Johnson was subject to venue there based on venue over Abbott, the Fifth District instead ruled, again adopting an argument no one had made, that Mead Johnson had failed to show it was not "doing business" in Madison County because it had estimated its sales there rather than providing specific sales figures. A013, ¶29 (" [A]n estimate does not equate to specific facts that show that venue is not proper in Madison County.").

Mead Johnson and Abbott sought rehearing. In denying it the Fifth District modified its opinion but made no significant substantive changes.

REASONS THE PETITION SHOULD BE GRANTED

The Fifth District's decision flouts precedent from this Court holding that appellate jurisdiction depends on the substance, and not the caption, of pleadings initiating an appeal. In addition, the Circuit Court's analysis of personal jurisdiction, and open disregard for binding precedent, urgently require correction. And finally, the Fifth District's holding regarding venue misapplies this Court's precedents (including its own use of sales estimates) to create a near-impossible venue standard for any company, like Mead Johnson, that cannot track sales county-by-county because its nationwide sales travel indirectly to consumers via wholesalers and retailers.

I. The Fifth District Placed Form Over Substance And Disregarded Binding Precedent.

Appellate courts review orders and judgments, not cases. This is made plain by Supreme Court Rule 306(a), which provides for interlocutory review of certain "orders of the trial court." That is why invoking appellate jurisdiction requires the appealing party to "fairly and adequately set[] out *the judgment complained of*." *Lang v. Consumers Ins. Serv., Inc.*, 222 Ill.App.3d 226, 229 (2d Dist. 1991) (emphasis added).[3]

Because appellate jurisdiction focuses on orders and judgments, not cases, and because "the character of [a] pleading is determined from its content, not its label," *Sarkissian*, 201 Ill.2d at 102, it is well established that where an appellant or petitioner sufficiently identifies the order or judgment it is appealing, procedural defects, including those in captions, do not destroy appellate jurisdiction. *Waste Mgmt.*, 144 Ill.2d at 189 (caption defect "merely technical. Jurisdiction is proper."); *Simmons v. Chicago Hous. Auth.*, 267 Ill.App.3d 545, 551 (1st Dist. 1994) (court had jurisdiction even though notice of appeal listed wrong Circuit Court case number; "the notice as a whole fairly and adequately sets out the judgment complained of"); *Worthen*, 253 Ill.App.3d at 382 (omitting agency's name in petition caption not "a defect that justifies this court finding that it is without jurisdiction"); *McDuffee v. Indus. Comm'n*, 222 Ill.App.3d 105, 111 (2d Dist. 1991) ("[I]f we determine that the caption of the claimant's

[3] The arguments in this section are also advanced in Mead Johnson's supervisory order motion.

petition for recall limits her appeal, we are placing form over substance."); *see also Becker v. Montgomery*, 532 U.S. 757, 767 (2001) ("[I]mperfections in noticing an appeal should not be fatal where no genuine doubt exists about who is appealing, from what judgment, to which appellate court.").

There was no genuine doubt that Mead Johnson's petition sought review of the Circuit Court's personal jurisdiction ruling. As described above, the cover page, jurisdictional statement, first sentence, and substantive analysis of that petition all reflect an intention to appeal that order, which is described as the "First Order Appealed From," A082, and was included in the petition's appendix. In granting the petition the Fifth District similarly acknowledged that personal jurisdiction was at issue when it corrected its order to clarify that it was granting review as to all issues raised, not just venue. Plaintiffs likewise were well aware of the need to litigate personal jurisdiction and, in fact, did so at length. And nothing was said about appellate jurisdiction in briefing, at oral argument or in post-argument submissions.

