

IN THE
Supreme Court of the United States

MEAD JOHNSON & COMPANY, LLC AND
MEAD JOHNSON NUTRITION COMPANY,
Petitioners,

v.

CLARISSA GREEAR, ON BEHALF OF HERSELF AND
HER MINOR CHILD B.H., *et al.*,
Respondents.

**On Petition for a Writ of Certiorari to the
Illinois Appellate Court, Fifth District**

**BRIEF AMICI CURIAE OF
THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA,
THE AMERICAN TORT REFORM
ASSOCIATION, THE AMERICAN
PROPERTY CASUALTY INSURANCE
ASSOCIATION, THE PHARMACEUTICAL
RESEARCH AND MANUFACTURERS OF
AMERICA AND THE NATIONAL
ASSOCIATION OF MANUFACTURERS
IN SUPPORT OF PETITIONERS**

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INTEREST OF *AMICI CURIAE*¹

Amici Curiae represent a coalition of associations whose members share common concerns about sweeping assertions of *in personam* jurisdiction, especially general jurisdiction, unfaithful to constitutional history, untethered from this Court's precedents and utilized in well-documented gold mines for forum shopping.

The Chamber of Commerce of the United States of America ("Chamber") is the world's largest business organization. As the nation's leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

The American Tort Reform Association ("ATRA") is a broad-based coalition of businesses, corporations, municipalities, associations, and professional firms that have pooled their resources to promote reform of the civil justice system with a goal of ensuring fairness, balance, and predictability in civil litigation. For more than three decades, ATRA has filed *amicus* briefs in cases involving important liability issues.

¹ Pursuant to Supreme Court Rule 37, *amici* state that no counsel for any party authored this brief in whole or in part, and that no entity or person, aside from *amici*, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief. Counsel for the parties received notice of the intent to file an *amicus* brief at least ten days prior to filing.

The American Property Casualty Insurance Association (“APCIA”) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA’s member companies represent 66% of the overall U.S. property-casualty insurance market. On issues of importance to the insurance industry marketplace, APCIA advocates sound public policies on behalf of its members and their policyholders in legislative and regulatory forums at the federal and state levels and submits *amicus curiae* briefs in significant cases before federal and state courts.

The Pharmaceutical Research and Manufacturers of America (“PhRMA”) represents the country’s leading innovative biopharmaceutical research companies, which are focused on developing innovative medicines that transform lives and create a healthier world. Together, PhRMA’s members are fighting for solutions to ensure patients can access and afford medicines that prevent, treat, and cure disease. PhRMA member companies have invested more than \$850 billion in the search for new treatments and cures over the last decade, supporting nearly five million jobs in the United States.

The National Association of Manufacturers (“NAM”) is the largest manufacturing association in the United States, representing small and large manufacturers in all fifty states and in every industrial sector. Manufacturing employs nearly 13 million people, contributes \$2.96 trillion to the economy annually, has the largest economic impact of any major sector, and accounts for over half of all private-sector research and development in the nation, fostering the innovation

that is vital for this economic ecosystem to thrive. The NAM is the voice of the manufacturing community and leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

Amici share a collective interest in the constitutional guardrails surrounding extraordinary assertions of *in personam* jurisdiction, especially general jurisdiction. General jurisdiction represents a type of “all-purpose” jurisdiction, irrespective of any relationship between a defendant’s forum-directed contacts and a plaintiff’s claims. *Bristol-Myers Squibb, Co. v. Superior Ct. of California*, 582 U.S. 255, 262 (2017) (“*BMS*”). It constitutes a sweeping assertion of a forum’s power over a defendant. Accordingly, this form of jurisdiction is confined to the forum where a defendant is “essentially at home.” *Daimler AG v. Bauman*, 571 U.S. 117, 127 (2014); *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011). This careful formulation largely tracks an historical understanding of the traditional limits on *in personam* jurisdiction.

Compared to this carefully circumscribed and historically faithful formulation, the decision below sanctions a reckless and indefensible regime of general jurisdiction. Specifically, it licenses all-purpose jurisdiction over any defendant when it (or she) was “essentially at home” in the forum when the claim arose, even if the defendant has subsequently established a new domicile (in the case of an individual) or state of incorporation/principal place of business (in the case of a company). The lower court’s approach departs radically from this Court’s precedents that, at least in the case of general jurisdiction, look to the moment in time when the forum asserted

power, not when the claim arose. Nor does this flawed approach track an historical understanding of the traditional limits on *in personam* jurisdiction.

