# PENNOYER
v.
# NEFF.

**Supreme Court of United States.**

719 *719 Mr. W.F. Trimble for the plaintiff in error.

Mr. James K. Kelly, contra.

MR. JUSTICE FIELD delivered the opinion of the court.

This is an action to recover the possession of a tract of land, of the alleged value of $15,000, situated in the State of Oregon. The plaintiff asserts title to the premises by a patent of the United States issued to him in 1866, under the act of Congress of Sept. 27, 1850, usually known as the Donation Law of Oregon. The defendant claims to have acquired the premises under a sheriff's deed, made upon a sale of the property on execution issued upon a judgment recovered against the plaintiff in one of the circuit courts of the State. The case turns upon the validity of this judgment.

It appears from the record that the judgment was rendered in February, 1866, in favor of J.H. Mitchell, for less than $300, including costs, in an action brought by him upon a demand for services as an attorney; that, at the time the action was commenced and the judgment rendered, the defendant therein, the plaintiff here, was a non-resident of the
720 State *720 that he was not personally served with process, and did not appear therein; and that the judgment was entered upon his default in not answering the complaint, upon a constructive service of summons by publication.

The Code of Oregon provides for such service when an action is brought against a non-resident and absent defendant, who has property within the State. It also provides, where the action is for the recovery of money or damages, for the attachment of the property of the non-resident. And it also declares that no natural person is subject to the jurisdiction of a court of the State, "unless he appear in the court, or be found within the State, or be a resident thereof, or have property therein; and, in the last case, only to the extent of such property at the time the jurisdiction attached." Construing this latter provision to mean, that, in an action for money or damages where a defendant does not appear in the court, and is not found within the State, and is not a resident thereof, but has property therein, the jurisdiction of the court extends only over such property, the declaration expresses a principle of general, if not universal, law. The authority of every tribunal is necessarily restricted by the territorial limits of the State in which it is established. Any attempt to exercise authority beyond those limits would be deemed in every other forum, as has been said by this court, an illegitimate assumption of power, and be resisted as mere abuse. D'Arcy v. Ketchum et al., 11 How. 165. In the case against the plaintiff, the property here in controversy sold under the judgment rendered was not attached, nor in any way brought under the jurisdiction of the court. Its first connection with the case was caused by a levy of the execution. It was not, therefore, disposed of pursuant to any adjudication, but only in enforcement of a personal judgment, having no relation to the property, rendered against a non-resident without service of process upon him in the action, or his appearance therein. The court below did not consider that an attachment of the property was essential to its jurisdiction or to the validity of the sale, but held that the judgment was invalid from defects in the affidavit upon which the order of publication was obtained, and in the affidavit by which the publication was proved.

721 *721 There is some difference of opinion among the members of this court as to the rulings upon these alleged defects. The majority are of opinion that inasmuch as the statute requires, for an order of publication, that certain facts shall appear by affidavit to the satisfaction of the court or judge, defects in such affidavit can only be taken advantage of on appeal, or by some other direct proceeding, and cannot be urged to impeach the judgment collaterally. The majority of the court are also of opinion that the provision of the statute requiring proof of the publication in a newspaper to be made by the "affidavit of the printer, or his foreman, or his principal clerk," is satisfied when the

affidavit is made by the editor of the paper. The term "printer," in their judgment, is there used not to indicate the person who sets up the type, — he does not usually have a foreman or clerks, — it is rather used as synonymous with publisher. The Supreme Court of New York so held in one case; observing that, for the purpose of making the required proof, publishers were "within the spirit of the statute." Bunce v. Reed, 16 Barb. (N.Y.) 350. And, following this ruling, the Supreme Court of California held that an affidavit made by a "publisher and proprietor" was sufficient. Sharp v. Daugney, 33 Cal. 512. The term "editor," as used when the statute of New York was passed, from which the Oregon law is borrowed, usually included not only the person who wrote or selected the articles for publication, but the person who published the paper and put it into circulation. Webster, in an early edition of his Dictionary, gives as one of the definitions of an editor, a person "who superintends the publication of a newspaper." It is principally since that time that the business of an editor has been separated from that of a publisher and printer, and has become an independent profession.

If, therefore, we were confined to the rulings of the court below upon the defects in the affidavits mentioned, we should be unable to uphold its decision. But it was also contended in that court, and is insisted upon here, that the judgment in the State court against the plaintiff was void for want of personal service of process on him, or of his appearance in the action in which it was rendered, and that the premises in controversy could not be subjected to the payment of the
722 demand *722 of a resident creditor except by a proceeding in rem; that is, by a direct proceeding against the property for that purpose. If these positions are sound, the ruling of the Circuit Court as to the invalidity of that judgment must be sustained, notwithstanding our dissent from the reasons upon which it was made. And that they are sound would seem to follow from two well-established principles of public law respecting the jurisdiction of an independent State over persons and property. The several States of the Union are not, it is true, in every respect independent, many of the rights and powers which originally belonged to them being now vested in the government created by the Constitution. But, except as restrained and limited by that instrument, they possess and exercise the authority of independent States, and the principles of public law to which we have referred are applicable to them. One of these principles is, that every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory. As a consequence, every State has the power to determine for itself the civil status and capacities of its inhabitants; to prescribe the subjects upon which they may contract, the forms and solemnities with which their contracts shall be executed, the rights and obligations arising from them, and the mode in which their validity shall be determined and their obligations enforced; and also to regulate the manner and conditions upon which property situated within such territory, both personal and real, may be acquired, enjoyed, and transferred. The other principle of public law referred to follows from the one mentioned; that is, that no State can exercise direct jurisdiction and authority over persons or property without its territory. Story, Confl. Laws, c. 2; Wheat. Int. Law, pt. 2, c. 2. The several States are of equal dignity and authority, and the independence of one implies the exclusion of power from all others. And so it is laid down by jurists, as an elementary principle, that the laws of one State have no operation outside of its territory, except so far as is allowed by comity; and that no tribunal established by it can extend its process beyond that territory so as to subject either persons or property to its decisions. "Any exertion of authority of this sort beyond this
723 limit," says Story, "is a mere nullity, and incapable of binding *723 such persons or property in any other tribunals." Story, Confl. Laws, sect. 539.

But as contracts made in one State may be enforceable only in another State, and property may be held by non-residents, the exercise of the jurisdiction which every State is admitted to possess over persons and property within its own territory will often affect persons and property without it. To any influence exerted in this way by a State affecting persons resident or property situated elsewhere, no objection can be justly taken; whilst any direct exertion of authority upon them, in an attempt to give ex-territorial operation to its laws, or to enforce an ex-territorial jurisdiction by its tribunals, would be deemed an encroachment upon the independence of the State in which the persons are domiciled or the property is situated, and be resisted as usurpation.

Thus the State, through its tribunals, may compel persons domiciled within its limits to execute, in pursuance of their contracts respecting property elsewhere situated, instruments in such form and with such solemnities as to transfer the title, so far as such formalities can be complied with; and the exercise of this jurisdiction in no manner interferes with

the supreme control over the property by the State within which it is situated. Penn v. Lord Baltimore, 1 Ves. 444; Massie v. Watts, 6 Cranch, 148; Watkins v. Holman, 16 Pet. 25; Corbett v. Nutt, 10 Wall. 464.

So the State, through its tribunals, may subject property situated within its limits owned by non-residents to the payment of the demand of its own citizens against them; and the exercise of this jurisdiction in no respect infringes upon the sovereignty of the State where the owners are domiciled. Every State owes protection to its own citizens; and, when non-residents deal with them, it is a legitimate and just exercise of authority to hold and appropriate any property owned by such non-residents to satisfy the claims of its citizens. It is in virtue of the State's jurisdiction over the property of the non-resident situated within its limits that its tribunals can inquire into that non-resident's obligations to its own citizens, and the inquiry can then be carried only to the extent necessary to control the disposition of the
724 property. If the non-resident *724 have no property in the State, there is nothing upon which the tribunals can adjudicate.

These views are not new. They have been frequently expressed, with more or less distinctness, in opinions of eminent judges, and have been carried into adjudications in numerous cases. Thus, in Picquet v. Swan, 5 Mas. 35, Mr. Justice Story said: —

"Where a party is within a territory, he may justly be subjected to its process, and bound personally by the judgment pronounced on such process against him. Where he is not within such territory, and is not personally subject to its laws, if, on account of his supposed or actual property being within the territory, process by the local laws may, by attachment, go to compel his appearance, and for his default to appear judgment may be pronounced against him, such a judgment must, upon general principles, be deemed only to bind him to the extent of such property, and cannot have the effect of a conclusive judgment in personam, for the plain reason, that, except so far as the property is concerned, it is a judgment coram non judice."

And in Boswell's Lessee v. Otis, 9 How. 336, where the title of the plaintiff in ejectment was acquired on a sheriff's sale, under a money decree rendered upon publication of notice against non-residents, in a suit brought to enforce a contract relating to land, Mr. Justice McLean said: —

"Jurisdiction is acquired in one of two modes: first, as against the person of the defendant by the service of process; or, secondly, by a procedure against the property of the defendant within the jurisdiction of the court. In the latter case, the defendant is not personally bound by the judgment beyond the property in question. And it is immaterial whether the proceeding against the property be by an attachment or bill in chancery. It must be substantially a proceeding in rem."

These citations are not made as authoritative expositions of the law; for the language was perhaps not essential to the decision of the cases in which it was used, but as expressions of the opinion of eminent jurists. But in Cooper v. Reynolds, reported in the 10th of Wallace, it was essential to the disposition of the case to declare the effect of a
725 personal action against an absent party, without the jurisdiction of the court, not served *725 with process or voluntarily submitting to the tribunal, when it was sought to subject his property to the payment of a demand of a resident complainant; and in the opinion there delivered we have a clear statement of the law as to the efficacy of such actions, and the jurisdiction of the court over them. In that case, the action was for damages for alleged false imprisonment of the plaintiff; and, upon his affidavit that the defendants had fled from the State, or had absconded or concealed themselves so that the ordinary process of law could not reach them, a writ of attachment was sued out against their property. Publication was ordered by the court, giving notice to them to appear and plead, answer or demur, or that the action would be taken as confessed and proceeded in ex parte as to them. Publication was had; but they made default, and judgment was entered against them, and the attached property was sold under it. The purchaser having been put into possession of the property, the original owner brought ejectment for its recovery. In considering the character of the proceeding, the court, speaking through Mr. Justice Miller, said: —

"Its essential purpose or nature is to establish, by the judgment of the court, a demand or claim against the defendant, and subject his property lying within the territorial jurisdiction of the court to the payment of that demand. But the plaintiff is met at the commencement of his proceedings by the fact that the defendant is not within the territorial

jurisdiction, and cannot be served with any process by which he can be brought personally within the power of the court. For this difficulty the statute has provided a remedy. It says that, upon affidavit being made of that fact, a writ of attachment may be issued and levied on any of the defendant's property, and a publication may be made warning him to appear; and that thereafter the court may proceed in the case, whether he appears or not. If the defendant appears, the cause becomes mainly a suit in personam, with the added incident, that the property attached remains liable, under the control of the court, to answer to any demand which may be established against the defendant by the final judgment of the court. But if there is no appearance of the defendant, and no service of process on him, the case becomes in its essential nature a proceeding in rem, the only effect of which is to subject the property attached to the
726 payment of the demand which the court may find to be due to the plaintiff. That such is *726 the nature of this proceeding in this latter class of cases is clearly evinced by two well-established propositions: first, the judgment of the court, though in form a personal judgment against the defendant, has no effect beyond the property attached in that suit. No general execution can be issued for any balance unpaid after the attached property is exhausted. No suit can be maintained on such a judgment in the same court, or in any other; nor can it be used as evidence in any other proceeding not affecting the attached property; nor could the costs in that proceeding be collected of defendant out of any other property than that attached in the suit. Second, the court, in such a suit, cannot proceed, unless the officer finds some property of defendant on which to levy the writ of attachment. A return that none can be found is the end of the case, and deprives the court of further jurisdiction, though the publication may have been duly made and proven in court."

The fact that the defendants in that case had fled from the State, or had concealed themselves, so as not to be reached by the ordinary process of the court, and were not non-residents, was not made a point in the decision. The opinion treated them as being without the territorial jurisdiction of the court; and the grounds and extent of its authority over persons and property thus situated were considered, when they were not brought within its jurisdiction by personal service or voluntary appearance.

The writer of the present opinion considered that some of the objections to the preliminary proceedings in the attachment suit were well taken, and therefore dissented from the judgment of the court; but to the doctrine declared in the above citation he agreed, and he may add, that it received the approval of all the judges. It is the only doctrine consistent with proper protection to citizens of other States. If, without personal service, judgments in personam, obtained ex parte against non-residents and absent parties, upon mere publication of process, which, in the great majority of cases, would never be seen by the parties interested, could be upheld and enforced, they would be the constant instruments of fraud and oppression. Judgments for all sorts of claims upon contracts and for torts, real or pretended, would be thus obtained, under which property would be seized, when the evidence of the transactions
727 upon *727 which they were founded, if they ever had any existence, had perished.

Substituted service by publication, or in any other authorized form, may be sufficient to inform parties of the object of proceedings taken where property is once brought under the control of the court by seizure or some equivalent act. The law assumes that property is always in the possession of its owner, in person or by agent; and it proceeds upon the theory that its seizure will inform him, not only that it is taken into the custody of the court, but that he must look to any proceedings authorized by law upon such seizure for its condemnation and sale. Such service may also be sufficient in cases where the object of the action is to reach and dispose of property in the State, or of some interest therein, by enforcing a contract or a lien respecting the same, or to partition it among different owners, or, when the public is a party, to condemn and appropriate it for a public purpose. In other words, such service may answer in all actions which are substantially proceedings in rem. But where the entire object of the action is to determine the personal rights and obligations of the defendants, that is, where the suit is merely in personam, constructive service in this form upon a non-resident is ineffectual for any purpose. Process from the tribunals of one State cannot run into another State, and summon parties there domiciled to leave its territory and respond to proceedings against them. Publication of process or notice within the State where the tribunal sits cannot create any greater obligation upon the non-resident to appear. Process sent to him out of the State, and process published within it, are equally unavailing in proceedings to establish his personal liability.

The want of authority of the tribunals of a State to adjudicate upon the obligations of non-residents, where they have no property within its limits, is not denied by the court below: but the position is assumed, that, where they have property within the State, it is immaterial whether the property is in the first instance brought under the control of the court by attachment or some other equivalent act, and afterwards applied by its judgment to the satisfaction of
728 demands against its owner; or such demands be first established in a personal action, and *728 the property of the non-resident be afterwards seized and sold on execution. But the answer to this position has already been given in the statement, that the jurisdiction of the court to inquire into and determine his obligations at all is only incidental to its jurisdiction over the property. Its jurisdiction in that respect cannot be made to depend upon facts to be ascertained after it has tried the cause and rendered the judgment. If the judgment be previously void, it will not become valid by the subsequent discovery of property of the defendant, or by his subsequent acquisition of it. The judgment if void when rendered, will always remain void: it cannot occupy the doubtful position of being valid if property be found, and void if there be none. Even if the position assumed were confined to cases where the non-resident defendant possessed property in the State at the commencement of the action, it would still make the validity of the proceedings and judgment depend upon the question whether, before the levy of the execution, the defendant had or had not disposed of the property. If before the levy the property should be sold, then, according to this position, the judgment would not be binding. This doctrine would introduce a new element of uncertainty in judicial proceedings. The contrary is the law: the validity of every judgment depends upon the jurisdiction of the court before it is rendered, not upon what may occur subsequently. In Webster v. Reid, reported in 11th of Howard, the plaintiff claimed title to land sold under judgments recovered in suits brought in a territorial court of Iowa, upon publication of notice under a law of the territory, without service of process; and the court said: —

"These suits were not a proceeding in rem against the land, but were in personam against the owners of it. Whether they all resided within the territory or not does not appear, nor is it a matter of any importance. No person is required to answer in a suit on whom process has not been served, or whose property has not been attached. In this case, there was no personal notice, nor an attachment or other proceeding against the land, until after the judgments. The judgments, therefore, are nullities, and did not authorize the executions on which the land was sold."