At the very least, the Fifth District should have asked for briefing on the issue before going off on its own. Had it done so, Mead Johnson could have—in addition to addressing why the caption of the PLA did not have jurisdictional significance—explained why the Court's understanding of the effect of the Circuit Court's consolidation of these cases was flawed. Specifically, the Fifth District (A008-09, ¶18) relied on *Ellis*, 357 Ill.App.3d at 731, a case that involved consolidation for discovery purposes only. But

the consolidation order below, entered under the *Jupiter* caption, was far broader than the discovery-only order in *Ellis*. As jointly requested by the parties, that order included discovery and other common pretrial issues, excepting only trials before each case's assigned judge. A201, ¶¶ 5-6 (consolidation "for common discovery *and pretrial purposes* only" to "allow one judge to address common issues; streamline case management conferences, discovery, *and motion practice on common issues*; and avoid inconsistent rulings on *common legal issues*" (emphases added)).

That order plainly contemplated personal jurisdiction as a common pretrial issue. Indeed, after setting a briefing schedule on the issue under the *Jupiter* caption (A255) the Circuit Court first ruled on it in a handwritten order under that caption memorializing that it "orally denie[d] Defendants PJx… Motions," A238, before issuing an opinion under the *Ogle* caption. *See Barnes v. Lolling*, 2017 IL App (3d) 150157, ¶23 n.8 ("[T]he oral pronouncement of the court is the judgment of the court, while the written order merely serves as evidence of the court's judgment."). Indeed, the Circuit Court's order *must* have been entered in the consolidated proceeding since the *Ogle* case was not otherwise assigned to Judge Dennis Ruth, the judge presiding over the consolidated proceedings, at the time he ruled on personal jurisdiction. A239.

The Fifth District elevated form over substance in a way Illinois courts do not allow. That ruling should be reviewed.

II. The Circuit Court's Personal Jurisdiction Ruling Urgently Requires Correction.

The Circuit Court ruled that Mead Johnson is subject to general jurisdiction in Illinois despite essentially uncontroverted evidence that it moved its corporate "never center" to Indiana in 2018, and that it is subject to specific jurisdiction in Illinois because it "cultivates a significant market for its products thru [*sic*] its Illinois based employees and operations" without connecting those "employees and operations" to the claims of any particular plaintiff. A086. These holdings directly affect hundreds of cases in Madison County and implicate hundreds more in St. Clair County. Both conclusions also contravene binding precedent.

Although the Fifth District did not reach those issues because of its appellate jurisdiction ruling, this Court can do so. *See In re Rita P.*, 2014 IL 115798, ¶51 ("[I]t is the correctness of the court's ruling, and not the correctness of its reasoning, that is under review."); *see also Munaf v. Geren*, 553 U.S. 674, 691 (2008) (addressing merits after concluding lower court "erred in dismissing for want of jurisdiction").

1. The Circuit Court Was Wrong on General Jurisdiction.

A corporation is subject to general jurisdiction where its "affiliations with the State are so 'continuous and systematic' as to render [it] essentially at home in the forum State." *Bristol-Myers Squibb Co. v. Superior Ct.*, 582 U.S. 255, 262 (2017) (*quoting Goodyear Dunlop Tires Ops., S.A. v. Brown,* 564 U.S. 915, 919 (2011)). The "paradigm" forum for general jurisdiction is a corporation's place of incorporation or its principal

place of business. *Daimler AG v. Bauman,* 571 U.S. 117, 137 (2014); *see also Aspen Am. Ins. Co. v. Interstate Warehousing, Inc.,* 2017 IL 121281, ¶16. Only in an "exceptional case" can general jurisdiction be exercised anywhere else. *Daimler,* 571 U.S. at 139 n.19.

Hertz Corp. v. Friend, 559 U.S. 77 (2010), announced the test to determine a company's principal place of business consistent with Due Process. A company's principal place of business is its "nerve center," typically where the company directs, controls, and coordinates its activities. 559 U.S. at 92-93; *see also Wis. Knife Works v. Nat'l Metal Crafters,* 781 F.2d 1280, 1282 (7th Cir. 1986). In *Hertz* the Supreme Court recognized that in modern times corporations may direct their affairs from multiple locations, but held that "our test nonetheless points courts in a single direction, toward the center of overall direction, control, and coordination." 559 U.S. at 95-96. For Mead Johnson that location has not been Illinois since 2018, as a federal court recently held based on the same jurisdictional claims as were before the Circuit Court. *Harden,* 2024 WL 2882214, at *5.