The consequences are nationally significant in several respects. The forum at issue here is no ordinary one. As has been widely reported, this slice of Illinois has achieved national notoriety as a gold mine for forum shopping by plaintiffs seeking massive verdicts against, and squeezing settlements from, non-resident defendants. Moreover, the product at issue serves the nation: life-saving formula used for infants born prematurely around the country. Unless promptly corrected, the theory of general jurisdiction sanctioned by the lower court blows open the courthouse doors and invites any claim against any non-resident defendant presently located anywhere in the country, provided that the defendant was at some point arguably “at home” in the forum at any time during which a claim arguably arose.

Amici file this brief to underscore the national importance of the lower court’s erroneous conclusion about *in personam* jurisdiction and to vindicate the limits set by this Court and reflected in constitutional history.

INTRODUCTION AND SUMMARY

For over a century, this Court has regularly recognized that “[t]he foundation of jurisdiction is physical power.” *McDonald v. Mabee*, 243 U.S. 90, 91 (1917) (Holmes, J.). *See also Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 11 (2025) (“We have long held that a court must have ... *power* over the parties before it (personal jurisdiction) before it can resolve a case.”) (emphasis added) (citation and internal quotations omitted). Justice Holmes’ oft-cited opinion

tracked a far older common-law tradition predating the Republic’s earliest days: “For centuries, the established and generally accepted meaning of jurisdiction ... in the common law tradition focused centrally on the *power* of a court to bind the parties before it.” Ryan C. Williams, *Jurisdiction as Power*, 89 U. Chi. L. Rev. 1719, 1722 (2022). A court without power lacked jurisdiction, and the judgment of a court lacking jurisdiction was void (“*coram non judice*”). This principle, as Justice Scalia later explained, “traces back to the English Year Books.” *Burnham v. Superior Ct. of California*, 495 U.S. 604, 608 (1990) (plurality).

At the time of the Founding, the central constraint on a court’s power was the “territorial limits of the sovereign that created it.” *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 128 (2023). This territorial limit, rooted in international law, supplied the Republic’s first principles of personal jurisdiction: It shaped jurisprudence developed under the Full Faith and Credit Clause and elucidated in Justice Story’s influential commentaries. See *Rose v. Himely*, 8 U.S. (4 Cranch) 241, 276 (1808); Joseph Story, *Commentaries on the Conflict of Laws* § 539, at 450 (1st ed. 1834).

Early decisions interpreting the Full Faith and Credit Clause established the boundaries on state-court judicial jurisdiction over non-resident defendants, whether natural persons or juridical entities (like corporations). With respect to natural persons, judicial jurisdiction over non-residents was generally confined to those who were served with process while physically “present” in the forum state or who had “voluntarily appeared.” With respect to juridical entities, the non-migration doctrine originally confined jurisdiction to the state of incorporation. Over

the first half of the nineteenth century, this Court's decisions sensibly recognized that, consistent with the integration of the commercial republic, companies could transact business across state lines and be subject to judicial jurisdiction as to actions related to those out-of-state activities. *See, e.g., Bank of Augusta v. Earle*, 38 U.S. (13 Pet.) 519 (1839); *Lafayette Ins. Co. v. French*, 59 U.S. (18 How.) 404 (1855); *see generally* Edward Quinton Keasbey, *Jurisdiction Over Foreign Corporations*, 12 Harv. L. Rev. 1, 2 (1898); Angell & Ames, *Treatise on the Law of Private Corporations* § 402 at 403 (7th ed. 1861).

This same territorial limit on a state court's power operated "at the time of ... the Fourteenth Amendment's adoption." *Mallory*, 600 U.S. at 128. Building on the Founding-era jurisprudence, *Pennoyer v. Neff*, 95 U.S. 714 (1877), recognized that the Due Process Clause incorporated these traditional limits and enabled that clause and the Full Faith and Credit Clause to work in tandem: Whereas the Full Faith and Credit Clause limited one state's obligation to give effect to a sister state's judgment in cases where the judgment-rendering court lacked jurisdiction, the Due Process Clause constrained *ab initio* the exercise of judicial jurisdiction by the state court where suit was filed. *See Fuld*, 606 U.S. at 17; *Old Wayne Mut. Life Ass'n v. McDonough*, 204 U.S. 8, 23 (1907).