729 *729 The force and effect of judgments rendered against non-residents without personal service of process upon them, or their voluntary appearance, have been the subject of frequent consideration in the courts of the United States and of the several States, as attempts have been made to enforce such judgments in States other than those in which they were rendered, under the provision of the Constitution requiring that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State;" and the act of Congress providing for the mode of authenticating such acts, records, and proceedings, and declaring that, when thus authenticated, "they shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the State from which they are or shall be taken." In the earlier cases, it was supposed that the act gave to all judgments the same effect in other States which they had by law in the State where rendered. But this view was afterwards qualified so as to make the act applicable only when the court rendering the judgment had jurisdiction of the parties and of the subject-matter, and not to preclude an inquiry into the jurisdiction of the court in which the judgment was rendered, or the right of the State itself to exercise authority over the person or the subject-matter. M'Elmoyle v. Cohen, 13 Pet. 312. In the case of D'Arcy v. Ketchum, reported in the 11th of Howard, this view is stated with great clearness. That was an action in the Circuit Court of the United States for Louisiana, brought upon a judgment rendered in New York under a State statute, against two joint debtors, only one of whom had been served with process, the other being a non-resident of the State. The Circuit Court held the judgment conclusive and binding upon the non-resident not served with process; but this court reversed its decision, observing, that it was a familiar rule that countries foreign to our own disregarded a judgment merely against the person, where the defendant had not been served with process nor had a day in court; that national comity was never thus extended; that the proceeding was deemed an illegitimate assumption of power, and resisted as mere abuse; that no faith and credit or force and effect
730 had been given to such judgments by any State of the Union, so far *730 as known; and that the State courts had uniformly, and in many instances, held them to be void. "The international law," said the court, "as it existed among the States in 1790, was that a judgment rendered in one State, assuming to bind the person of a citizen of another, was void within the foreign State, when the defendant had not been served with process or voluntarily made defence;

because neither the legislative jurisdiction nor that of courts of justice had binding force." And the court held that the act of Congress did not intend to declare a new rule, or to embrace judicial records of this description. As was stated in a subsequent case, the doctrine of this court is, that the act "was not designed to displace that principle of natural justice which requires a person to have notice of a suit before he can be conclusively bound by its result, nor those rules of public law which protect persons and property within one State from the exercise of jurisdiction over them by another." The Lafayette Insurance Co. v. French et al., 18 How. 404.

This whole subject has been very fully and learnedly considered in the recent case of Thompson v. Whitman, 18 Wall. 457, where all the authorities are carefully reviewed and distinguished, and the conclusion above stated is not only reaffirmed, but the doctrine is asserted, that the record of a judgment rendered in another State may be contradicted as to the facts necessary to give the court jurisdiction against its recital of their existence. In all the cases brought in the State and Federal courts, where attempts have been made under the act of Congress to give effect in one State to personal judgments rendered in another State against non-residents, without service upon them, or upon substituted service by publication, or in some other form, it has been held, without an exception, so far as we are aware, that such judgments were without any binding force, except as to property, or interests in property, within the State, to reach and affect which was the object of the action in which the judgment was rendered, and which property was brought under control of the court in connection with the process against the person. The proceeding in such cases, though in the
731 form of a personal action, has been uniformly treated, where service was not obtained, and the party did not voluntarily *731 appear, as effectual and binding merely as a proceeding in rem, and as having no operation beyond the disposition of the property, or some interest therein. And the reason assigned for this conclusion has been that which we have already stated, that the tribunals of one State have no jurisdiction over persons beyond its limits, and can inquire only into their obligations to its citizens when exercising its conceded jurisdiction over their property within its limits. In Bissell v. Briggs, decided by the Supreme Court of Massachusetts as early as 1813, the law is stated substantially in conformity with these views. In that case, the court considered at length the effect of the constitutional provision, and the act of Congress mentioned, and after stating that, in order to entitle the judgment rendered in any court of the United States to the full faith and credit mentioned in the Constitution, the court must have had jurisdiction not only of the cause, but of the parties, it proceeded to illustrate its position by observing, that, where a debtor living in one State has goods, effects, and credits in another, his creditor living in the other State may have the property attached pursuant to its laws, and, on recovering judgment, have the property applied to its satisfaction; and that the party in whose hands the property was would be protected by the judgment in the State of the debtor against a suit for it, because the court rendering the judgment had jurisdiction to that extent; but that if the property attached were insufficient to satisfy the judgment, and the creditor should sue on that judgment in the State of the debtor, he would fail, because the defendant was not amenable to the court rendering the judgment. In other words, it was held that over the property within the State the court had jurisdiction by the attachment, but had none over his person; and that any determination of his liability, except so far as was necessary for the disposition of the property, was invalid.

In Kilbourn v. Woodworth, 5 Johns. (N.Y.) 37, an action of debt was brought in New York upon a personal judgment recovered in Massachusetts. The defendant in that judgment was not served with process; and the suit was commenced by the attachment of a bedstead belonging to the defendant, accompanied with a summons to appear,
732 served on his wife after she had left her place in Massachusetts. The court held that *732 the attachment bound only the property attached as a proceeding in rem, and that it could not bind the defendant, observing, that to bind a defendant personally, when he was never personally summoned or had notice of the proceeding, would be contrary to the first principles of justice, repeating the language in that respect of Chief Justice DeGrey, used in the case of Fisher v. Lane, 3 Wils. 297, in 1772. See also Borden v. Fitch, 15 Johns. (N.Y.) 121, and the cases there cited, and Harris v. Hardeman et al., 14 How. 334. To the same purport decisions are found in all the State courts. In several of the cases, the decision has been accompanied with the observation that a personal judgment thus recovered has no binding force without the State in which it is rendered, implying that in such State it may be valid and binding. But if the court has no jurisdiction over the person of the defendant by reason of his non-residence, and, consequently, no authority to pass upon his personal rights and obligations; if the whole proceeding, without service upon him or his appearance, is coram non judice and void; if to hold a defendant bound by such a judgment is contrary to the first principles of justice, — it is difficult to see how the judgment can legitimately have any force within the State. The language used can be

justified only on the ground that there was no mode of directly reviewing such judgment or impeaching its validity within the State where rendered; and that, therefore, it could be called in question only when its enforcement was elsewhere attempted. In later cases, this language is repeated with less frequency than formerly, it beginning to be considered, as it always ought to have been, that a judgment which can be treated in any State of this Union as contrary to the first principles of justice, and as an absolute nullity, because rendered without any jurisdiction of the tribunal over the party, is not entitled to any respect in the State where rendered. Smith v. McCutchen, 38 Mo. 415; Darrance v. Preston, 18 Iowa, 396; Hakes v. Shupe, 27 id. 465; Mitchell's Administrator v. Gray, 18 Ind. 123.

Be that as it may, the courts of the United States are not required to give effect to judgments of this character when any right is claimed under them. Whilst they are not foreign tribunals in their relations to the State courts, they are
733 tribunals *733 of a different sovereignty, exercising a distinct and independent jurisdiction, and are bound to give to the judgments of the State courts only the same faith and credit which the courts of another State are bound to give to them.

Since the adoption of the Fourteenth Amendment to the Federal Constitution, the validity of such judgments may be directly questioned, and their enforcement in the State resisted, on the ground that proceedings in a court of justice to determine the personal rights and obligations of parties over whom that court has no jurisdiction do not constitute due process of law. Whatever difficulty may be experienced in giving to those terms a definition which will embrace every permissible exertion of power affecting private rights, and exclude such as is forbidden, there can be no doubt of their meaning when applied to judicial proceedings. They then mean a course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the protection and enforcement of private rights. To give such proceedings any validity, there must be a tribunal competent by its constitution — that is, by the law of its creation — to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within the State, or his voluntary appearance.

Except in cases affecting the personal status of the plaintiff, and cases in which that mode of service may be considered to have been assented to in advance, as hereinafter mentioned, the substituted service of process by publication, allowed by the law of Oregon and by similar laws in other States, where actions are brought against non-residents, is effectual only where, in connection with process against the person for commencing the action, property in the State is brought under the control of the court, and subjected to its disposition by process adapted to that purpose, or where the judgment is sought as a means of reaching such property or affecting some interest therein; in other words, where the action is in the nature of a proceeding in rem. As stated by Cooley in his Treatise on Constitutional Limitations, 405, for any other purpose than to subject the property of a non-resident to valid claims
734 against *734 him in the State, "due process of law would require appearance or personal service before the defendant could be personally bound by any judgment rendered."

It is true that, in a strict sense, a proceeding in rem is one taken directly against property, and has for its object the disposition of the property, without reference to the title of individual claimants; but, in a larger and more general sense, the terms are applied to actions between parties, where the direct object is to reach and dispose of property owned by them, or of some interest therein. Such are cases commenced by attachment against the property of debtors, or instituted to partition real estate, foreclose a mortgage, or enforce a lien. So far as they affect property in the State, they are substantially proceedings in rem in the broader sense which we have mentioned.

It is hardly necessary to observe, that in all we have said we have had reference to proceedings in courts of first instance, and to their jurisdiction, and not to proceedings in an appellate tribunal to review the action of such courts. The latter may be taken upon such notice, personal or constructive, as the State creating the tribunal may provide. They are considered as rather a continuation of the original litigation than the commencement of a new action. Nations et al. v. Johnson et al., 24 How. 195.

It follows from the views expressed that the personal judgment recovered in the State court of Oregon against the plaintiff herein, then a non-resident of the State, was without any validity, and did not authorize a sale of the property in controversy.

To prevent any misapplication of the views expressed in this opinion, it is proper to observe that we do not mean to assert, by any thing we have said, that a State may not authorize proceedings to determine the status of one of its citizens towards a non-resident, which would be binding within the State, though made without service of process or personal notice to the non-resident. The jurisdiction which every State possesses to determine the civil status and capacities of all its inhabitants involves authority to prescribe the conditions on which proceedings affecting them may
735 be commenced and carried on within its territory. The State, for example, has absolute *735 right to prescribe the conditions upon which the marriage relation between its own citizens shall be created, and the causes for which it may be dissolved. One of the parties guilty of acts for which, by the law of the State, a dissolution may be granted, may have removed to a State where no dissolution is permitted. The complaining party would, therefore, fail if a divorce were sought in the State of the defendant; and if application could not be made to the tribunals of the complainant's domicile in such case, and proceedings be there instituted without personal service of process or personal notice to the offending party, the injured citizen would be without redress. Bish. Marr. and Div., sect. 156.

Neither do we mean to assert that a State may not require a non-resident entering into a partnership or association within its limits, or making contracts enforceable there, to appoint an agent or representative in the State to receive service of process and notice in legal proceedings instituted with respect to such partnership, association, or contracts, or to designate a place where such service may be made and notice given, and provide, upon their failure, to make such appointment or to designate such place that service may be made upon a public officer designated for that purpose, or in some other prescribed way, and that judgments rendered upon such service may not be binding upon the non-residents both within and without the State. As was said by the Court of Exchequer in Vallee v. Dumergue, 4 Exch. 290, "It is not contrary to natural justice that a man who has agreed to receive a particular mode of notification of legal proceedings should be bound by a judgment in which that particular mode of notification has been followed, even though he may not have actual notice of them." See also The Lafayette Insurance Co. v. French et al., 18 How. 404, and Gillespie v. Commercial Mutual Marine Insurance Co., 12 Gray (Mass.), 201. Nor do we doubt that a State, on creating corporations or other institutions for pecuniary or charitable purposes, may provide a mode in which their conduct may be investigated, their obligations enforced, or their charters revoked, which shall require other than personal service upon their officers or members. Parties becoming members of such corporations or institutions would
736 hold their *736 interest subject to the conditions prescribed by law. Copin v. Adamson, Law Rep. 9 Ex. 345.

In the present case, there is no feature of this kind, and, consequently, no consideration of what would be the effect of such legislation in enforcing the contract of a non-resident can arise. The question here respects only the validity of a money judgment rendered in one State, in an action upon a simple contract against the resident of another, without service of process upon him, or his appearance therein.

Judgment affirmed.

326 U.S. 310 (1945)

# INTERNATIONAL SHOE CO.
v.
# STATE OF WASHINGTON ET AL.

No. 107.

Supreme Court of United States.

Argued November 14, 1945.
Decided December 3, 1945.

APPEAL FROM THE SUPREME COURT OF WASHINGTON.

311 *311 *Mr. Henry C. Lowenhaupt*, with whom *Messrs. Lawrence J. Bernard, Jacob Chasnoff* and *Abraham Lowenhaupt* were on the brief, for appellant.

*George W. Wilkins*, Assistant Attorney General of the State of Washington, with whom *Smith Troy*, Attorney General, and *Edwin C. Ewing*, Assistant Attorney General, were on the brief, for appellees.

MR. CHIEF JUSTICE STONE delivered the opinion of the Court.

The questions for decision are (1) whether, within the limitations of the due process clause of the Fourteenth Amendment, appellant, a Delaware corporation, has by its activities in the State of Washington rendered itself amenable to proceedings in the courts of that state to recover unpaid contributions to the state unemployment compensation fund exacted by state statutes, Washington Unemployment Compensation Act, Washington Revised Statutes, § 9998-103a through § 9998-123a, 1941 Supp., and (2) whether the state can exact those contributions consistently with the due process clause of the Fourteenth Amendment.

The statutes in question set up a comprehensive scheme of unemployment compensation, the costs of which are
312 defrayed by contributions required to be made by employers to a state unemployment compensation fund. *312 The contributions are a specified percentage of the wages payable annually by each employer for his employees' services in the state. The assessment and collection of the contributions and the fund are administered by appellees. Section 14 (c) of the Act (Wash. Rev. Stat., 1941 Supp., § 9998-114c) authorizes appellee Commissioner to issue an order and notice of assessment of delinquent contributions upon prescribed personal service of the notice upon the employer if found within the state, or, if not so found, by mailing the notice to the employer by registered mail at his last known address. That section also authorizes the Commissioner to collect the assessment by distraint if it is not paid within ten days after service of the notice. By §§ 14e and 6b the order of assessment may be administratively reviewed by an appeal tribunal within the office of unemployment upon petition of the employer, and this determination is by § 6i made subject to judicial review on questions of law by the state Superior Court, with further right of appeal in the state Supreme Court as in other civil cases.

In this case notice of assessment for the years in question was personally served upon a sales solicitor employed by appellant in the State of Washington, and a copy of the notice was mailed by registered mail to appellant at its address in St. Louis, Missouri. Appellant appeared specially before the office of unemployment and moved to set aside the order and notice of assessment on the ground that the service upon appellant's salesman was not proper service upon appellant; that appellant was not a corporation of the State of Washington and was not doing business within the state; that it had no agent within the state upon whom service could be made; and that appellant is not an employer and does not furnish employment within the meaning of the statute.