While Plaintiffs maintained that Mead Johnson's "nerve center" remained in Illinois, they never seriously disputed that its headquarters had moved out by the end of 2018—even though they have continued to pretextually assert otherwise in new filings since that discovery was taken. The Circuit Court, for its part, did not dispute that Mead Johnson had moved its "overall direction" out of Illinois years before Plaintiffs started

filing these cases. It relied instead on public filings and corporate forms for one of the Mead Johnson Defendants (the other having actually let its Illinois registration lapse) that had not been updated to reflect that change. A084. But *Hertz* actually rejected the notion that "the mere filing of a form like the Securities and Exchange Commission's Form 10–K listing a corporation's 'principal executive offices' would, without more, be sufficient proof to establish a corporation's 'nerve center.'" 559 U.S. at 97. Lower courts have consistently followed that rule.[4] For these reasons, the mere listing of a "principal office" address in Illinois on corporate filings, as Plaintiffs' cite, does not establish general jurisdiction in Illinois. *See Bus. Loan Ctr., LLC v. Roland Garros, Inc.*, 2015 WL 7776927, at *2 (S.D. Ga. Dec. 2, 2015) ("[T]erminology matters when addressing jurisdiction… Indeed, principal place of business is a term of art with a defined legal meaning for jurisdictional purposes." (internal quotation and citation

[4] *See, e.g.*, *Wylie v. Red Bull N. Amer., Inc.,* 2015 WL 1137687, at *3 (N.D. Ga. Mar. 13, 2015) ("[A] majority of federal courts have found that information filed with the Secretary of State that shows a corporation's 'Principal Office Address' is insufficient proof of the corporation's principal place of business.") (collecting cases); *Roberts v. Lambert's Cafe III, Inc.,* 2021 WL 1537573, at *2 (S.D. Ala. Apr. 19, 2021) (public filings listing "Street address of principal office" did not satisfy nerve center test); *Solomon v. Crowley Mar. Corp.,* 2019 WL 5698421, at *3 (S.D. Tex. Oct. 17, 2019) (corporate registration "simply not dispositive" of "nerve center."); *Pegasus Indus., Inc. v. Martinrea Heavy Stampings, Inc.,* 2016 WL 3043143, at *2 (E.D. Ky. May 27, 2016) (public filing listing "mailing address of the corporation's principal office" not conclusive proof of nerve center); *Elliott v. Yamamoto FB Eng'g, Inc.,* 2018 WL 852375, at *3 (W.D. Ky. Feb. 13, 2018) (similar); *Good River Farms, LP v. TXI Operations, LP,* 2018 WL 1770494, at *2 (W.D. Tex. Apr. 12, 2018) (similar).

omitted)). Whether the Circuit Court was nonetheless correct in basing general personal jurisdiction on such filings is an issue this Court should consider.

2. The Circuit Court Was Wrong on Specific Jurisdiction.

Specific jurisdiction "focuses on the relationship among the defendant, the forum, and the litigation." *Walden v. Fiore,* 571 U.S. 277, 283-84 (2014) (citation and internal quotation marks omitted). For a State's courts to exercise specific jurisdiction the claims in the case "must aris[e] out of or relat[e] to the defendant's contacts with the forum." *Bristol-Myers,* 582 U.S. at 262 (quoting *Daimler,* 571 U.S. at 127) (internal quotations and emphasis omitted). Not only must the defendant have "purposefully directed his activities at residents of the forum," the litigation must have resulted "from alleged injuries that arise out of or relate to those activities." *Burger King Corp. v. Rudzewicz,* 471 U.S. 462, 472 (1985) (internal quotations omitted); *see also Russell v. SNFA,* 2013 IL 113909, ¶28.