While *International Shoe*'s minimum-contacts test "stake[d] out an additional road to jurisdiction" alongside the historical categories of presence and voluntary appearance, *Mallory*, 600 U.S. at 138, this Court "has never fully jettisoned sovereignty from its jurisdictional calculus." Ryan C. Williams, *Personal Jurisdiction and the Declaration of Independence*, 75 Duke L.J. 247, 288 (2025). Rather, after *International*

Shoe, it continued to recognize that the constitutional rules were “a consequence of the territorial limitations on the power of the respective States.” *Hanson v. Denckla*, 357 U.S. 235, 251 (1958). *Accord Fuld*, 606 U.S. at 14 (“State sovereign authority is bounded by the States’ respective borders.”). Even as *International Shoe*’s “minimum contacts” test subdivided into categories of specific jurisdiction (that is, contacts related to a plaintiff’s claims) and general jurisdiction (that is, contacts unrelated to plaintiff’s claims), the power theory still plays a critical role.

Timing questions are paramount for post-*International Shoe* general-jurisdiction cases, just as they were in the earlier era. Now, they guide the determination about where a defendant is “essentially at home.” *Goodyear*, 564 U.S. 915, 919 (2011). At any given moment, individuals only have one domicile, and corporations only have one state of incorporation (and, perhaps, a separate principal place of business). These paradigmatic “home” forums offer “the virtue of being unique—that is, each ordinarily indicates only one place—as well as easily ascertainable.” *Daimler AG*, 571 U.S. at 137. Other bases for general jurisdiction likewise depend on the moment in time “when the court asserts its jurisdictional power.” Todd David Peterson, *The Timing of Minimum Contacts*, 79 Geo. Wash. L. Rev. 101, 143 (2010). For example, in “tag” cases, general jurisdiction attaches at the moment when an individual is “physically present in the State at the time process is served upon him.” *Burnham*, 495 U.S. at 610; *see also id.* at 628-29 (Brennan, J., concurring in the judgment).²

² *Goodyear* and *Daimler* acknowledged the theoretical possibility that a juridical entity could be “essentially at home” in forums beyond these two paradigmatic places. *Goodyear*, 564

The decision below sanctioned an assertion of state power at odds with these historical traditions and this Court’s precedents. As Part I briefly explains, the lower court’s specific-jurisdiction holding conflicts with this Court’s decision in *BMS*. That conflict alone warrants summary reversal. As Part II elaborates, the lower court’s general-jurisdiction holding conflicts with this Court’s decisions that, consistent with an historical understanding, determine *in personam* jurisdiction by reference to the time when sovereign power is asserted, not to the time of the conduct allegedly giving rise to the claims. Finally, as Part III concludes, the decision below carries nationwide implications given the nature of the legal conclusion (a finding of general jurisdiction), the forum’s reputation as a well-known haven for plaintiff-friendly forum shopping, and the national importance of the product at issue.

ARGUMENT

I. The lower court’s holding on specific jurisdiction inexplicably ignores and conflicts with this Court’s decision in *BMS*.

This Court has seen this fact pattern before. *See BMS*, 582 U.S. at 260-65. *BMS* involved several multi-party suits with two distinct categories of plaintiffs: Resident plaintiffs who allegedly suffered injury in the

U.S. at 924-28; *Daimler*, 571 U.S. at 136-39. *Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437 (1952), represents the sole instance where it has so found; as the Court later explained, *Perkins* involved a state court’s jurisdiction over a foreign corporation that had temporarily relocated its center of operations into the forum state during wartime, *see BNSF Ry. Co. v. Tyrrell*, 581 U.S. 402, 413 (2017). This case does not present facts remotely approaching that unique set of circumstances, obviating further consideration of forums other than the paradigmatic ones identified in *Goodyear* and *Daimler*.

forum state and non-resident plaintiffs who allegedly suffered injury elsewhere. 582 U.S. at 260. California’s courts asserted specific jurisdiction over a non-resident corporate defendant with respect to both categories of plaintiffs, and this Court reversed. *Id.* at 258. It explained that, under “settled principles regarding specific jurisdiction,” *id.* at 264, California’s courts lacked authority over the non-resident plaintiffs’ claims because they lacked the requisite “connection” to the defendant’s forum-directed contacts. *Id.* at 265.³

BMS dictates a similar conclusion here. These consolidated cases, just like *BMS*, involved claims by resident and non-resident plaintiffs, including claims for injuries sustained outside the forum. Pet. at 6, 8. As presented to this Court (and the court below), the Petition concerns exclusively the issue of *in personam* jurisdiction with respect to the claims by the non-resident plaintiffs. Pet. at 9. Despite the clear parallel to *BMS*, not only did the court below fail to apply that decision, it did not even bother to cite it. That inexplicable (and inexcusable) failure flouted the lower