313 The motion was heard on evidence and a stipulation of facts by the appeal tribunal which denied the motion *313 and ruled that appellee Commissioner was entitled to recover the unpaid contributions. That action was affirmed by the

Commissioner; both the Superior Court and the Supreme Court affirmed. 22 Wash.2d 146, 154 P.2d 801. Appellant in each of these courts assailed the statute as applied, as a violation of the due process clause of the Fourteenth Amendment, and as imposing a constitutionally prohibited burden on interstate commerce. The cause comes here on appeal under § 237 (a) of the Judicial Code, 28 U.S.C. § 344 (a), appellant assigning as error that the challenged statutes as applied infringe the due process clause of the Fourteenth Amendment and the commerce clause.

The facts as found by the appeal tribunal and accepted by the state Superior Court and Supreme Court, are not in dispute. Appellant is a Delaware corporation, having its principal place of business in St. Louis, Missouri, and is engaged in the manufacture and sale of shoes and other footwear. It maintains places of business in several states, other than Washington, at which its manufacturing is carried on and from which its merchandise is distributed interstate through several sales units or branches located outside the State of Washington.

Appellant has no office in Washington and makes no contracts either for sale or purchase of merchandise there. It maintains no stock of merchandise in that state and makes there no deliveries of goods in intrastate commerce. During the years from 1937 to 1940, now in question, appellant employed eleven to thirteen salesmen under direct supervision and control of sales managers located in St. Louis. These salesmen resided in Washington; their principal activities were confined to that state; and they were compensated by commissions based upon the amount of their sales. The commissions for each year totaled more than $31,000. Appellant supplies its salesmen with a line of
314 samples, each consisting of one shoe of a pair, which *314 they display to prospective purchasers. On occasion they rent permanent sample rooms, for exhibiting samples, in business buildings, or rent rooms in hotels or business buildings temporarily for that purpose. The cost of such rentals is reimbursed by appellant.

The authority of the salesmen is limited to exhibiting their samples and soliciting orders from prospective buyers, at prices and on terms fixed by appellant. The salesmen transmit the orders to appellant's office in St. Louis for acceptance or rejection, and when accepted the merchandise for filling the orders is shipped f.o.b. from points outside Washington to the purchasers within the state. All the merchandise shipped into Washington is invoiced at the place of shipment from which collections are made. No salesman has authority to enter into contracts or to make collections.

The Supreme Court of Washington was of opinion that the regular and systematic solicitation of orders in the state by appellant's salesmen, resulting in a continuous flow of appellant's product into the state, was sufficient to constitute doing business in the state so as to make appellant amenable to suit in its courts. But it was also of opinion that there were sufficient additional activities shown to bring the case within the rule frequently stated, that solicitation within a state by the agents of a foreign corporation plus some additional activities there are sufficient to render the corporation amenable to suit brought in the courts of the state to enforce an obligation arising out of its activities there. *International Harvester Co. v. Kentucky*, 234 U.S. 579, 587; *People's Tobacco Co. v. American Tobacco Co.*, 246 U.S. 79, 87; *Frene v. Louisville Cement Co.*, 77 U.S. App. D.C. 129, 134 F.2d 511, 516. The court found such additional activities in the salesmen's display of samples sometimes in permanent display rooms, and the salesmen's
315 residence within the state, continued over a period of years, all resulting in a *315 substantial volume of merchandise regularly shipped by appellant to purchasers within the state. The court also held that the statute as applied did not invade the constitutional power of Congress to regulate interstate commerce and did not impose a prohibited burden on such commerce.

Appellant's argument, renewed here, that the statute imposes an unconstitutional burden on interstate commerce need not detain us. For 53 Stat. 1391, 26 U.S.C. § 1606 (a) provides that "No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate or foreign commerce, or that the State law does not distinguish between employees engaged in interstate or foreign commerce and those engaged in intrastate commerce." It is no longer debatable that Congress, in the exercise of the commerce power, may authorize the states, in specified ways, to regulate interstate commerce or impose burdens upon it. *Kentucky Whip & Collar Co. v. Illinois Central R. Co.*, 299 U.S. 334; *Perkins v. Pennsylvania*, 314 U.S. 586; *Standard Dredging Corp. v. Murphy*, 319 U.S. 306, 308; *Hooven & Allison Co. v. Evatt*, 324 U.S. 652, 679; *Southern Pacific Co. v. Arizona*, 325 U.S. 761, 769.

Appellant also insists that its activities within the state were not sufficient to manifest its "presence" there and that in its absence the state courts were without jurisdiction, that consequently it was a denial of due process for the state to subject appellant to suit. It refers to those cases in which it was said that the mere solicitation of orders for the purchase of goods within a state, to be accepted without the state and filled by shipment of the purchased goods interstate, does not render the corporation seller amenable to suit within the state. See Green v. Chicago, B. & Q.R. Co., 205 U.S. 530, 533; International Harvester Co. v. Kentucky, supra, 586-587; Philadelphia
316 & Reading R. Co. v. McKibbin, 243 U.S. 264, 266; People's Tobacco Co. v. American Tobacco Co., supra, 87. And appellant further argues that since it was not present within the state, it is a denial of due process to subject it to taxation or other money exaction. It thus denies the power of the state to lay the tax or to subject appellant to a suit for its collection.

Historically the jurisdiction of courts to render judgment *in personam* is grounded on their de facto power over the defendant's person. Hence his presence within the territorial jurisdiction of a court was prerequisite to its rendition of a judgment personally binding him. Pennoyer v. Neff, 95 U.S. 714, 733. But now that the *capias ad respondendum* has given way to personal service of summons or other form of notice, due process requires only that in order to subject a defendant to a judgment *in personam*, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice." Milliken v. Meyer, 311 U.S. 457, 463. See Holmes, J., in McDonald v. Mabee, 243 U.S. 90, 91. Compare Hoopeston Canning Co. v. Cullen, 318 U.S. 313, 316, 319. See Blackmer v. United States, 284 U.S. 421; Hess v. Pawloski, 274 U.S. 352; Young v. Masci, 289 U.S. 253.

Since the corporate personality is a fiction, although a fiction intended to be acted upon as though it were a fact, Klein v. Board of Supervisors, 282 U.S. 19, 24, it is clear that unlike an individual its "presence" without, as well as within, the state of its origin can be manifested only by activities carried on in its behalf by those who are authorized to act for it. To say that the corporation is so far "present" there as to satisfy due process requirements, for purposes of taxation or the maintenance of suits against it in the courts of the state, is to beg the question to be decided. For the terms
317 "present" or "presence" are *317 used merely to symbolize those activities of the corporation's agent within the state which courts will deem to be sufficient to satisfy the demands of due process. L. Hand, J., in Hutchinson v. Chase & Gilbert, 45 F.2d 139, 141. Those demands may be met by such contacts of the corporation with the state of the forum as make it reasonable, in the context of our federal system of government, to require the corporation to defend the particular suit which is brought there. An "estimate of the inconveniences" which would result to the corporation from a trial away from its "home" or principal place of business is relevant in this connection. Hutchinson v. Chase & Gilbert, supra, 141.

"Presence" in the state in this sense has never been doubted when the activities of the corporation there have not only been continuous and systematic, but also give rise to the liabilities sued on, even though no consent to be sued or authorization to an agent to accept service of process has been given. St. Clair v. Cox, 106 U.S. 350, 355; Connecticut Mutual Co. v. Spratley, 172 U.S. 602, 610-611; Pennsylvania Lumbermen's Ins. Co. v. Meyer, 197 U.S. 407, 414-415; Commercial Mutual Co. v. Davis, 213 U.S. 245, 255-256; International Harvester Co. v. Kentucky, supra; cf. St. Louis S.W.R. Co. v. Alexander, 227 U.S. 218. Conversely it has been generally recognized that the casual presence of the corporate agent or even his conduct of single or isolated items of activities in a state in the corporation's behalf are not enough to subject it to suit on causes of action unconnected with the activities there. St. Clair v. Cox, supra, 359, 360; Old Wayne Life Assn. v. McDonough, 204 U.S. 8, 21; Frene v. Louisville Cement Co., supra, 515, and cases cited. To require the corporation in such circumstances to defend the suit away from its home or other jurisdiction where it carries on more substantial activities has been thought to lay too great and unreasonable a burden on the corporation to comport with due process.

318 *318 While it has been held, in cases on which appellant relies, that continuous activity of some sorts within a state is not enough to support the demand that the corporation be amenable to suits unrelated to that activity, Old Wayne Life Assn. v. McDonough, supra; Green v. Chicago, B. & Q.R. Co., supra; Simon v. Southern R. Co., 236 U.S. 115; People's Tobacco Co. v. American Tobacco Co., supra; cf. Davis v. Farmers Co-operative Co., 262 U.S. 312, 317, there have been instances in which the continuous corporate operations within a state were thought so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those

activities. See Missouri, K. & T.R. Co. v. Reynolds, 255 U.S. 565; Tauza v. Susquehanna Coal Co., 220 N.Y. 259, 115 N.E. 915; cf. St. Louis S.W.R. Co. v. Alexander, supra.

Finally, although the commission of some single or occasional acts of the corporate agent in a state sufficient to impose an obligation or liability on the corporation has not been thought to confer upon the state authority to enforce it, Rosenberg Bros. & Co. v. Curtis Brown Co., 260 U.S. 516, other such acts, because of their nature and quality and the circumstances of their commission, may be deemed sufficient to render the corporation liable to suit. Cf. Kane v. New Jersey, 242 U.S. 160; Hess v. Pawloski, supra; Young v. Masci, supra. True, some of the decisions holding the corporation amenable to suit have been supported by resort to the legal fiction that it has given its consent to service and suit, consent being implied from its presence in the state through the acts of its authorized agents. Lafayette Insurance Co. v. French, 18 How. 404, 407; St. Clair v. Cox, supra, 356; Commercial Mutual Co. v. Davis, supra, 254; Washington v. Superior Court, 289 U.S. 361, 364-365. But more realistically it may be said that those authorized acts
319 were of such a nature as to justify the fiction. Smolik v. Philadelphia & *319 Reading Co., 222 F. 148, 151, Henderson, The Position of Foreign Corporations in American Constitutional Law, 94-95.

It is evident that the criteria by which we mark the boundary line between those activities which justify the subjection of a corporation to suit, and those which do not, cannot be simply mechanical or quantitative. The test is not merely, as has sometimes been suggested, whether the activity, which the corporation has seen fit to procure through its agents in another state, is a little more or a little less. St. Louis S.W.R. Co. v. Alexander, supra, 228; International Harvester Co. v. Kentucky, supra, 587. Whether due process is satisfied must depend rather upon the quality and nature of the activity in relation to the fair and orderly administration of the laws which it was the purpose of the due process clause to insure. That clause does not contemplate that a state may make binding a judgment *in personam* against an individual or corporate defendant with which the state has no contacts, ties, or relations. Cf. Pennoyer v. Neff, supra; Minnesota Commercial Assn. v. Benn, 261 U.S. 140.

But to the extent that a corporation exercises the privilege of conducting activities within a state, it enjoys the benefits and protection of the laws of that state. The exercise of that privilege 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. Compare International Harvester Co. v. Kentucky, supra, with Green v. Chicago, B. & Q.R. Co., supra, and People's Tobacco Co. v. American Tobacco Co., supra. Compare Connecticut Mutual Co. v. Spratley, supra, 619, 620 and Commercial Mutual Co. v. Davis, supra, with Old Wayne Life Assn. v. McDonough, supra. See 29 Columbia Law Review, 187-195.

320 *320 Applying these standards, the activities carried on in behalf of appellant in the State of Washington were neither irregular nor casual. They were systematic and continuous throughout the years in question. They resulted in a large volume of interstate business, in the course of which appellant received the benefits and protection of the laws of the state, including the right to resort to the courts for the enforcement of its rights. The obligation which is here sued upon arose out of those very activities. It is evident that these operations establish sufficient contacts or ties with the state of the forum to make it reasonable and just, according to our traditional conception of fair play and substantial justice, to permit the state to enforce the obligations which appellant has incurred there. Hence we cannot say that the maintenance of the present suit in the State of Washington involves an unreasonable or undue procedure.

We are likewise unable to conclude that the service of the process within the state upon an agent whose activities establish appellant's "presence" there was not sufficient notice of the suit, or that the suit was so unrelated to those activities as to make the agent an inappropriate vehicle for communicating the notice. It is enough that appellant has established such contacts with the state that the particular form of substituted service adopted there gives reasonable assurance that the notice will be actual. Connecticut Mutual Co. v. Spratley, supra, 618, 619; Board of Trade v. Hammond Elevator Co., 198 U.S. 424, 437-438; Commercial Mutual Co. v. Davis, supra, 254-255. Cf. Riverside Mills v. Menefee, 237 U.S. 189, 194, 195; see Knowles v. Gaslight & Coke Co., 19 Wall. 58, 61; McDonald v. Mabee, supra; Milliken v. Meyer, supra. Nor can we say that the mailing of the notice of suit to appellant by registered mail at its home office was not reasonably calculated to apprise appellant of the suit. Compare Hess v. Pawloski, supra, with McDonald

321 v. Mabee, supra, *321 92, and Wuchter v. Pizzutti, 276 U.S. 13, 19, 24; cf. Becquel v. MacCarthy, 2 B. & Ad. 951; Maubourquet v. Wyse, 1 Ir. Rep. C.L. 471. See Washington v. Superior Court, supra, 365.

Only a word need be said of appellant's liability for the demanded contributions to the state unemployment fund. The Supreme Court of Washington, construing and applying the statute, has held that it imposes a tax on the privilege of employing appellant's salesmen within the state measured by a percentage of the wages, here the commissions payable to the salesmen. This construction we accept for purposes of determining the constitutional validity of the statute. The right to employ labor has been deemed an appropriate subject of taxation in this country and England, both before and since the adoption of the Constitution. Steward Machine Co. v. Davis, 301 U.S. 548, 579, *et seq.* And such a tax imposed upon the employer for unemployment benefits is within the constitutional power of the states. Carmichael v. Southern Coal Co., 301 U.S. 495, 508, *et seq.*

Appellant having rendered itself amenable to suit upon obligations arising out of the activities of its salesmen in Washington, the state may maintain the present suit *in personam* to collect the tax laid upon the exercise of the privilege of employing appellant's salesmen within the state. For Washington has made one of those activities, which taken together establish appellant's "presence" there for purposes of suit, the taxable event by which the state brings appellant within the reach of its taxing power. The state thus has constitutional power to lay the tax and to subject appellant to a suit to recover it. The activities which establish its "presence" subject it alike to taxation by the state and to suit to recover the tax. Equitable Life Society v. Pennsylvania, 238 U.S. 143, 146; cf. International Harvester Co. v.
322 Department of Taxation, 322 U.S. 435, 442, *et seq.*; Hoopeston Canning Co. v. Cullen, *322 supra, 316-319; see General Trading Co. v. Tax Comm'n, 322 U.S. 335.

*Affirmed.*

MR. JUSTICE JACKSON took no part in the consideration or decision of this case.

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MR. JUSTICE BLACK delivered the following opinion.