The Circuit Court found specific jurisdiction based on three factors: (1) Mead Johnson's marketing strategies, which it thought were driven by Illinois-based employees; (2) clinical trials of *other* Mead Johnson products that involved peripheral activity in Illinois; and (3) Mead Johnson's use of an Illinois packaging company to package a *different* Mead Johnson product, one no Plaintiff actually claimed to have consumed. A085-87. None of those factors, alone or in the aggregate, are enough to create

specific jurisdiction without allegations that connect those activities to *these Plaintiffs' alleged injuries*.

The Court held in *Rios* that marketing and clinical trials in Illinois did not support specific jurisdiction where they were not related to *how the plaintiffs claimed they were injured*; none of the allegedly defective devices were made here, and no plaintiff alleged that they or their doctors received any marketing materials here. 2020 IL 125020, ¶¶25-26. Apparently recognizing its ruling could not be squared with *Rios*, the Circuit Court decided not to follow it:

> [N]ot only have five of the seven justices from the *Rios* case been replaced with newer justices, but also, and more significantly, current Supreme Court Justice David Overstreet, from this District, in fact sat on the *Rios* case while serving on the Fifth District Appellate Court and voted to affirm this Court's decision finding there was personal jurisdiction over the defendant in *Rios*. Certainly, a prior written order signed onto by a current S. Ct. Justice is an indication that *Rios* is perhaps not controlling.

A088, n.*. Whether a lower Illinois court can ignore this Court's holdings based on its assessment of the Court's makeup is itself a question that merits review.

The Circuit Court's conclusion that "Mead Johnson cultivates a significant market for its products thru [*sic*] its Illinois based employees and operations" (A086) is wrong on both the facts and the law. As a factual matter, Mead Johnson sold formulas for premature infants long before it temporarily established its headquarters in Illinois in 2009. And since 2018, after the Reckitt acquisition, the employees responsible for making

decisions about marketing and sales strategy have been based in New Jersey and Indiana, and the few employees left in Illinois have no overall management responsibility. A221-22, A228, A251-54. So even if there was some overarching marketing strategy (which neither Plaintiffs nor the Circuit Court identified), it has no specific ties to Illinois. More critically, though, the claim that a nationwide marketing strategy conceived in Illinois (had there been one) establishes nationwide specific jurisdiction was directly rejected in *Rios* where, as here, there was no claim that any plaintiff or doctor received any alleged misinformation in Illinois. 2020 IL 125020, ¶24 (no specific jurisdiction in Illinois even where defendant "purposefully directed activities toward Illinois… conducted clinical trials in Illinois… [and] coordinated a marketing strategy in Illinois."). Those are the same inadequate findings on which the Circuit Court relied here. Similarly, the Circuit Court's reliance on various clinical studies and meetings about *different products* that took place in Illinois are inadequate to support specific jurisdiction under *Rios.* In *Rios,* this Court rejected the argument that clinical trials conducted in Illinois *on the allegedly defective product* were sufficient. 2020 IL 125020, ¶21

Because none of the Plaintiffs in whose cases Mead Johnson filed jurisdiction motions alleged any connection between their claims or injuries and Illinois—none of their infants were fed formula, became ill or were treated here—the Circuit Court's ruling also ran afoul of *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.,* 592 U.S. 351 (2021). In *Ford* the Supreme

Court reaffirmed *Bristol-Myers'* holding that specific jurisdiction requires a connection between the forum State and the place of injury. The Court held that there was specific jurisdiction over Ford in Minnesota and Montana in cases involving car accidents, but emphasized that the accidents had occurred in those States. 592 U.S. at 363 (specific jurisdiction may exist where company serves market in the State *and* "the product malfunctions there" and causes injury); *id.* at 365 ("Each plaintiff's suit, of course, arises from a car accident in one of those States."); *id.* at 368 (suing in States where cars first sold makes little sense because it would involve "out-of-state parties, an out-of-state accident, and out-of-state injuries") And the Court distinguished *Bristol-Myers* because the injuries there were not sustained in the forum State, *id.* at 1031, and concluded by noting that the "resident plaintiffs allege that they suffered *in-state injury*." *Id.* at 369-70 (emphasis added). Of course, the Plaintiffs in the cases in which Mead Johnson filed personal jurisdiction motions do not allege any injury that happened to them in Illinois in any respect.