³ Notably, the trial court in *BMS* originally found general jurisdiction based on the defendant’s “extensive activities” in California. 582 U.S. at 259-60. When that conclusion proved incompatible with this Court’s decision in *Daimler*, California’s courts pivoted and relied on a capacious theory of specific jurisdiction – namely a “sliding scale” where an “attenuated” relationship between contacts and claims was all that was required in cases where a defendant had “extensive” contacts with the forum. *Id.* at 260. This Court rejected California’s “sliding scale” approach to specific jurisdiction, finding it an impermissible weakening of the Constitution’s requirements and end-run around the general-jurisdiction limits set forth in *Daimler* and *Goodyear*. *Id.* at 264-66. Much like *BMS*, this case offers a cautionary tale about state-court efforts to effectuate end-runs around this Court’s constitutional guardrails through low-visibility jurisdictional rulings that carry outsized impact.

court's absolute duty to apply the "precedent of this Court" which "directly controls" the matter before it. *Agostini v. Felton*, 521 U.S. 203, 237 (1997). In such instances, as Justice Alito recently explained, this Court has "summarily reversed in cases where it appeared that the lower court had conspicuously disregarded governing Supreme Court precedent ..." *Taylor v. Riojas*, 592 U.S. 7, 11 (2020) (Alito, J., concurring in the judgment). This case calls for that relief as the decision below resolves an "important federal question" that "conflicts with relevant decisions of this Court." Sup. Ct. R. 10. Otherwise, the decision below erodes this Court's "authority as final arbiter of the United States Constitution." *Arizona v. Evans*, 514 U.S. 1, 9 (1995). Because the Petition (at 22-25) adequately covers the "specific jurisdiction" terrain, *amici* do not address it further other than to endorse Petitioners' central argument and request for relief.

II. The lower court's holding on general jurisdiction cannot be squared with this Court's decisions or an historical understanding of the traditional limits on *in personam* jurisdiction.

Like its specific-jurisdiction holding, the lower court's general-jurisdiction holding is deeply flawed. It too carries profound implications. The lower court anchored general jurisdiction in a defendant's contacts during the time period giving rise to the claim (as opposed to the time when the state court asserts power over the defendant). By doing so, the lower court's conclusion makes any defendant answerable on any claim arising out of the time it was "essentially at home" in Illinois even if the defendant has long since relocated, whether the defendant is a juridical entity that has reincorporated (or established its principal

place of business) in another state or an individual who has established domicile elsewhere. That rule runs afoul of this Court’s decisions and departs from the historical understanding of the traditional constraints on *in personam* jurisdiction.

Timing considerations around jurisdiction are hardly new, but were once far simpler. At one time, English courts exercised jurisdiction over citizens by physically arresting them (such as by means of the writ of *capias ad respondendum*). See Mark Moller, *A New Look at the Original Meaning of the Diversity Clause*, 51 Wm. & Mary L. Rev. 1113, 1137 n. 90 (2009); Nathan Levy, *Mesne Process in Personal Actions at Common Law and the Power Doctrine*, 78 Yale L.J. 52, 61-63 (1968). As Sir William Holdsworth explains in his authoritative survey of English legal history, “the usual *practical* mode of commencing a personal action by original writ is by issuing ... a *capias*.” 9 Holdsworth, *A History of English Law* 250 (1926) (“Holdsworth”) (internal quotations and citation omitted). According to Holdsworth, the use of this writ “was coming into regular use in the latter part of the sixteenth century,” *id.* at 250 n. 2, and had become “the most common method” by the eighteenth century. *Id.* at 250.⁴ During these centuries, jurisdiction coincided with the exercise of “physical power.” See 3 William Blackstone *Commentaries on the Laws of England* ch. 19 (1st ed. 1765).

Even as the English mode of asserting jurisdiction in personal actions shifted away from the defendant’s physical arrest and toward service of a summons through enactments like the Frivolous Arrest Act of

⁴ The writ originated as a form of execution for certain actions – trespass, then debt, and later trespass on the case. 8 Holdsworth at 231.