Congress, pursuant to its constitutional power to regulate commerce, has expressly provided that a State shall not be prohibited from levying the kind of unemployment compensation tax here challenged. 26 U.S.C. 1600. We have twice decided that this Congressional consent is an adequate answer to a claim that imposition of the tax violates the Commerce Clause. Perkins v. Pennsylvania, 314 U.S. 586, affirming 342 Pa. 529; Standard Dredging Corp. v. Murphy, 319 U.S. 306, 308. Two determinations by this Court of an issue so palpably without merit are sufficient. Consequently that part of this appeal which again seeks to raise the question seems so patently frivolous as to make the case a fit candidate for dismissal. Fay v. Crozer, 217 U.S. 455. Nor is the further ground advanced on this appeal, that the State of Washington has denied appellant due process of law, any less devoid of substance. It is my view, therefore, that we should dismiss the appeal as unsubstantial,[1] Seaboard Air Line R. Co. v. Watson, 287 U.S. 86, 90, 92, and decline the invitation to formulate broad rules as to the meaning of due process, which here would amount to deciding a constitutional question "in advance of the necessity for its decision." Federation of Labor v. McAdory, 325 U.S. 450, 461.

323 *323 Certainly appellant cannot in the light of our past decisions meritoriously claim that notice by registered mail and by personal service on its sales solicitors in Washington did not meet the requirements of procedural due process. And the due process clause is not brought in issue any more by appellant's further conceptualistic contention that Washington could not levy a tax or bring suit against the corporation because it did not honor that State with its mystical "presence." For it is unthinkable that the vague due process clause was ever intended to prohibit a State from regulating or taxing a business carried on within its boundaries simply because this is done by agents of a corporation organized and having its headquarters elsewhere. To read this into the due process clause would in fact result in depriving a State's citizens of due process by taking from the State the power to protect them in their business dealings within its boundaries with representatives of a foreign corporation. Nothing could be more irrational or more designed to defeat the function of our federative system of government. Certainly a State, at the very least, has power to tax and sue those dealing with its citizens within its boundaries, as we have held before. Hoopeston Canning Co. v.

*Cullen*, 318 U.S. 313. Were the Court to follow this principle, it would provide a workable standard for cases where, as here, no other questions are involved. The Court has not chosen to do so, but instead has engaged in an unnecessary discussion in the course of which it has announced vague Constitutional criteria applied for the first time to the issue before us. It has thus introduced uncertain elements confusing the simple pattern and tending to curtail the exercise of State powers to an extent not justified by the Constitution.

The criteria adopted insofar as they can be identified read as follows: Due Process does permit State courts to
324 "enforce the obligations which appellant has incurred" if *324 it be found "reasonable and just according to our traditional conception of fair play and substantial justice." And this in turn means that we will "permit" the State to act if upon "an 'estimate of the inconveniences' which would result to the corporation from a trial away from its 'home' or principal place of business," we conclude that it is "reasonable" to subject it to suit in a State where it is doing business.

It is true that this Court did use the terms "fair play" and "substantial justice" in explaining the philosophy underlying the holding that it could not be "due process of law" to render a personal judgment against a defendant without notice and an opportunity to be heard. *Milliken v. Meyer*, 311 U.S. 457. In *McDonald v. Mabee*, 243 U.S. 90, 91, cited in the *Milliken* case, Mr. Justice Holmes, speaking for the Court, warned against judicial curtailment of this opportunity to be heard and referred to such a curtailment as a denial of "fair play," which even the common law would have deemed "contrary to natural justice." And previous cases had indicated that the ancient rule against judgments without notice had stemmed from "natural justice" concepts. These cases, while giving additional reasons why notice under particular circumstances is inadequate, did not mean thereby that all legislative enactments which this Court might deem to be contrary to natural justice ought to be held invalid under the due process clause. None of the cases purport to support or could support a holding that a State can tax and sue corporations only if its action comports with this Court's notions of "natural justice." I should have thought the Tenth Amendment settled that.

I believe that the Federal Constitution leaves to each State, without any "ifs" or "buts," a power to tax and to open the doors of its courts for its citizens to sue corporations whose agents do business in those States. Believing that the
325 Constitution gave the States that power, I think it a judicial deprivation to condition its exercise upon this *325 Court's notion of "fair play," however appealing that term may be. Nor can I stretch the meaning of due process so far as to authorize this Court to deprive a State of the right to afford judicial protection to its citizens on the ground that it would be more "convenient" for the corporation to be sued somewhere else.

There is a strong emotional appeal in the words "fair play," "justice," and "reasonableness." But they were not chosen by those who wrote the original Constitution or the Fourteenth Amendment as a measuring rod for this Court to use in invalidating State or Federal laws passed by elected legislative representatives. No one, not even those who most feared a democratic government, ever formally proposed that courts should be given power to invalidate legislation under any such elastic standards. Express prohibitions against certain types of legislation are found in the Constitution, and under the long-settled practice, courts invalidate laws found to conflict with them. This requires interpretation, and interpretation, it is true, may result in extension of the Constitution's purpose. But that is no reason for reading the due process clause so as to restrict a State's power to tax and sue those whose activities affect persons and businesses within the State, provided proper service can be had. Superimposing the natural justice concept on the Constitution's specific prohibitions could operate as a drastic abridgment of democratic safeguards they
326 embody, such as freedom of speech, press and religion,[2] and the right to counsel. This *326 has already happened. *Betts v. Brady*, 316 U.S. 455. Compare *Feldman v. United States*, 322 U.S. 487, 494-503. For application of this natural law concept, whether under the terms "reasonableness," "justice," or "fair play," makes judges the supreme arbiters of the country's laws and practices. *Polk Co. v. Glover*, 305 U.S. 5, 17-18; *Federal Power Commission v. Natural Gas Pipeline Co.*, 315 U.S. 575, 600, n. 4. This result, I believe, alters the form of government our Constitution provides. I cannot agree.

True, the State's power is here upheld. But the rule announced means that tomorrow's judgment may strike down a State or Federal enactment on the ground that it does not conform to this Court's idea of natural justice. I therefore find myself moved by the same fears that caused Mr. Justice Holmes to say in 1930:

"I have not yet adequately expressed the more than anxiety that I feel at the ever increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable." *Baldwin v. Missouri*, 281 U.S. 586, 595.

[1] This Court has on several occasions pointed out the undesirable consequences of a failure to dismiss frivolous appeals. *Salinger v. United States*, 272 U.S. 542, 544; *United Surety Co. v. American Fruit Product Co.*, 238 U.S. 140; *De Bearn v. Safe Deposit & Trust Co.*, 233 U.S. 24, 33-34.

[2] These First Amendment liberties — freedom of speech, press and religion — provide a graphic illustration of the potential restrictive capacity of a rule under which they are protected at a particular time only because the Court, as then constituted, believes them to be a requirement of fundamental justice. Consequently, under the same rule, another Court, with a different belief as to fundamental justice, could, at least as against State action, completely or partially withdraw Constitutional protection from these basic freedoms, just as though the First Amendment had never been written.

176 N.E.2d 761

22 Ill.2d 432

Phyllis GRAY, Appellant,
v.
AMERICAN RADIATOR & STANDARD SANITARY CORPORATION et al., Appellees.

No. 35872.

Supreme Court of Illinois.

June 14, 1961.
Rehearing Denied Sept. 20, 1961.

[22 Ill.2d 433]

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Victor N. Cardosi, Kankakee, and Leo S. Karlin and Daniel Karlin, Chicago (Leo S. Karlin, and Alan D. Katz, Chicago, of counsel), for appellant Phyllis Gray.

Baker, [22 Ill.2d 434] McKenzie & Hightower, Chicago (John C. McKenzie and Francis D. Morrissey, Chicago, of counsel), for appellant American Radiator Standard Corp.

Lord, Bissel & Brook, Chicago (Jay M. Smyser and William P. Butler, Chicago, of counsel), for appellees.

KLINGBIEL, Justice.

Phyllis Gray appeals from a judgment of the circuit court of Cook County dismissing her action for damages. The issues are concerned with the construction and validity of our statute providing for substituted service of process on nonresidents. Since a constitutional question is involved, the appeal is direct to this court.

The suit was brought against the Titan Valve Manufacturing Company and others, on the ground that a certain water heater had exploded and injured the plaintiff. The complaint charges, inter alia, that the Titan company, a foreign corporation, had negligently constructed the safety valve; and that the injuries were suffered as a proximate result thereof. Summons issued and was duly served on Titan's registered agent in Cleveland, Ohio. The corporation appeared specially, filing a motion to quash on the ground that it had not committed a tortious act in Illinois. Its affidavit stated that it does no business here; that it has no agent physically present in Illinois; and that it sells the completed valves to defendant, American Radiator & Standard Sanitary Corporation, outside Illinois. The American Radiator & Standard Sanitary Corporation (also made a defendant) filed an answer in which it set up a cross claim against Titan, alleging that Titan made certain warranties to American Radiator, and that if the latter is held liable to the plaintiff it should be indemnified and held harmless by Titan. The court granted Titan's motion, dismissing both the complaint and the cross claim.

[22 Ill.2d 435] Section 16 of the Civil Practice Act provides that summons may be personally served upon any party outside the State; and that as to nonresidents who have submitted to the jurisdiction of our courts, such service has the force and effect of personal service within Illinois. (Ill.Rev.Stat.1959, chap. 110, par. 16.) Under section 17(1)(b) a nonresident who, either in person or through an agent, commits a tortious act within this State submits to jurisdiction. (Ill.Rev.Stat.1959, chap. 110, par. 17.) The questions in this case are (1) whether a tortious act was committed here, within the meaning of the statute, despite the fact that the Titan corporation

had no agent in Illinois; and (2) whether the statute, if so construed, violates due process of law.

The first aspect to which we must direct our attention is one of statutory construction. Under section 17(1)(b) jurisdiction is predicated on the committing of a tortious act in this State. It is not disputed, for the purpose of this appeal, that a tortious act was committed. The issue depends on whether it was committed in Illinois, so as to warrant the assertion of personal jurisdiction by service of summons in Ohio.

The wrong in the case at bar did not originate in the conduct of a servant physically present here, but arose instead from acts performed at the place of manufacture. Only the consequences occurred in Illinois. It is well established, however, that in law the place of a wrong is where the last event takes place which is necessary

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to render the actor liable. Restatement, Conflict of Laws, sec. 377. A second indication that the place of injury is the determining factor is found in rules governing the time within which an actior must be brought. In applying statutes of limitation our court has computed the period from the time when the injury is done. Madison v. Wedron Silica Co., 352 Ill. 60, 184 N.E. 901; Leroy v. City of Springfield, 81 Ill. 114. We think it is clear that the alleged negligence in manufacturing the valve cannot be separated from the resulting injury; [22 Ill.2d 436] and that for present purposes, like those of liability and limitations, the tort was committed in Illinois.

Titan seeks to avoid this result by arguing that instead of using the word 'tort,' the legislature employed the term 'tortious act'; and that the latter refers only to the act or conduct, separate and apart from any consequences thereof. We cannot accept the argument. To be tortious an act mus cause injury. The concept of injury is an inseparable part of the phrase. In determining legislative intention courts will read words in their ordinary and popularly understood sense. Illinois State Toll Highway Comm. v. Einfeldt, 12 Ill.2d 499, 147 N.E.2d 53; Farrand Coal Co. v. Halpin, 10 Ill.2d 507, 140 N.E.2d 698. We think the intent should be determined less from technicalities of definition than from considerations of general purpose and effect. To adopt the criteria urged by defendant would tend to promote litigation over extraneous issues concerning the elements of a tort and the territorial incidence of each, whereas the test should be concerned more with those substantial elements of convenience and justice presumably contemplated by the legislature. As we observed in Nelson v. Miller, 11 Ill.2d 378, 143 N.E.2d 673, the statute contemplates the exertion of jurisdiction over nonresident defendants to the extent permitted by the due-process clause.

The Titan company contends that if the statute is applied so as to confer jurisdiction in this case it violates the requirement of due process of law. The precise constitutional question thus presented has not heretofore been considered by this court. In the Nelson case the validity of the statute was upheld in an action against a nonresident whose employee, while physically present in Illinois, allegedly caused the injury. The ratio decidendi was that Illinois has an interest in providing relief for injuries caused by persons having 'substantial contacts within the State.' A standard of fairness or reasonableness was announced, within the limitation that defendant be given a realistic opportunity to appear and be heard. The case at bar concerns the extent [22 Ill.2d 437] to which due process permits substituted service where defendant had no agent or employee in the State of the forum.

Under modern doctrine the power of a State court to enter a binding judgment against one not served with process within the State depends upon two questions: first, whether he has certain minimum contacts with the State (see International Shoe Co. v. State of Washington, 326 U.S. 310, 316, 66 S.Ct. 154, 90 N.Ed. 95, 102), and second, whether there has been a reasonable method of notification. See International Shoe Co. v. State of Washington, 326 U.S. 310, 320, 66 S.Ct. 154, 90 L.Ed. 95, 104-105; Nelson v. Miller, 11 Ill.2d 378, 390, 143 N.E.2d 673. In the case at bar there is no contention that section 16 provides for inadequate notice or that its provisions were not followed. Defendant's argument on constitutionality is confined to the

proposition that applying section 17(1)(b), where the injury is defendant's only contact with the State, would exceed the limits of due process.

A proper determination of the question presented requires analysis of those cases which have dealt with the quantum of contact sufficient to warrant jurisdiction. Since the decision in Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565, the power of a State to exert jurisdiction over nonresidents has been greatly expanded, particularly

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with respect to foreign corporations. See Annotations, 2 L.Ed.2d 1664; 94 L.Ed. 1167. International Shoe Co. v. State of Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95, was a proceeding to collect unpaid contributions to the unemployment compensation fund of the State of Washington. A statute purported to authorize such proceedings, where the employer was not found within the State, by sending notice by registered mail to its last known address. The defendant foreign corporation, a manufacturer of shoes, employed certain salesmen who resided in Washington and who solicited orders there. In holding that maintenance of the suit did not violate due process the court pointed out that the activities of the corporation in Washington were not only continuous and [22 Ill.2d 438] systematic but also gave rise to the liability sued on. It was observed that such operations, which resulted in a large volume of business, established 'sufficient contacts or ties with the state of the forum to make it reasonable and just according to our traditional conception of fair play and substantial justice to permit the state to enforce the obligations which appellant has incurred there.' 326 U.S. at page 320, 66 S.Ct. at page 160, 90 L.Ed. at page 104.

Where the business done by a foreign corporation in the State of the forum is of a sufficiently substantial nature, it has been held permissible for the State to entertain a suit against it even though the cause of action arose from activities entirely distinct from its conduct within the State. Perkins v. Benguet Consolidated Mining Co., 342 U.S. 437, 72 S.Ct. 413, 96 L.Ed. 485. But where such business or other activity is not substantial, the particular act or transaction having no connection with the State of the forum, the requirement of 'contact' is not satisfied. Hanson v. Denckla, 357 U.S. 235, 253, 78 S.Ct. 1228, 2 L.Ed.2d 1283, 1298.

In the case at bar the defendant's only contact with this State is found in the fact that a product manufactured in Ohio was incorporated in Pennsylvania, into a hot water heater which in the course of commerce was sold to an Illinois consumer. The record fails to disclose whether defendant has done any other business in Illinois, either directly or indirectly; and it is argued, in reliance on the International Shoe test, that since a course of business here has not been shown there are no 'minimum contacts' sufficient to support jurisdiction. We do not think, however, that doing a given volume of business is the only way in which a nonresident can form the required connection with this State. Since the International Shoe case was decided the requirements for jurisdiction have been further relaxed, so that at the present time it is sufficient if the act or transaction itself has a substantial connection with the State of the forum.