The Circuit Court's holding that there was specific jurisdiction in these cases disregarded, even expressly, binding precedent that held that just the sort of contacts it was relying on do not support the assertion of specific personal jurisdiction by Illinois courts. Whether the Circuit Court's treatment of that precedent was proper is a question this Court should review.

III. The Fifth District's Holding on Venue Also Requires Correction.[5]

The Fifth District held that "an estimate [of sales in a county] does not equate to specific facts that show that venue is not proper," and thus that a defendant cannot use estimates to "carry its burden to establish that venue [is] improper" by showing it was not "doing business" there. A013, ¶29. Remarkably, one of the cases the Court cited for this proposition was *Bucklew*, in which this Court did just that. In *Bucklew* the defendants presented evidence of their activities that included only "*estimates* of the volume of their sales in St. Clair County" for the relevant period, 138 Ill.2d at 291; *see also id.* at 292 ("It was also *estimated* that the defendants' sales figures for the period from 1979 through 1985 would be consistent with those for 1986 and 1987." (emphases added)). As in this case, the "estimates" in *Bucklew* were accompanied by "affidavits of corporate officers and employees" that "supplied information concerning the nature and extent of the defendants' business activities in the county." *Id.* at 291. And also as here, "[t]he plaintiffs did not submit any material contradicting the defendants' affidavits." *Id.* On that record, this Court had no trouble accepting the defendants' "estimates" and relying on them to conclude that the defendants' in-county sales were only "a small proportion" of their "total revenues" and were "not so extensive as to

[5] Mead Johnson also adopts the arguments on this issue set forth in co-Defendant Abbott's petition for leave to appeal, No. 132079.

warrant a finding that the companies were doing business there for the relevant periods." *Id.* at 294.[6]

Whether the Fifth District's seemingly categorical refusal to accept sales estimates can be reconciled with what this Court both did and held in *Bucklew* is an issue this Court should address. If left in place, that holding would essentially create a presumption that venue is proper in any county for any defendant who does not (or cannot) track sales data county-by-county, *e.g.*, because (as with Mead Johnson and many other manufacturers of retail products), they primarily or even exclusively sell to distributors who re-sell to retailers in many locations (and even in multiple States) and thus cannot track retail or end-user sales. Indeed, sales made that way do not support venue in the first place. *See Gardner*, 113 Ill.2d at 541-42 (sales through independent dealers do not show "doing business" for venue purposes); *Boxendorfer v. DaimlerChrysler Corp.*, 339 Ill.App.3d 335, 342 (5th Dist. 2003) (same).

[6] The other two cases the Fifth District relied on, *Stambaugh v. Int'l Harvester Co.*, 102 Ill.2d 250 (1984) and *Gardner v. Int'l Harvester Co.*, 113 Ill.2d 535 (1986) also do not support, or even address, any requirement of hard data as opposed to estimates. Although the rather round annual sales figures they used ("$2.6 million" in *Stambaugh*, 102 Ill.2d at 259, and "$2,250,000" in *Gardner*, 113 Ill.2d at 540) could just have been rounded off, they might also have reflected estimates.

CONCLUSION

For the foregoing reasons, Mead Johnson respectfully asks the Court to grant this Petition for Leave to Appeal, and to include consideration of its personal jurisdiction arguments in the appeal.

Dated: September 10, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the foregoing Petition conforms to the requirements of Supreme Court Rule 367(a). The length of this Petition, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, certificate of service, and those matters to be appended to the brief under Rule 342(a), is 5,958 words.

/s/Joel D. Bertocchi

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Petition for Leave to Appeal, having been electronically submitted to the Clerk of the Supreme Court, was also served on the following attorneys on this 10th day of September, 2025, via email:

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Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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