1725, *see* Levy, 78 Yale L.J. at 76-79, the approach to timing remained unchanged. Jurisdiction still turned on the moment when power was exercised (such as when the summons was served or, in the case of attachment, when property was attached). *See generally id.* at 56 (“There is, moreover, substantial authority to the effect that physical power *was* necessary for the initial obtaining of jurisdiction over defendants who would not appear to personal actions at common law, without which power no judgment could be rendered for the plaintiff against the defendant.”). Holdsworth again explains that, following the 1725 Act, “the plaintiff might, on affidavit that a copy of process had been personally served, enter an appearance for the defendant.” Holdsworth at 253. Barring proof of personal service of the summons, the plaintiff was forced to invoke other assertions of power, whether such as “distringas ... capias ... or attachment and commission of rebellion.” *Id.* (footnote omitted). Again, jurisdiction coincided with the moment when power was exercised. *Id.* at 254.

Founding-era American decisions hewed to this traditional understanding. Even before the Constitution’s ratification, some state courts explored the question by reference to their obligation to enforce sister-state judgments under the Articles of Confederation. Connecticut’s oft-cited decision in *Kibbe v. Kibbe* was especially influential. Kirby’s Rep 19 (Conn. 1786) (per curiam). *Kibbe* held that, under Article IV of the Articles of Confederation, sister-state judgments should be given effect so long as the judgment-rendering court possessed jurisdiction. *Kibbe* declined to give effect to a Massachusetts judgment because the nonresident defendant was not “within the jurisdiction” of the judgment-rendering court “at the time of the pretended service of the writ.” *Id.* at 126. Conversely,

Kibbe explained, full faith and credit would be given “where both parties are within the jurisdiction of [the judgment-rendering court] at the time of commencing the suit, and are duly served with the process ...” *Id.*

The Constitution’s Full Faith and Credit Clause was adopted against the backdrop of the Articles of Confederation and decisions like *Kibbe*. Post-ratification decisions interpreting that Clause and Congress’ 1790 implementing legislation shaped understanding of the limits on *in personam* jurisdiction over non-resident defendants. See James Weinstein, *The Federal Common Law Origins of Judicial Jurisdiction: Implications for Modern Doctrine*, 90 Va. L. Rev. 169, 175-81 (2004); Terry S. Kogan, *A Neo-Federalist Tale of Personal Jurisdiction*, 63 S. Cal. L. Rev. 257, 270-78 (1990). These decisions “were remarkably uniform in their conclusion that a prerequisite for jurisdiction to support recognition was service of process upon the defendant while within the territorial limits of the rendering state.” Weinstein, 90 Va. L. Rev. at 193; see also 4 Wright & Miller, *Federal Practice & Procedure* § 1064 (rev. ed. 2026) (“Wright and Miller”); Max Rheinstein, *The Constitutional Bases of Jurisdiction*, 22 U. Chi. L. Rev. 775, 792 (1955). ***In these cases, the critical moment was the time of service.*** Compare, e.g., *Bissell v. Briggs*, 9 Mass. 462, 470 (1813) (giving full faith and credit to sister-state judgment where nonresident defendants were present in forum “when the writ was issued and served”) and *Hitchcock v. Aicken*, 1 Cai. R. 460, 466 (N.Y. Supreme Court 1803) (Thompson, J.) (“I think the rule laid down by the court in [*Kibbe*] ... that the judgments of courts, in sister states, ought to receive full credence where both parties were within the jurisdiction of the court at the time of commencing the suit, and were duly served with process ...”), with, e.g., *Kilburn v. Woodworth*,

5 Johns. 37, 51 (N.Y. Supreme Court 1809) (declining to enforce sister-state judgment because defendant was domiciled elsewhere “when the suit was commenced” and “was not, and could not have been served with process”); *Thurber v. Blackbourne*, 1 N.H. 242, 246 (1818) (declining to give full faith and credit to sister-state judgment where nonresident defendant was not personally served in forum and did not voluntarily appear); *Chew v. Randolph*, 1 Miss. 1 (1818) (same); *Rogers v. Coleman*, 3 Ky. 413, 429 (Ky. 1808) (same).

This Court’s early decisions in related contexts tracked this contemporaneous understanding. For example, *Mills v. Duryee* held that the Full Faith and Credit Clause required a state court to give effect to a sister-state’s judgment, observing that “the Defendant had full notice of the suit, *for he was arrested and gave bail ...*” 11 U.S. (7 Cranch) 481, 484 (1813) (Story, J.) (emphasis added). Shortly thereafter, writing for a unanimous Court, Chief Justice Marshall explained that a defendant’s “appearance” and “litigating the suit” could “cure” jurisdictional defects that might have occurred when the plaintiff attempted to attach property to commence the suit. *Mayhew v. Thatcher*, 19 U.S. (6 Wheat) 129, 130 (1821). Admiralty decisions likewise looked to the moment when sovereign power was asserted: the character of the captured property turned on the commercial domicile of a merchant *at the time of the capture of his goods*. *The Frances*, 12 U.S. (8 Cranch) 335, 347 (1814); *The Venus*, 12 U.S. (8 Cranch) 253, 283 (1814). In short, during the Founding era, the answer to the timing questions was the same as in England: the establishment of jurisdiction coincided with the exercise of power.