[22 Ill.2d 439] In McGee v. International Life Insurance Co., 355 U.S. 220, 78 S.Ct. 199, 201, 2 L.Ed.2d 223, suit was brought in California against a foreign insurance company on a policy issued to a resident of California. The defendant was not served with process in that State but was notified by registered mail at its place of business in Texas, pursuant to a statute permitting such service in suits on insurance contracts. The contract in question was delivered in California, the premiums were mailed from there and the insured was a resident of that State when he died, but defendant had no office or agent in California nor did it solicit any business there apart from the policy sued on. After referring briefly to the International Shoe case the court held that 'it is sufficient for purposes of due process that the suit was based on a contract which had substantial connection' with California. (Emphasis supplied.)

In Smyth v. Twin State Improvement Corp., 116 Vt. 569, 80 A.2d 664, 666, 25 A.L.R.2d 1193, a Vermont resident engaged a foreign corporation to re-roof his house. While doing the work the

corporation negligently damaged the building, and an action was brought for damages. Service of process was made on the Secretary of State

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and a copy was forwarded to defendant by registered mail at its principal place of business in Massachusetts. A Vermont statute provided for such substituted service on foreign corporations committing a tort in Vermont against a resident of Vermont. In holding that the statute affords due process of law, the court discussed the principal authorities on the question and concluded, inter alia, that 'continuous activity within the state is not necessary as a prerequisite to jurisdiction.'

In Nelson v. Miller, 11 Ill.2d 378, 143 N.E.2d 673, the commission of a single tort within this State was held sufficient to sustain jurisdiction under the present statute. The defendant in that case, a resident of Wisconsin, was engaged in the business of selling appliances. It was alleged that in the process of delivering a stove in Illinois, an employee of the defendant [22 Ill.2d 440] negligently caused injury to the plaintiff. In holding that the defendant was not denied due process by being required to defend in Illinois, this court observed at page 390 of 11 Ill.2d, at page 680 of 143 N.E.2d: 'The defendant sent his employee into Illinois in the advancement of his own interests. While he was here, the employee and the defendant enjoyed the benefit and protection of the laws of Illinois, including the right to resort to our courts. In the course of his stay here the employee performed acts that gave rise to an injury. The law of Illinois will govern the substantive rights and duties stemming from the incident. Witnesses, other than the defendant's employee, are likely to be found here, and not in Wisconsin. In such circumstances, it is not unreasonable to require the defendant to make his defense here.'

Whether the type of activity conducted within the State is adequate to satisfy the requirement depends upon the facts in the particular case. Perkins v. Benguet Consolidated Mining Co., 342 U.S. 437, 445, 72 S.Ct. 413, 96 L.Ed. 485, 492. The question cannot be answered by applying a mechanical formula or rule of thumb but by ascertaining what is fair and reasonable in the circumstances. In the application of this flexible test the relevant inquiry is whether defendant engaged in some act or conduct by which he may be said to have invoked the benefits and protections of the law of the forum. See Hanson v. Denckla, 357 U.S. 235, 253, 78 S.Ct. 1228, 2 L.Ed.2d 1283, 1298; International Shoe Co. v. State of Washington, 326 U.S. 310, 319, 66 S.Ct. 154, 90 L.Ed. 95, 104. The relevant decisions since Pennoyer v. Neff show a development of the concept of personal jurisdiction from one which requires service of process within the State to one which is satisfied either if the act or transaction sued on occurs there or if defendant has engaged in a sufficiently substantial course of activity in the State, provided always that reasonable notice and opportunity to be heard are afforded. As the Vermont court recognized the Smyth case, the [22 Ill.2d 441] trend in defining due process of law is away from the emphasis on territorial limitations and toward emphasis on providing adequate notice and opportunity to be heard: from the court with immediate power over the defendant, toward the court in which both parties can most conveniently settle their dispute.

In the McGee case the court commented on the trend toward expanding State jurisdiction over nonresidents, observing that: 'In part this is attributable to the fundamental transformation of our national economy over the years. Today many commercial transactions touch two or more States and may involve parties separated by the full continent. With this increasing nationalization of commerce has come a great increase in the amount of business conducted by mail across state lines. At the same time modern transportation and communication have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity.'

It is true that courts cannot 'assume that this trend heralds the eventual demise of all restrictions on the personal jurisdiction of

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state courts.' Hanson v. Denckla, 357 U.S. 235, 251, 78 S.Ct. 1228 1238, 2 L.Ed.2d 1283, 1296. An orderly and fair administration of the law throughout the nation requires protection against being compelled to answer claims brought in distant States with which the defendant has little or no association and in which he would be faced with an undue burden or disadvantage in making his defense. It must be remembered that lawsuits can be brought on frivolous demands or groundless claims as well as on legitimate ones, and that procedural rules must be designed and appraised in the light of what is fair and just to both sides in the dispute. Interpretations of basic rights which consider only those of a claimant are not consonant with the fundamental requisites of due process.

In the case at bar defendant does not claim that the [22 Ill.2d 442] present use of its product in Illinois is an isolated instance. While the record does not disclose the volume of Titan's business or the territory in which appliances incorporating its valves are marketed, it is a reasonable inference that its commercial transactions, like those of other manufacturers, result in substantial use and consumption in this State. To the extent that its business may be directly affected by transactions occurring here it enjoys benefits from the laws of this State, and it has undoubtedly benefited, to a degree, from the protection which our law has given to the marketing of hot water heaters containing its valves. Where the alleged liability arises, as in this case, from the manufacture of products presumably sold in contemplation of use here, it should not matter that the purchase was made from an independent middleman or that someone other than the defendant shipped the product into this State.

With the increasing specialization of commercial activity and the growing interdependence of business enterprises it is seldom that a manufacturer deals directly with consumers in other States. The fact that the benefit he derives from its laws is an indirect one, however, does not make it any the less essential to the conduct of his business; and it is not unreasonable, where a cause of action arises from alleged defects in his product, to say that the use of such products in the ordinary course of commerce is sufficient contact with this State to justify a requirement that he defend here.

As a general proposition, if a corporation elects to sell its products for ultimate use in another State, it is not unjust to hold it answerable there for any damage caused by defects in those products. Advanced means of distribution and other commercial activity have made possible these modern methods of doing business, and have largely effaced the economic significance of State lines. By the same token, today's facilities for transportation and communication have removed much of the difficulty and inconvenience [22 Ill.2d 443] formerly encountered in defending lawsuits brought in other States.

Unless they are applied in recognition of the changes brought about by technological and economic progress, jurisdictional concepts which may have been reasonable enough in a simpler economy lose their relation to reality, and injustice rather than justice is promoted. Our unchanging principles of justice, whether procedural or substantive in nature, should be scrupulously observed by the courts. But the rules of law which grow and develop within those principles must do so in the light of the facts of economic life as it is lived today. Otherwise the need for adaptation may become so great that basic rights are sacrificed in the name of reform, and the principles themselves become impaired.

The principles of due process relevant to the issue in this case support jurisdiction in the court where both parties can most conveniently settle their dispute. The facts show that the plaintiff, an Illinois resident, was injured in Illinois. The law of Illinois will govern the substantive questions, and witnesses on the issues of injury,

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damages and other elements relating to the occurrence are most likely to be found here. Under such circumstances the courts of the place of injury usually provide the most convenient forum for trial. See Watson v. Employers Liability Assurance Corp., 348 U.S. 66, 72, 75 S.Ct. 166, 99

L.Ed. 74, 82. In Travelers Health Association v. Commonwealth of Virginia, 339 U.S. 643, 70 S.Ct. 927, 94 L.Ed. 1154, a Nebraska insurance corporation was held subject to the jurisdiction of a Virginia regulatory commission although it had no paid agents within the State and its only contact there was a mail-order business operated from its Omaha office. The court observed, by way of dictum, that 'suits on alleged losses can be more conveniently tried in Virginia where witnesses would most likely live and where claims for losses would presumably be investigated. Such factors have been given great weight in applying the doctrine[22 Ill.2d 444] of forum non conveniens. See Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 508, 67 S.Ct. 839, 843, 91 L.Ed. 1055, 1062. And prior decisions of this Court have referred to the unwisdom, unfairness and injustice of permitting policyholders to seek redress only in some distant state where the insurer is incorporated. The Due Process Clause does not forbid a state to protect its citizens from such injustice.' 339 U.S. at page 649, 70 S.Ct. at page 930, 94 L.Ed. 1161-1162. We think a similar conclusion must follow in the case at bar.

We are aware of decisions, cited by defendant, wherein the opposite result was reached on somewhat similar factual situations. See Erlanger Mills, Inc. v. Cohoes Fibre Mills, Inc., 4 Cir., 239 F.2d 502; Hellriegel v. Sears Roebuck & Co., D.C.N.D. .E.D., 157 F.Supp. 718; Johns v. Bay State Abrasive Products Co., D.C.D.Md., 89 F.Supp. 654. Little purpose can be served, however, by discussing such cases in detail, since the existence of sufficient 'contact' depends upon the particular facts in each case. In any event we think the better rule supports jurisdiction in cases of the present kind. We conclude accordingly that defendant's association with this State is sufficient to support the exercise of jurisdiction.

We construe section 17(1)(b) as providing for jurisdiction under the circumstances shown in this case, and we hold that as so construed the statute does not violate due process of law.

The trial court erred in quashing service of summons and in dismissing the complaint and cross claim. The judgment is reversed and the cause is remanded to the circuit court of Cook County, with directions to deny the motion to quash.

Reversed and remanded, with directions.

# Ohio Long-Arm Statute

*Ohio Rev. Code Ann. § 2307.382*

§ 2307.382. Personal jurisdiction

(A) 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 state;

(2) Contracting to supply services or goods in this state;

(3) Causing tortious injury by an act or omission in this state;

(4) Causing tortious injury in this state by an act or omission outside this state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(5) Causing injury in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when he might reasonably have expected such person to use, consume, or be affected by the goods in this state, provided that he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(6) Causing tortious injury in this state to any person by an act outside this state committed with the purpose of injuring persons, when he might reasonably have expected that some person would be injured thereby in this state;

(7) Causing tortious injury to any person by a criminal act, any element of which takes place in this state, which he commits or in the commission of which he is guilty of complicity.

(8) Having an interest in, using, or possessing real property in this state;

(9) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(B) For purposes of this section, a person who enters into an agreement, as a principal, with a sales representative for the solicitation of orders in this state is transacting business in this state. As used in this division, "principal" and "sales representative" have the same meanings as in section 1335.11 of the Revised Code.

(C) When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him.

**Mock Examination Question and Model Answer**
**Professor Hoffman**
**University of Houston Law Center**

Exam Number _____

Question No. I (50% of grade)
(75 Minutes)

David, born in New York City, went to the University of Houston Conrad N. Hilton College of Hotel and Restaurant Management. After graduating in 2000, he returned to New York and opened a deli on the Upper East Side. The deli was a big success, which he attributed to brilliant marketing, a tasty menu and to the unusual interior design of the store. The interior was specially designed by Polly, a New York interior decorator with lots of energy and "just the right touch." The unusual design was a kalidescope of colors, swirling around continuously from multiple beacons from the ceiling. The design captured the imagination and appetites of New York customers.

Having done well in New York, David invested $500,000 of his profits in residential real estate in Houston, in and around the University of Houston. Because the residential real estate market flourished, within a few years his real estate holdings increased to over five million dollars. All of these properties were single family residential units. Brimming with confidence (and cash), David decided that he could also do well by opening his New York deli in Houston, a city which in his view lacked any decent bagel, pastrami, liver and tomato sandwiches, and other delicious menu items. He decided to call a school chum, Mark, and suggest they go into business together. Mark was thrilled, particularly since he owned a building downtown and thought it the perfect locale for the deli idea. They agreed to enter into an arrangement where David would not own the building, but would share in the profits and losses of the business only.

On April 11, 2015, David flew to Houston and, with Mark, spent the next two weeks making all of the arrangements for opening, including obtaining a line of credit with Southwest Bank of Texas. When he returned to New York at the end of April, David called Polly and retained her to do the interior design for the Houston store. "Just do your thing for me in Houston," David instructed her. On May 1, 2015, he signed a contract, agreeing to pay her professional fee for services rendered. The next day Polly left on a flight to Houston. Over the next three months, she spent considerable time on the project. Approximately half of her time was spent in her New York office, and half in Houston. She made a total of four separate trips to Houston in connection with this project. Busy with running the New York store, David never made it to Houston until the store was complete, relying on Polly and Mark to ensure everything ran smoothly.

Finally, on July 11, the Houston store, with its wild color interior, opened for business. David, who only arrived in Houston on July 6 to see the store for the first time, was very concerned when he discovered that Polly followed the same design as in the New York store. He was worried that Houstonians would not like it.

Sadly, David's fears materialized. Houston customers did not flock to the store. Those that did expressed confusion, amusement, and even downright horror at the look of the new store. One elderly

woman, a native of the Bayou City, was heard to exclaim, "I cain't even see my food with all these darn lights swirlin' about." The store closed three months later, unable to meet revenue expectations. After he returned to New York, David was so upset with Polly that he told everyone he talked to that she was a fraud and that she never even earned an art degree from a legitimate school (his statement is untrue, however; she earned her art degree from New York University in 1997).

David was so upset with Polly that he blamed her for the failure and refused to pay her fee. Polly brought suit against David to recover not only on her contract but also for his defamatory remarks about her. She filed her action in state court in Texas (Harris County District Court). Pursuant to the Texas long arm statute, David was served by mail in New York. For purposes of this question, assume that service of process was effected correctly. David made a special appearance in Texas to object to the exercise of personal jurisdiction over him and moved to dismiss Polly's suit for lack of personal jurisdiction.

Assume the role of the trial judge in this case and analyze whether David's motion to dismiss for lack of personal jurisdiction should succeed or fail. In your answer, assume that the only enabling statute by which service of process was effected is Texas Civil Practice and Remedies Code, § 17.042. Finally, for purposes of answering this question, you are not expected to have any knowledge of any Texas case law interpreting § 17.042. You may make any assumptions that you deem appropriate, therefore, in the absence of any controlling case law in this area.

Texas Civil Practice & Remedies Code 17.042

In addition to other acts that may constitute doing business, a nonresident does business in this state if the nonresident:

(1) contracts by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in this state;

(2) commits a tort in whole or in part in this state; or

(3) recruits Texas residents, directly or through an intermediary located in this state, for employment inside or outside this state.

Texas Civil Practice & Remedies Code 17.043

In an action arising from a nonresident's business in this state, process may be served on the person in charge, at the time of service, of any business in which the nonresident is engaged in this state if the nonresident is not required by statute to designate or maintain a resident agent for service of process.

# SUPREME COURT OF THE UNITED STATES

No. 11-965

DAIMLER AG, PETITIONER *v.* BARBARA BAUMAN ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[January 14, 2014]

JUSTICE GINSBURG delivered the opinion of the Court.

I

In 2004, plaintiffs (respondents here) filed suit in the United States District Court for the Northern District of California, alleging that MB Argentina collaborated with Argentinian state security forces to kidnap, detain, torture, and kill plaintiffs and their relatives during the military dictatorship in place there from 1976 through 1983, a period known as Argentina's "Dirty War." Based on those allegations, plaintiffs asserted claims under the Alien Tort Statute, 28 U. S. C. §1350, and the Torture Victim Protection Act of 1991, 106 Stat. 73, note following 28 U. S. C. §1350, as well as claims for wrongful death and intentional infliction of emotional distress under the laws of California and Argentina. The incidents recounted in the complaint center on MB Argentina's plant in Gonzalez Catan, Argentina; no part of MB Argentina's alleged collaboration with Argentinian authorities took place in California or anywhere else in the United States.

Plaintiffs' operative complaint names only one corporate defendant: Daimler, the petitioner here. Plaintiffs seek to hold Daimler vicariously liable for MB Argentina's alleged malfeasance. Daimler is a German *Aktiengesellschaft* (public stock company) that manufactures Mercedes-Benz vehicles in Germany and has its headquarters in Stuttgart. At times relevant to this case, MB Argentina was a subsidiary wholly owned by Daimler's predecessor in interest.

Daimler moved to dismiss the action for want of personal jurisdiction. Opposing the motion, plaintiffs submitted declarations and exhibits purporting to demonstrate the presence of Daimler itself in California. Alternatively,

plaintiffs maintained that jurisdiction over Daimler could be founded on the California contacts of MBUSA, a distinct corporate entity that, according to plaintiffs, should be treated as Daimler's agent for jurisdictional purposes.

MBUSA, an indirect subsidiary of Daimler, is a Delaware limited liability corporation.[3] MBUSA serves as Daimler's exclusive importer and distributor in the United States, purchasing Mercedes-Benz automobiles from Daimler in Germany, then importing those vehicles, and ultimately distributing them to independent dealerships located throughout the Nation. Although MBUSA's principal place of business is in New Jersey, MBUSA has multiple California-based facilities, including a regional office in Costa Mesa, a Vehicle Preparation Center in Carson, and a Classic Center in Irvine. According to the record developed below, MBUSA is the largest supplier of luxury vehicles to the California market. In particular, over 10% of all sales of new vehicles in the United States take place in California, and MBUSA's California sales account for 2.4% of Daimler's worldwide sales.

The relationship between Daimler and MBUSA is delineated in a General Distributor Agreement, which sets forth requirements for MBUSA's distribution of Mercedes-Benz vehicles in the United States. That agreement established MBUSA as an "independent contracto[r]" that "buy[s] and sell[s] [vehicles] ... as an independent business for [its] own account." App. 179a. The agreement "does not make [MBUSA] ... a general or special agent, partner, joint venturer or employee of DAIMLERCHRYSLER or any DaimlerChrysler Group Company"; MBUSA "ha[s] no authority to make binding obligations for or act on behalf of DAIMLERCHRYSLER or any DaimlerChrysler Group Company." *Ibid.*

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[3]At times relevant to this suit, MBUSA was wholly owned by DaimlerChrysler North America Holding Corporation, a Daimler subsidiary.

After allowing jurisdictional discovery on plaintiffs' agency allegations, the District Court granted Daimler's motion to dismiss. Daimler's own affiliations with California, the court first determined, were insufficient to support the exercise of all-purpose jurisdiction over the corporation. *Bauman* v. *DaimlerChrysler AG*, No. C–04–00194 RMW (ND Cal., Nov. 22, 2005), App. to Pet. for Cert. 111a–112a, 2005 WL 3157472, *9–*10. Next, the court declined to attribute MBUSA's California contacts to Daimler on an agency theory, concluding that plaintiffs failed to demonstrate that MBUSA acted as Daimler's agent. *Id.*, at 117a, 133a, 2005 WL 3157472, *12, *19; *Bauman* v. *DaimlerChrysler AG*, No. C–04–00194 RMW (ND Cal., Feb. 12, 2007), App. to Pet. for Cert. 83a–85a, 2007 WL 486389, *2.

The Ninth Circuit at first affirmed the District Court's judgment. Addressing solely the question of agency, the Court of Appeals held that plaintiffs had not shown the existence of an agency relationship of the kind that might warrant attribution of MBUSA's contacts to Daimler. *Bauman* v. *DaimlerChrysler Corp.*, 579 F. 3d 1088, 1096–1097 (2009). Judge Reinhardt dissented. In his view, the agency test was satisfied and considerations of "reasonableness" did not bar the exercise of jurisdiction. *Id.*, at 1098–1106. Granting plaintiffs' petition for rehearing, the panel withdrew its initial opinion and replaced it with one authored by Judge Reinhardt, which elaborated on reasoning he initially expressed in dissent. *Bauman* v. *DaimlerChrysler Corp.*, 644 F. 3d 909 (CA9 2011).

Daimler petitioned for rehearing and rehearing en banc, urging that the exercise of personal jurisdiction over Daimler could not be reconciled with this Court's decision in *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. ___ (2011). Over the dissent of eight judges, the Ninth Circuit denied Daimler's petition. See *Bauman* v. *DaimlerChrysler Corp.*, 676 F. 3d 774 (2011) (O'Scannlain,

J., dissenting from denial of rehearing en banc).

We granted certiorari to decide whether, consistent with the Due Process Clause of the Fourteenth Amendment, Daimler is amenable to suit in California courts for claims involving only foreign plaintiffs and conduct occurring entirely abroad. 569 U. S. ___ (2013).

II

Federal courts ordinarily follow state law in determining the bounds of their jurisdiction over persons. See Fed. Rule Civ. Proc. 4(k)(1)(A) (service of process is effective to establish personal jurisdiction over a defendant "who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located"). Under California's long-arm statute, California state courts may exercise personal jurisdiction "on any basis not inconsistent with the Constitution of this state or of the United States." Cal. Civ. Proc. Code Ann. §410.10 (West 2004). California's long-arm statute allows the exercise of personal jurisdiction to the full extent permissible under the U. S. Constitution. We therefore inquire whether the Ninth Circuit's holding comports with the limits imposed by federal due process. See, *e.g.*, *Burger King Corp. v. Rudzewicz*, 471 U. S. 462, 464 (1985).

*International Shoe* distinguished between, on the one hand, exercises of specific jurisdiction, as just described, and on the other, situations where a foreign corporation's "continuous corporate operations within a state [are] so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those activities." 326 U. S., at 318. As we have since explained, "[a] court may assert general jurisdiction over foreign (sister-state or foreign-country) corporations to hear any and all claims against them when their affiliations with the State are so 'continuous and systematic' as to render them essentially at home in the forum State." *Goodyear*, 564 U. S., at ___ (slip op., at 2); see *id.*, at ___ (slip op., at 7); *Helicopteros*, 466 U. S., at 414, n. 9.[5]

Most recently, in *Goodyear*, we answered the question: "Are foreign subsidiaries of a United States parent corporation amenable to suit in state court on claims unrelated to any activity of the subsidiaries in the forum State?" 564 U. S., at ___ (slip op., at 1). That case arose from a bus accident outside Paris that killed two boys from North Carolina. The boys' parents brought a wrongful-death suit in North Carolina state court alleging that the bus's tire was defectively manufactured. The complaint named as defendants not only The Goodyear Tire and Rubber Company (Goodyear), an Ohio corporation, but also Goodyear's Turkish, French, and Luxembourgian subsidiaries. Those foreign subsidiaries, which manufactured tires for sale in Europe and Asia, lacked any affiliation with North Carolina. A small percentage of tires manufactured by the foreign subsidiaries were distributed in North Carolina, however, and on that ground, the North Carolina Court of Appeals held the subsidiaries amenable to the general jurisdiction of North Carolina courts.

We reversed, observing that the North Carolina court's analysis "elided the essential difference between case-specific and all-purpose (general) jurisdiction." *Id.*, at ___ (slip op., at 10). Although the placement of a product into the stream of commerce "may bolster an affiliation germane to *specific* jurisdiction," we explained, such contacts "do not warrant a determination that, based on those ties, the forum has *general* jurisdiction over a defendant." *Id.*, at ___ (slip op., at 10–11). As *International Shoe* itself teaches, a corporation's "continuous activity of some sorts within a state is not enough to support the demand that the corporation be amenable to suits unrelated to that activity." 326 U. S., at 318. Because Goodyear's foreign subsidiaries were "in no sense at home in North Carolina," we held, those subsidiaries could not be required to submit to the general jurisdiction of that State's courts. 564 U. S., at ___ (slip op., at 13). See also *J. McIntyre Machinery, Ltd.* v. *Nicastro*, 564 U. S. ___, ___ (2011) (GINSBURG, J., dissenting) (slip op., at 7) (noting unanimous agreement that a foreign manufacturer, which engaged an independent U. S.-based distributor to sell its machines throughout the United States, could not be exposed to all-purpose jurisdiction in New Jersey courts based on those contacts).

As is evident from *Perkins*, *Helicopteros*, and *Goodyear*, general and specific jurisdiction have followed markedly different trajectories post-*International Shoe*. Specific jurisdiction has been cut loose from *Pennoyer*'s sway, but we have declined to stretch general jurisdiction beyond limits traditionally recognized.[9] As this Court has increasingly trained on the "relationship among the defendant, the forum, and the litigation," *Shaffer*, 433 U. S., at 204, *i.e.*, specific jurisdiction,[10] general jurisdiction has come to occupy a less dominant place in the contemporary scheme.[11]

B

Even if we were to assume that MBUSA is at home in California, and further to assume MBUSA's contacts are imputable to Daimler, there would still be no basis to subject Daimler to general jurisdiction in California, for Daimler's slim contacts with the State hardly render it at home there.[16]

*Goodyear* made clear that only a limited set of affiliations with a forum will render a defendant amenable to all-purpose jurisdiction there. "For an individual, the paradigm forum for the exercise of general jurisdiction is the individual's domicile; for a corporation, it is an equivalent place, one in which the corporation is fairly regarded as at home." 564 U. S., at ___ (slip op., at 7) (citing Brilmayer et al., A General Look at General Jurisdiction, 66 Texas L. Rev. 721, 728 (1988)). With respect to a corpora-

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[16] By addressing this point, JUSTICE SOTOMAYOR asserts, we have strayed from the question on which we granted certiorari to decide an issue not argued below. *Post*, at 5–6. That assertion is doubly flawed. First, the question on which we granted certiorari, as stated in Daimler's petition, is "whether it violates due process for a court to exercise general personal jurisdiction over a foreign corporation based solely on the fact that an indirect corporate subsidiary performs services on behalf of the defendant in the forum State." Pet. for Cert. i. That question fairly encompasses an inquiry into whether, in light of *Goodyear*, Daimler can be considered at home in California based on MBUSA's in-state activities. See also this Court's Rule 14.1(a) (a party's statement of the question presented "is deemed to comprise every subsidiary question fairly included therein"). Moreover, both in the Ninth Circuit, see, *e.g.*, Brief for Federation of German Industries et al. as *Amici Curiae* in No. 07–15386 (CA9), p. 3, and in this Court, see, *e.g.*, U. S. Brief 13–18; Brief for Chamber of Commerce of United States of America et al. as *Amici Curiae* 6–23; Brief for Lea Brilmayer as *Amica Curiae* 10–12, *amici* in support of Daimler homed in on the insufficiency of Daimler's California contacts for general jurisdiction purposes. In short, and in light of our pathmarking opinion in *Goodyear*, we perceive no unfairness in deciding today that California is not an all-purpose forum for claims against Daimler.

tion, the place of incorporation and principal place of business are "paradig[m] . . . bases for general jurisdiction." *Id.*, at 735. See also Twitchell, 101 Harv. L. Rev., at 633. Those affiliations have the virtue of being unique—that is, each ordinarily indicates only one place—as well as easily ascertainable. Cf. *Hertz Corp.* v. *Friend*, 559 U. S. 77, 94 (2010) ("Simple jurisdictional rules . . . promote greater predictability."). These bases afford plaintiffs recourse to at least one clear and certain forum in which a corporate defendant may be sued on any and all claims.

*Goodyear* did not hold that a corporation may be subject to general jurisdiction *only* in a forum where it is incorporated or has its principal place of business; it simply typed those places paradigm all-purpose forums. Plaintiffs would have us look beyond the exemplar bases *Goodyear* identified, and approve the exercise of general jurisdiction in every State in which a corporation "engages in a substantial, continuous, and systematic course of business." Brief for Respondents 16–17, and nn. 7–8. That formulation, we hold, is unacceptably grasping.

As noted, see *supra*, at 7–8, the words "continuous and systematic" were used in *International Shoe* to describe instances in which the exercise of *specific* jurisdiction would be appropriate. See 326 U. S., at 317 (jurisdiction can be asserted where a corporation's in-state activities are not only "continuous and systematic, but also give rise to the liabilities sued on").[17] Turning to all-purpose jurisdiction, in contrast, *International Shoe* speaks of "instances in which the continuous corporate operations within a state [are] so substantial and of such a nature as to justify

[17] *International Shoe* also recognized, as noted above, see *supra*, at 7–8, that "some single or occasional acts of the corporate agent in a state . . . , because of their nature and quality and the circumstances of their commission, may be deemed sufficient to render the corporation liable to suit." 326 U. S., at 318.

suit . . . *on causes of action arising from dealings entirely distinct from those activities*." *Id.*, at 318 (emphasis added). See also Twitchell, Why We Keep Doing Business With Doing-Business Jurisdiction, 2001 U. Chi. Legal Forum 171, 184 (*International Shoe* "is clearly not saying that dispute-blind jurisdiction exists whenever 'continuous and systematic' contacts are found.").[18] Accordingly, the inquiry under *Goodyear* is not whether a foreign corporation's in-forum contacts can be said to be in some sense "continuous and systematic," it is whether that corporation's "affiliations with the State are so 'continuous and systematic' as to render [it] essentially at home in the forum State." 564 U. S., at ___ (slip op., at 2).[19]

Here, neither Daimler nor MBUSA is incorporated in

[18] We do not foreclose the possibility that in an exceptional case, see, *e.g.*, *Perkins*, described *supra*, at 10–12, and n. 8, a corporation's operations in a forum other than its formal place of incorporation or principal place of business may be so substantial and of such a nature as to render the corporation at home in that State. But this case presents no occasion to explore that question, because Daimler's activities in California plainly do not approach that level. It is one thing to hold a corporation answerable for operations in the forum State, see *infra*, at 23, quite another to expose it to suit on claims having no connection whatever to the forum State.

California, nor does either entity have its principal place of business there. If Daimler's California activities sufficed to allow adjudication of this Argentina-rooted case in California, the same global reach would presumably be available in every other State in which MBUSA's sales are sizable. Such exorbitant exercises of all-purpose jurisdiction 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." *Burger King Corp.*, 471 U. S., at 472 (internal quotation marks omitted).

It was therefore error for the Ninth Circuit to conclude that Daimler, even with MBUSA's contacts attributed to it, was at home in California, and hence subject to suit there on claims by foreign plaintiffs having nothing to do with anything that occurred or had its principal impact in California.[20]

[20] To clarify in light of JUSTICE SOTOMAYOR's opinion concurring in the judgment, the general jurisdiction inquiry does not "focu[s] solely on the magnitude of the defendant's in-state contacts." *Post*, at 8. General jurisdiction instead calls for an appraisal of a corporation's activities in their entirety, nationwide and worldwide. A corporation that operates in many places can scarcely be deemed at home in all of them. Otherwise, "at home" would be synonymous with "doing business" tests framed before specific jurisdiction evolved in the United States. See von Mehren & Trautman 1142–1144. Nothing in *International Shoe* and its progeny suggests that "a particular quantum of local activity" should give a State authority over a "far larger quantum of . . . activity" having no connection to any in-state activity. Feder, *supra*, at 694.