The approach to timing still prevailed around the adoption of the Fourteenth Amendment’s Due Process

Clause. “[J]urisdiction based on state borderlines was deeply ingrained in American legal tradition at the time the Fourteenth Amendment was adopted.” Weinstein, 90 Va. L. Rev. at 214. *See also* Cody J. Jacobs, *In Defense of Territorial Jurisdiction*, 85 U. Chi. L. Rev. 1589, 1638 (2018). On this point, this Court’s decision in *St. Clair v. Cox*, 106 U.S. 350 (1882), is especially instructive. *Cox* concerned whether service on a corporate agent sufficed to establish jurisdiction over a non-resident corporation. Concluding that it did not, the Court stressed that “there was nothing to show ... that the [company] was engaged in business in the state *when service was made on* [the agent].” *Id.* at 360. In support of this conclusion, *Cox* cited with approval an earlier decision of the Michigan Supreme Court, *Newell v. Great Western Railway Co.*, 19 Mich. 336 (1869), for the proposition that service on a corporate agent is ineffective when “at time of service,” the agent was not in state on “official business” but only “casually in the state.” *Cox*, 106 U.S. at 358. Like the Founding era, *Cox* illustrates how, during the *Pennoyer* era, timing questions about a court’s jurisdiction turned upon the defendant’s status at the time power was asserted.

While this Court has not squarely revisited the precise timing question since *International Shoe*, *see* 4 Wright & Miller § 1067.5, its post-*International Shoe* precedents generally track the traditional understanding. *Burnham* offers a prime example. In upholding general personal jurisdiction over the non-resident defendant, *Burnham* focused on the moment of personal service in the forum. 495 U.S. at 608. While the non-resident defendant in *Burnham* returned to his state of domicile and later made a special appearance in the forum to contest personal

jurisdiction, the moment of service was the only one relevant to the constitutional inquiry. *Id.* Other general-jurisdiction decisions similarly suggest that the inquiry turns on where the defendant is “essentially at home” at the moment that a court asserts power. *See Perkins*, 342 U.S. at 448 (upholding general jurisdiction where foreign corporation had temporarily relocated headquarters to forum at time jurisdiction was asserted); *Goodyear*, 564 U.S. at 926-29 (disallowing general jurisdiction where foreign corporation was not “essentially at home” in forum at time jurisdiction was asserted); *Daimler*, 571 U.S. at 136-39 (same); *BNSF*, 581 U.S. at 414 (same).⁵

Focusing the timing inquiry on the moment when a court asserts power aligns this Court’s approach to general jurisdiction with its approach to related jurisdictional questions. *See Williams*, 89 U. Chi. L. Rev. at 1758. Two examples illustrate the point.

First, consider subject-matter jurisdiction. Not long after the Founding, Chief Justice Marshall, tracking the common-law tradition, announced that “[i]t is quite clear, that the jurisdiction of the Court depends upon the state of things at the time of the action

⁵ At one time, some lower courts read this Court’s decision in *Helicopteros* to support a different approach to the timing question. Under that approach, courts could consider the aggregation of a defendant’s forum-directed contacts prior to the moment that power was asserted. *See generally* 4 Wright & Miller §1067.5 at nn. 41-42 (collecting cases). Several subsequent decisions, including *Goodyear*, *Daimler*, and *BNSF*, all rejected that approach and clarified that “in-state business ... does not suffice to permit the assertion of general jurisdiction over claims ... unrelated to any activity occurring in [the forum].” 581 U.S. at 414 (footnote omitted).

brought.” *Mollan v. Torrance*, 22 U.S. (9 Wheat) 537, 539 (1824) (Marshall, C.J.); *see also Conolly v. Taylor*, 27 U.S. (2 Pet.) 556, 565 (1828) (Marshall, C.J.) (“[A] jurisdiction depending on the condition of the party is governed by that condition, as it was at the commencement of the suit.”). *Accord Keene Corp. v United States*, 508 U.S. 200, 207 (1993); *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 570 (2004).⁶

Still today, more than two centuries after Chief Justice Marshall’s original pronouncement, sound reasons underpin the time-of-filing rule as to a party’s citizenship in matters of subject-matter jurisdiction. As Justice Scalia recognized in *Grupo*, the facts determining jurisdiction are subject to change after filing, and so constant litigation over those changing circumstances would be wasteful. 541 U.S. at 580. Moreover, a focus on examining the basis of a court’s jurisdiction at the time of filing advances central policy goals, namely certainty and predictability that minimize litigation over jurisdiction. *Id.* at 580-81. By contrast, a less temporally certain approach “would impair the certainty of our jurisdictional rules and thereby encourage similar jurisdictional litigation.” *Id.* at 582.