JUSTICE SOTOMAYOR would reach the same result, but for a different reason. Rather than concluding that Daimler is not at home in California, JUSTICE SOTOMAYOR would hold that the exercise of general jurisdiction over Daimler would be unreasonable "in the unique circumstances of this case." *Post*, at 1. In other words, she favors a resolution fit for this day and case only. True, a multipronged reasonableness check was articulated in *Asahi*, 480 U. S., at 113–114, but not as a free-floating test. Instead, the check was to be essayed when *specific* jurisdiction is at issue. See also *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 476–478 (1985). First, a court is to determine whether the

C

Finally, the transnational context of this dispute bears attention. The Court of Appeals emphasized, as supportive of the exercise of general jurisdiction, plaintiffs' assertion of claims under the Alien Tort Statute (ATS), 28 U. S. C. §1350, and the Torture Victim Protection Act of 1991 (TVPA), 106 Stat. 73, note following 28 U. S. C. §1350. See 644 F. 3d, at 927 ("American federal courts, be they in California or any other state, have a strong interest in adjudicating and redressing international human rights abuses."). Recent decisions of this Court, however, have rendered plaintiffs' ATS and TVPA claims infirm. See *Kiobel* v. *Royal Dutch Petroleum Co.*, 569 U. S. ___, ___ (2013) (slip op., at 14) (presumption against extraterritorial application controls claims under the ATS); *Mohamad* v. *Palestinian Authority*, 566 U. S. ___, ___ (2012)

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connection between the forum and the episode-in-suit could justify the exercise of specific jurisdiction. Then, in a second step, the court is to consider several additional factors to assess the reasonableness of entertaining the case. When a corporation is genuinely at home in the forum State, however, any second-step inquiry would be superfluous.

JUSTICE SOTOMAYOR fears that our holding will "lead to greater unpredictability by radically expanding the scope of jurisdictional discovery." *Post*, at 14. But it is hard to see why much in the way of discovery would be needed to determine where a corporation is at home. JUSTICE SOTOMAYOR's proposal to import *Asahi*'s "reasonableness" check into the general jurisdiction determination, on the other hand, would indeed compound the jurisdictional inquiry. The reasonableness factors identified in *Asahi* include "the burden on the defendant," "the interests of the forum State," "the plaintiff's interest in obtaining relief," "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," "the shared interest of the several States in furthering fundamental substantive social policies," and, in the international context, "the procedural and substantive policies of other *nations* whose interests are affected by the assertion of jurisdiction." 480 U. S., at 113–115 (some internal quotation marks omitted). Imposing such a checklist in cases of general jurisdiction would hardly promote the efficient disposition of an issue that should be resolved expeditiously at the outset of litigation.

(slip op., at 1) (only natural persons are subject to liability under the TVPA).

The Ninth Circuit, moreover, paid little heed to the risks to international comity its expansive view of general jurisdiction posed. Other nations do not share the uninhibited approach to personal jurisdiction advanced by the Court of Appeals in this case. In the European Union, for example, a corporation may generally be sued in the nation in which it is "domiciled," a term defined to refer only to the location of the corporation's "statutory seat," "central administration," or "principal place of business." European Parliament and Council Reg. 1215/2012, Arts. 4(1), and 63(1), 2012 O. J. (L. 351) 7, 18. See also *id.*, Art. 7(5), 2012 O. J. 7 (as to "a dispute *arising out of the operations of a branch, agency or other establishment*," a corporation may be sued "in the courts for the place where the branch, agency or other establishment is situated" (emphasis added)). The Solicitor General informs us, in this regard, that "foreign governments' objections to some domestic courts' expansive views of general jurisdiction have in the past impeded negotiations of international agreements on the reciprocal recognition and enforcement of judgments." U. S. Brief 2 (citing Juenger, The American Law of General Jurisdiction, 2001 U. Chi. Legal Forum 141, 161–162). See also U. S. Brief 2 (expressing concern that unpredictable applications of general jurisdiction based on activities of U. S.-based subsidiaries could discourage foreign investors); Brief for Respondents 35 (acknowledging that "doing business" basis for general jurisdiction has led to "international friction"). Considerations of international rapport thus reinforce our determination that subjecting Daimler to the general jurisdiction of courts in California would not accord with the "fair play and substantial justice" due process demands. *International Shoe*, 326 U. S., at 316 (quoting *Milliken* v. *Meyer*, 311 U. S. 457, 463 (1940)).

# SUPREME COURT OF THE UNITED STATES

Nos. 19 368 and 19 369

FORD MOTOR COMPANY, PETITIONER
19–368 *v.*
MONTANA EIGHTH JUDICIAL DISTRICT COURT, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MONTANA

FORD MOTOR COMPANY, PETITIONER
19–369 *v.*
ADAM BANDEMER

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MINNESOTA

[March 25, 2021]

JUSTICE KAGAN delivered the opinion of the Court.

In each of these two cases, a state court held that it had jurisdiction over Ford Motor Company in a products-liability suit stemming from a car accident. The accident happened in the State where suit was brought. The victim was one of the State's residents. And Ford did substantial business in the State—among other things, advertising, selling, and servicing the model of vehicle the suit claims is defective. Still, Ford contends that jurisdiction is improper because the particular car involved in the crash was not first sold in the forum State, nor was it designed or manufactured there. We reject that argument. When a company

like Ford serves a market for a product in a State and that product causes injury in the State to one of its residents, the State's courts may entertain the resulting suit.

## I

Ford is a global auto company. It is incorporated in Delaware and headquartered in Michigan. But its business is everywhere. Ford markets, sells, and services its products across the United States and overseas. In this country alone, the company annually distributes over 2.5 million new cars, trucks, and SUVs to over 3,200 licensed dealerships. See App. 70, 100. Ford also encourages a resale market for its products: Almost all its dealerships buy and sell used Fords, as well as selling new ones. To enhance its brand and increase its sales, Ford engages in wide-ranging promotional activities, including television, print, online, and direct-mail advertisements. No matter where you live, you've seen them: "Have you driven a Ford lately?" or "Built Ford Tough." Ford also ensures that consumers can keep their vehicles running long past the date of sale. The company provides original parts to auto supply stores and repair shops across the country. (Goes another slogan: "Keep your Ford a Ford.") And Ford's own network of dealers offers an array of maintenance and repair services, thus fostering an ongoing relationship between Ford and its customers.

Accidents involving two of Ford's vehicles—a 1996 Explorer and a 1994 Crown Victoria—are at the heart of the suits before us. One case comes from Montana. Markkaya Gullett was driving her Explorer near her home in the State when the tread separated from a rear tire. The vehicle spun out, rolled into a ditch, and came to rest upside down. Gullett died at the scene of the crash. The representative of her estate sued Ford in Montana state court, bringing claims for a design defect, failure to warn, and negligence. The second case comes from Minnesota. Adam Bandemer was a passenger in his friend's Crown Victoria, traveling on a

rural road in the State to a favorite ice-fishing spot. When his friend rear-ended a snowplow, this car too landed in a ditch. Bandemer's air bag failed to deploy, and he suffered serious brain damage. He sued Ford in Minnesota state court, asserting products-liability, negligence, and breach-of-warranty claims.

Ford moved to dismiss the two suits for lack of personal jurisdiction, on basically identical grounds. According to Ford, the state court (whether in Montana or Minnesota) had jurisdiction only if the company's conduct in the State had given rise to the plaintiff's claims. And that causal link existed, Ford continued, only if the company had designed, manufactured, or—most likely—sold in the State the particular vehicle involved in the accident.[1] In neither suit could the plaintiff make that showing. Ford had designed the Explorer and Crown Victoria in Michigan, and it had manufactured the cars in (respectively) Kentucky and Canada. Still more, the company had originally sold the cars at issue outside the forum States—the Explorer in Washington, the Crown Victoria in North Dakota. Only later resales and relocations by consumers had brought the vehicles to Montana and Minnesota. That meant, in Ford's view, that the courts of those States could not decide the suits.

Both the Montana and the Minnesota Supreme Courts (affirming lower court decisions) rejected Ford's argument. The Montana court began by detailing the varied ways Ford "purposefully" seeks to "serve the market in Montana." 395 Mont. 478, 488, 443 P. 3d 407, 414 (2019). The company advertises in the State; "has thirty-six dealerships" there; "sells automobiles, specifically Ford Explorers[,] and parts" to Montana residents; and provides them with "certified repair, replacement, and recall services." *Ibid.* Next, the

[1] Ford's Brief in Support of Motion to Dismiss in *Lucero* v. *Ford Motor Co.*, No. DV–18–247 (8th Jud. Dist., Cascade Cty., Mont.), pp. 14–15; Ford Motor Co.'s Memorandum in Support of Motion to Dismiss in No. 77–cv–16–1025 (7th Jud. Dist., Todd Cty., Minn.), pp. 11–12, and n. 3.

court assessed the relationship between those activities and the Gullett suit. Ford's conduct, said the court, encourages "Montana residents to drive Ford vehicles." *Id.*, at 491, 443 P. 3d, at 416. When that driving causes in-state injury, the ensuing claims have enough of a tie to Ford's Montana activities to support jurisdiction. Whether Ford "designed, manufactured, or sold [the] vehicle" in the State, the court concluded, is "immaterial." *Ibid.* Minnesota's Supreme Court agreed. It highlighted how Ford's "marketing and advertisements" influenced state residents to "purchase and drive more Ford vehicles." 931 N. W. 2d 744, 754 (2019). Indeed, Ford had sold in Minnesota "more than 2,000 1994 Crown Victoria[s]"—the "very type of car" involved in Bandemer's suit. *Id.*, at 751, 754. That the "*particular vehicle*" injuring him was "designed, manufactured, [and first] sold" elsewhere made no difference. *Id.*, at 753 (emphasis in original). In the court's view, Ford's Minnesota activities still had the needed connection to Bandemer's allegations that a defective Crown Victoria caused in-state injury. See *id.*, at 754.

We granted certiorari to consider if Ford is subject to jurisdiction in these cases. 589 U. S. ___ (2020). We hold that it is.

## II

### A

The Fourteenth Amendment's Due Process Clause limits a state court's power to exercise jurisdiction over a defendant. The canonical decision in this area remains *International Shoe Co.* v. *Washington*, 326 U. S. 310 (1945). There, the Court held that a tribunal's authority depends on the defendant's having such "contacts" with the forum State that "the maintenance of the suit" is "reasonable, in the context of our federal system of government," and "does not offend traditional notions of fair play and substantial justice." *Id.*, at 316–317 (internal quotation marks omitted). In giving content to that formulation, the Court has long focused

on the nature and extent of "the defendant's relationship to the forum State." *Bristol-Myers Squibb Co.* v. *Superior Court of Cal., San Francisco Cty.*, 582 U. S. ___, ___ (2017) (slip op., at 5) (citing cases). That focus led to our recognizing two kinds of personal jurisdiction: general (sometimes called all-purpose) jurisdiction and specific (sometimes called case-linked) jurisdiction. See *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915, 919 (2011).

A state court may exercise general jurisdiction only when a defendant is "essentially at home" in the State. *Ibid.* General jurisdiction, as its name implies, extends to "any and all claims" brought against a defendant. *Ibid.* Those claims need not relate to the forum State or the defendant's activity there; they may concern events and conduct anywhere in the world. But that breadth imposes a correlative limit: Only a select "set of affiliations with a forum" will expose a defendant to such sweeping jurisdiction. *Daimler AG* v. *Bauman*, 571 U. S. 117, 137 (2014). In what we have called the "paradigm" case, an individual is subject to general jurisdiction in her place of domicile. *Ibid.* (internal quotation marks omitted). And the "equivalent" forums for a corporation are its place of incorporation and principal place of business. *Ibid.* (internal quotation marks omitted); see *id.*, at 139, n. 19 (leaving open "the possibility that in an exceptional case" a corporation might also be "at home" elsewhere). So general jurisdiction over Ford (as all parties agree) attaches in Delaware and Michigan—not in Montana and Minnesota. See *supra*, at 2.

Specific jurisdiction is different: It covers defendants less intimately connected with a State, but only as to a narrower class of claims. The contacts needed for this kind of jurisdiction often go by the name "purposeful availment." *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 475 (1985). The defendant, we have said, must take "some act by which [it] purposefully avails itself of the privilege of conducting activities within the forum State." *Hanson* v. *Denckla*, 357

U. S. 235, 253 (1958). The contacts must be the defendant's own choice and not "random, isolated, or fortuitous." *Keeton* v. *Hustler Magazine, Inc.*, 465 U. S. 770, 774 (1984). They must show that the defendant deliberately "reached out beyond" its home—by, for example, "exploi[ting] a market" in the forum State or entering a contractual relationship centered there. *Walden* v. *Fiore*, 571 U. S. 277, 285 (2014) (internal quotation marks and alterations omitted). Yet even then—because the defendant is not "at home"—the forum State may exercise jurisdiction in only certain cases. The plaintiff's claims, we have often stated, "must arise out of or relate to the defendant's contacts" with the forum. *Bristol-Myers*, 582 U. S., at ___ (slip op., at 5) (quoting *Daimler*, 571 U. S., at 127; alterations omitted); see, *e.g.*, *Burger King*, 471 U. S., at 472; *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408, 414 (1984); *International Shoe*, 326 U. S., at 319. Or put just a bit differently, "there must be 'an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation.'" *Bristol-Myers*, 582 U. S., at ___–___, ___ (slip op., at 5–6, 7) (quoting *Goodyear*, 564 U. S., at 919).

These rules derive from and reflect two sets of values—treating defendants fairly and protecting "interstate federalism." *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 293 (1980); see *id.*, at 297–298. Our decision in *International Shoe* founded specific jurisdiction on an idea of reciprocity between a defendant and a State: When (but only when) a company "exercises the privilege of conducting activities within a state"—thus "enjoy[ing] the benefits and protection of [its] laws"—the State may hold the company to account for related misconduct. 326 U. S., at 319; see *Burger King*, 471 U. S., at 475–476. Later decisions have added that our doctrine similarly provides defendants with "fair warning"—knowledge that "a particular activity may

subject [it] to the jurisdiction of a foreign sovereign." *Id.*, at 472 (internal quotation marks omitted); *World-Wide Volkswagen*, 444 U. S., at 297 (likewise referring to "clear notice"). A defendant can thus "structure [its] primary conduct" to lessen or avoid exposure to a given State's courts. *Id.*, at 297. And this Court has considered alongside defendants' interests those of the States in relation to each other. One State's "sovereign power to try" a suit, we have recognized, may prevent "sister States" from exercising their like authority. *Id.*, at 293. The law of specific jurisdiction thus seeks to ensure that States with "little legitimate interest" in a suit do not encroach on States more affected by the controversy. *Bristol-Myers*, 582 U. S., at ___ (slip op., at 6).[2]

B

Ford contends that our jurisdictional rules prevent Montana's and Minnesota's courts from deciding these two suits. In making that argument, Ford does not contest that it does substantial business in Montana and Minnesota—that it actively seeks to serve the market for automobiles

[2] One of the concurrences here expresses a worry that our *International Shoe*-based body of law is not "well suited for the way in which business is now conducted," and tentatively suggests a 21st-century rethinking. *Post*, at 1 (ALITO, J., concurring in judgment). Fair enough perhaps, see *infra*, at 12–13, n. 4, but the concurrence then acknowledges that these cases have no distinctively modern features, and it decides them on grounds that (as it agrees) are much the same as ours. See *post*, at 3–4; compare *ibid.* with *infra*, at 11–15. The other concurrence proposes instead a return to the mid-19th century—a replacement of our current doctrine with the Fourteenth Amendment's original meaning respecting personal jurisdiction. *Post*, at 9–10 (GORSUCH, J., concurring in judgment). But that opinion never reveals just what the Due Process Clause as understood at its ratification required, and its ground for deciding these cases is correspondingly spare. *Post*, at 11. This opinion, by contrast, resolves these cases by proceeding as the Court has done for the last 75 years—applying the standards set out in *International Shoe* and its progeny, with attention to their underlying values of ensuring fairness and protecting interstate federalism.

and related products in those States. See Brief for Petitioner 6, 9, 13. Or to put that concession in more doctrinal terms, Ford agrees that it has "purposefully avail[ed] itself of the privilege of conducting activities" in both places. *Hanson*, 357 U. S., at 253; see *supra*, at 5–6. Ford's claim is instead that those activities do not sufficiently connect to the suits, even though the resident-plaintiffs allege that Ford cars malfunctioned in the forum States. In Ford's view, the needed link must be causal in nature: Jurisdiction attaches "only if the defendant's forum conduct *gave rise* to the plaintiff's claims." Brief for Petitioner 13 (emphasis in original). And that rule reduces, Ford thinks, to locating specific jurisdiction in the State where Ford sold the car in question, or else the States where Ford designed and manufactured the vehicle. See *id.*, at 2; Reply Brief 2, 19; *supra*, at 3 (identifying those States). On that view, the place of accident and injury is immaterial. So (Ford says) Montana's and Minnesota's courts have no power over these cases.