Second, this Court’s decisions under the Foreign Sovereign Immunity Act (“FSIA”) likewise focus on the time when the forum court asserts power. The FSIA supplies a basis for both subject-matter jurisdiction

⁶ This Court established a narrow exception to the time-of-filing rule in *Caterpillar Inc. v. Lewis*, 519 U.S. 61 (1996). As this Court later explained in *Grupo*, the exception only applies in the rare situation where the jurisdictional defect is not raised until after the verdict or judgment has been rendered and where the jurisdictional defect was cured before final judgment issued. 541 U.S. at 573-74.

and personal jurisdiction over a “foreign state.” The determination whether a defendant qualifies as a “foreign state,” including whether it qualifies as an “agency or instrumentality,” is based on the defendant’s juridical status “at the time suit is filed.” *Dole Food Co. v. Patrickson*, 538 U.S. 468, 478 (2003). This includes determinations about the structure of a corporate defendant claiming “agency or instrumentality” status. *Id.* at 478-80. While *Dole Food* involved a question of statutory construction (as opposed to the constitutional question at issue here), this Court unhesitatingly drew upon the above-referenced “longstanding principle” rooted in its subject-matter jurisdiction jurisprudence to inform the resolution of a question that determined personal jurisdiction under the FSIA. *Dole Food* rejected alternative approaches that centered the timing inquiry on the events giving rise to the claim. Such alternative approaches departed from the clarity of the “time of filing” rule, undermined certainty, and invited wasteful satellite litigation over matters disconnected from the merits.

In short, history, precedent, and related jurisdictional doctrines all suggest that, for purposes of general jurisdiction, the relevant inquiry turns on the precise moment when the court asserts power. Against this consistent, sensible, and unbroken line, the rule of general jurisdiction adopted below cannot stand. The lower court’s approach to the “timing” question – focused on events giving rise to the claims – untethers the doctrine from its historical moorings. Moreover, especially compared to the historical approach described above, the determination is not “easily ascertainable” and does not “promote greater predictability.” *Daimler*, 571 U.S. at 137; *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). Finally, like the “exorbitant exercises of all-purpose jurisdiction” rejected in *Daimler*, 571 U.S. at

139, the sweeping approach adopted below “would scarcely permit out-of-state-defendants ‘to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit.’” *Id.* (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985)).

III. The lower court’s boundless conception of general jurisdiction opens the floodgates for out-of-state defendants to be sued on any claim in a well-known goldmine for forum shopping.

Even though the decision below comes from an intermediate state appellate court, it carries significant and harmful nationwide consequences. This is not a mere interpretation of a statute with limited effect. Rather, the legal conclusion at issue – namely “all-purpose jurisdiction” over non-resident defendants irrespective of the relationship between their forum contacts and the plaintiffs’ claims – opens the doors of a state’s courts to *any* claim by *any* plaintiff over *any* defendant (corporate or otherwise) provided that the defendant had some constitutionally sufficient presence *anywhere* in the state at the time of the events giving rise to the claims. Extraordinary assertions of general jurisdiction have wrought havoc in Illinois and elsewhere. *See* Petition for Writ of Certiorari, *Syngenta Corp Protections, LLC v. Nemeth* (No. 24-1190) (May 19, 2025) at App-6 (Pennsylvania trial court order exercising general jurisdiction over non-resident defendant in product liability dispute involving hundreds of plaintiffs with no connection to Pennsylvania).

Under the lower court’s rule, if the defendant relocated years ago, general jurisdiction in Illinois still looms over it, depriving the defendant of predictability and creating insurance risks over the prospect of

forum shopping. Even where the case for general jurisdiction might be debatable, that simply opens the door to meddlesome jurisdictional discovery, creating *in terrorem* settlement pressure on defendants and wasting judicial resources over matters unrelated to the merits. See *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007).

Madison and St. Clair counties have proven a gold mine for these tactics, especially for asbestos lawsuits. These two Illinois counties, lying just across the Mississippi River from St. Louis, have a cumulative population of just over 500,000 and are the eighth and ninth most populous counties in Illinois, respectively. Yet they are the two most popular jurisdictions in the country for asbestos claims, with almost half of asbestos claims nationwide filed in just these two counties.⁷ These lawsuits typically name upwards of fifty defendants each, forcing defendants with no connection to Illinois to appear to contest jurisdiction.

These counties' friendliness to out-of-state litigants bringing out-of-state claims is especially well known, and especially troubling, in these baby-formula cases.⁸ Following the asbestos playbook, approximately 97% of plaintiffs around the country to file NEC lawsuits have filed them in one of these two counties. Pet. at 3. Juries are prone to award large verdicts, and various features of Illinois law make it an attractive haven for plaintiffs: relatively lax standards for admission of expert testimony, plaintiff-friendly doctrines on

⁷ Am. Tort Reform Found., *2025-2026 Judicial Hellholes Report: #7 Cook, Madison & St. Clair Counties, Illinois*, <https://judicialhellholes.org/hellhole/2025-2026/cook-madison-st-clair-counties-illinois/>.

⁸ See *id.*

allocation of fault, no limits on non-economic and punitive damages, generous pre- and post-judgment interest, and others.⁹

Nor does the Illinois Supreme Court enjoy a commendable track record at policing its intermediate appellate courts. Illinois's highest court granted leave to appeal in only 6% of cases in 2024. Illinois Courts, Annual Report of the Illinois Courts: 2024 Reviewing Court Annual Statistical Dashboard, *available at* <https://www.illinoiscourts.gov/reports/> (last visited August 2, 2026). While a low grant rate is a feature that Illinois's Supreme Court shares with some other state supreme courts, that court has recently shown an especially meager appetite for review in complex civil cases. For example, in the past calendar year, the Illinois Supreme Court issued decisions in more than twenty-five criminal matters, compared to only eleven civil cases; of those eleven, one was a mandatory appeal and two answered certified questions from the Seventh Circuit.¹⁰

With this record of oversight in civil cases, it is unsurprising (and unfortunate) to see the Illinois Supreme Court fail to act to correct a serious lower-court mistake, especially when the stakes run so high. However, this posture does not foreclose an opportunity to correct course. Two of this Court's most notable jurisdiction cases also entailed review of

⁹ U.S. Chamber of Comm. Inst. for Legal Reform, *The Illinois Challenge: Excessive Litigation and Liability in the Land of Lincoln* at 6–8, 13, April 2026, <https://institutelegalreform.com/wp-content/uploads/2026/04/ILR-Illinois-Briefly-WEB-April-2026.pdf>.

¹⁰ See *Bright v. Yenchko*, No. 132015, 2026 WL 1423823, (Ill. May 21, 2026) (mandatory appeal); *Johnson v. Amazon.com Servs., LLC*, No. 132016, 2026 WL 772733 (Ill. Mar. 19, 2026) (certified question); *Griffith Foods Int'l, Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh*, No. 131710, 2026 WL 181277 (Ill. Jan. 23, 2026).

intermediate appellate courts. In *Goodyear*, an intermediate North Carolina appellate decision “[c]onfusing or blending general and specific jurisdictional inquiries” warranted review and was unanimously reversed. 545 U.S. at 919. In *Burnham*, this Court accepted an appeal from a state intermediate appellate court and unanimously reversed to clarify that transient (or “tag”) jurisdiction of individuals comported with the Due Process Clause. 495 U.S. at 613-14. In short, this Court has repeatedly recognized the necessity of reviewing important decisions of intermediate state appellate tribunals and should do so here. *See, e.g., Monsanto Co. v. Durnell*, 146 S. Ct. 2001 (2026); *KPMG LLP v. Cocchi*, 565 U.S. 18 (2011) (per curiam); *Michael H. v. Gerald D.*, 491 U.S. 110 (1989); *Volt Info. Scis. v. Bd. of Trs.*, 489 U.S. 468 (1989); *California v. Greenwood*, 486 U.S. 35 (1988); *Orr v. Orr*, 440 U.S. 268 (1979).

CONCLUSION

For the foregoing reasons, in addition to those advanced by Petitioners, the Petition for a writ of *certiorari* should be granted. The decision below should be summarily reversed; in the alternative, the matter should be set for merits briefing and oral argument.

Respectfully submitted,

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