But Ford's causation-only approach finds no support in this Court's requirement of a "connection" between a plaintiff's suit and a defendant's activities. *Bristol-Myers*, 582 U. S., at ___ (slip op., at 8). That rule indeed serves to narrow the class of claims over which a state court may exercise specific jurisdiction. But not quite so far as Ford wants. None of our precedents has suggested that only a strict causal relationship between the defendant's in-state activity and the litigation will do. As just noted, our most common formulation of the rule demands that the suit "arise out of *or relate to* the defendant's contacts with the forum." *Id.*, at ___ (slip op., at 5) (quoting *Daimler*, 571 U. S., at 127; emphasis added; alterations omitted); see *supra*, at 6. The first half of that standard asks about causation; but the back half, after the "or," contemplates that some relationships will support jurisdiction without a causal showing. That does not mean anything goes. In the sphere of specific

jurisdiction, the phrase "relate to" incorporates real limits, as it must to adequately protect defendants foreign to a forum. But again, we have never framed the specific jurisdiction inquiry as always requiring proof of causation—*i.e.*, proof that the plaintiff's claim came about because of the defendant's in-state conduct. See also *Bristol-Myers*, 582 U. S., at ___, ___ (slip op., at 5, 7) (quoting *Goodyear*, 564 U. S., at 919) (asking whether there is "an affiliation between the forum and the underlying controversy," without demanding that the inquiry focus on cause). So the case is not over even if, as Ford argues, a causal test would put jurisdiction in only the States of first sale, manufacture, and design. A different State's courts may yet have jurisdiction, because of another "activity [or] occurrence" involving the defendant that takes place in the State. *Bristol-Myers*, 582 U. S., at ___, ___ (slip op., at 6, 7) (quoting *Goodyear*, 564 U. S., at 919).[3]

And indeed, this Court has stated that specific jurisdiction attaches in cases identical to the ones here—when a company like Ford serves a market for a product in the forum State and the product malfunctions there. In *World-Wide Volkswagen*, the Court held that an Oklahoma court could not assert jurisdiction over a New York car dealer just because a car it sold later caught fire in Oklahoma. 444 U. S., at 295. But in so doing, we contrasted the dealer's position to that of two other defendants—Audi, the car's

[3] In thus reiterating this Court's longstanding approach, we reject JUSTICE GORSUCH's apparent (if oblique) view that a state court should have jurisdiction over a nationwide corporation like Ford on *any* claim, no matter how unrelated to the State or Ford's activities there. See *post*, at 11. On that view, for example, a California court could hear a claim against Ford brought by an Ohio plaintiff based on an accident occurring in Ohio involving a car purchased in Ohio. Removing the need for any connection between the case and forum State would transfigure our specific jurisdiction standard as applied to corporations. "Case-linked" jurisdiction, see *supra*, at 5–6, would then become not case-linked at all.

manufacturer, and Volkswagen, the car's nationwide importer (neither of which contested jurisdiction):

> "[I]f the sale of a product of a manufacturer or distributor such as Audi or Volkswagen is not simply an isolated occurrence, but arises from the efforts of the manufacturer or distributor to serve, directly or indirectly, the market for its product in [several or all] other States, it is not unreasonable to subject it to suit in one of those States if its allegedly defective merchandise has there been the source of injury to its owner or to others." *Id.*, at 297.

Or said another way, if Audi and Volkswagen's business deliberately extended into Oklahoma (among other States), then Oklahoma's courts could hold the companies accountable for a car's catching fire there—even though the vehicle had been designed and made overseas and sold in New York. For, the Court explained, a company thus "purposefully avail[ing] itself" of the Oklahoma auto market "has clear notice" of its exposure in that State to suits arising from local accidents involving its cars. *Ibid.* And the company could do something about that exposure: It could "act to alleviate the risk of burdensome litigation by procuring insurance, passing the expected costs on to customers, or, if the risks are [still] too great, severing its connection with the State." *Ibid.*

Our conclusion in *World-Wide Volkswagen*—though, as Ford notes, technically "dicta," Brief for Petitioner 34—has appeared and reappeared in many cases since. So, for example, the Court in *Keeton* invoked that part of *World-Wide Volkswagen* to show that when a corporation has "continuously and deliberately exploited [a State's] market, it must reasonably anticipate being haled into [that State's] court[s]" to defend actions "based on" products causing injury there. 465 U. S., at 781 (citing 444 U. S., at 297–298); see *Burger King*, 471 U. S., at 472–473 (similarly citing

*World-Wide Volkswagen*). On two other occasions, we reaffirmed that rule by reciting the above block-quoted language verbatim. See *Goodyear*, 564 U. S., at 927; *Asahi Metal Industry Co.* v. *Superior Court of Cal., Solano Cty.*, 480 U. S. 102, 110 (1987) (opinion of O'Connor, J.). And in *Daimler*, we used the Audi/Volkswagen scenario as a paradigm case of specific jurisdiction (though now naming Daimler, the maker of Mercedes Benzes). Said the Court, to "illustrate[ ]" specific jurisdiction's "province[ ]": A California court would exercise specific jurisdiction "if a California plaintiff, injured in a California accident involving a Daimler-manufactured vehicle, sued Daimler [in that court] alleging that the vehicle was defectively designed." 571 U. S., at 127, n. 5. As in *World-Wide Volkswagen*, the Court did not limit jurisdiction to where the car was designed, manufactured, or first sold. Substitute Ford for Daimler, Montana and Minnesota for California, and the Court's "illustrat[ive]" case becomes . . . the two cases before us.

To see why Ford is subject to jurisdiction in these cases (as Audi, Volkswagen, and Daimler were in their analogues), consider first the business that the company regularly conducts in Montana and Minnesota. See generally 395 Mont., at 488, 443 P. 3d, at 414; 931 N. W. 2d, at 748; *supra*, at 3–4. Small wonder that Ford has here conceded "purposeful availment" of the two States' markets. See *supra*, at 7–8. By every means imaginable—among them, billboards, TV and radio spots, print ads, and direct mail—Ford urges Montanans and Minnesotans to buy its vehicles, including (at all relevant times) Explorers and Crown Victorias. Ford cars—again including those two models—are available for sale, whether new or used, throughout the States, at 36 dealerships in Montana and 84 in Minnesota. And apart from sales, Ford works hard to foster ongoing connections to its cars' owners. The company's dealers in Montana and Minnesota (as elsewhere) regularly maintain and repair Ford cars, including those whose warranties

have long since expired. And the company distributes replacement parts both to its own dealers and to independent auto shops in the two States. Those activities, too, make Ford money. And by making it easier to own a Ford, they encourage Montanans and Minnesotans to become lifelong Ford drivers.

Now turn to how all this Montana- and Minnesota-based conduct relates to the claims in these cases, brought by state residents in Montana's and Minnesota's courts. Each plaintiff's suit, of course, arises from a car accident in one of those States. In each complaint, the resident-plaintiff alleges that a defective Ford vehicle—an Explorer in one, a Crown Victoria in the other—caused the crash and resulting harm. And as just described, Ford had advertised, sold, and serviced those two car models in both States for many years. (Contrast a case, which we do not address, in which Ford marketed the models in only a different State or region.) In other words, Ford had systematically served a market in Montana and Minnesota for the very vehicles that the plaintiffs allege malfunctioned and injured them in those States. So there is a strong "relationship among the defendant, the forum, and the litigation"—the "essential foundation" of specific jurisdiction. *Helicopteros*, 466 U. S., at 414 (internal quotation marks omitted). That is why this Court has used this exact fact pattern (a resident-plaintiff sues a global car company, extensively serving the state market in a vehicle, for an in-state accident) as an illustration—even a paradigm example—of how specific jurisdiction works. See *Daimler*, 571 U. S., at 127, n. 5; *supra*, at 11.[4]

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[4]None of this is to say that any person using any means to sell any good in a State is subject to jurisdiction there if the product malfunctions after arrival. We have long treated isolated or sporadic transactions differently from continuous ones. See, *e.g.*, *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 297 (1980); *supra*, at 6. And we do not here consider internet transactions, which may raise doctrinal questions of their own. See *Walden* v. *Fiore*, 571 U. S. 277, 290, n. 9 (2014) ("[T]his

The only complication here, pressed by Ford, is that the company sold the specific cars involved in these crashes outside the forum States, with consumers later selling them to the States' residents. Because that is so, Ford argues, the plaintiffs' claims "would be precisely the same if Ford had never done anything in Montana and Minnesota." Brief for Petitioner 46. Of course, that argument merely restates Ford's demand for an exclusively causal test of connection—which we have already shown is inconsistent with our caselaw. See Tr. of Oral Arg. 4; *supra*, at 8–9. And indeed, a similar assertion could have been made in *World-Wide Volkswagen*—yet the Court made clear that systematic contacts in Oklahoma rendered Audi accountable there for an in-state accident, even though it involved a car sold in New York. See *supra*, at 9–10. So too here, and for the same reasons, see *supra*, at 11–12—even supposing (as Ford does) that without the company's Montana or Minnesota contacts the plaintiffs' claims would be just the same.

But in any event, that assumption is far from clear. For the owners of these cars might never have bought them, and so these suits might never have arisen, except for Ford's contacts with their home States. Those contacts might turn any resident of Montana or Minnesota into a Ford owner—even when he buys his car from out of state. He may make that purchase because he saw ads for the car in local media. And he may take into account a raft of Ford's in-state activities designed to make driving a Ford

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case does not present the very different questions whether and how a defendant's virtual 'presence' and conduct translate into 'contacts' with a particular State"). So consider, for example, a hypothetical offered at oral argument. "[A] retired guy in a small town" in Maine "carves decoys" and uses "a site on the Internet" to sell them. Tr. of Oral Arg. 39. "Can he be sued in any state if some harm arises from the decoy?" *Ibid.* The differences between that case and the ones before us virtually list themselves. (Just consider all our descriptions of Ford's activities outside its home bases.) So we agree with the plaintiffs' counsel that resolving these cases does not also resolve the hypothetical. See *id.*, at 39–40.

convenient there: that Ford dealers stand ready to service the car; that other auto shops have ample supplies of Ford parts; and that Ford fosters an active resale market for its old models. The plaintiffs here did not in fact establish, or even allege, such causal links. But cf. *post,* at 3–4 (ALITO, J., concurring in judgment) (nonetheless finding some kind of causation). Nor should jurisdiction in cases like these ride on the exact reasons for an individual plaintiff's purchase, or on his ability to present persuasive evidence about them.[5] But the possibilities listed above—created by the reach of Ford's Montana and Minnesota contacts—underscore the aptness of finding jurisdiction here, even though the cars at issue were first sold out of state.

For related reasons, allowing jurisdiction in these cases treats Ford fairly, as this Court's precedents explain. In conducting so much business in Montana and Minnesota, Ford "enjoys the benefits and protection of [their] laws"—the enforcement of contracts, the defense of property, the resulting formation of effective markets. *International Shoe,* 326 U. S., at 319. All that assistance to Ford's in-state business creates reciprocal obligations—most relevant here, that the car models Ford so extensively markets in Montana and Minnesota be safe for their citizens to use there. Thus our repeated conclusion: A state court's enforcement of that commitment, enmeshed as it is with Ford's government-protected in-state business, can "hardly be said to be undue." *Ibid.*; see *supra,* at 10–11. And as *World-Wide Volkswagen* described, it cannot be thought surprising either. An automaker regularly marketing a vehicle in a State, the Court said, has "clear notice" that it will be subject to jurisdiction in the State's courts when the product malfunctions there (regardless where it was first

[5] It should, for example, make no difference if a plaintiff had recently moved to the forum State with his car, and had not made his purchasing decision with that move in mind—so had not considered any of Ford's activities in his new home State.

sold). 444 U. S., at 297; see *supra*, at 10. Precisely because that exercise of jurisdiction is so reasonable, it is also predictable—and thus allows Ford to "structure [its] primary conduct" to lessen or even avoid the costs of state-court litigation. *World-Wide Volkswagen*, 444 U. S., at 297.

Finally, principles of "interstate federalism" support jurisdiction over these suits in Montana and Minnesota. *Id.*, at 293. Those States have significant interests at stake—"providing [their] residents with a convenient forum for redressing injuries inflicted by out-of-state actors," as well as enforcing their own safety regulations. *Burger King*, 471 U. S., at 473; see *Keeton*, 465 U. S., at 776. Consider, next to those, the interests of the States of first sale (Washington and North Dakota)—which Ford's proposed rule would make the most likely forums. For each of those States, the suit involves all out-of-state parties, an out-of-state accident, and out-of-state injuries; the suit's only connection with the State is that a former owner once (many years earlier) bought the car there. In other words, there is a less significant "relationship among the defendant, the forum, and the litigation." *Walden*, 571 U. S., at 284 (internal quotation marks omitted). So by channeling these suits to Washington and North Dakota, Ford's regime would undermine, rather than promote, what the company calls the Due Process Clause's "jurisdiction-allocating function." Brief for Petitioner 24.

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Ford mainly relies for its rule on two of our recent decisions—*Bristol-Myers* and *Walden*. But those precedents stand for nothing like the principle Ford derives from them. If anything, they reinforce all we have said about why Montana's and Minnesota's courts can decide these cases.

Ford says of *Bristol-Myers* that it "squarely foreclose[s]" jurisdiction. Reply Brief 2. In that case, non-resident plaintiffs brought claims in California state court against

Bristol-Myers Squibb, the manufacturer of a nationally marketed prescription drug called Plavix. The plaintiffs had not bought Plavix in California; neither had they used or suffered any harm from the drug there. Still, the California Supreme Court thought it could exercise jurisdiction because Bristol-Myers Squibb sold Plavix in California and was defending there against identical claims brought by the State's residents. This Court disagreed, holding that the exercise of jurisdiction violated the Fourteenth Amendment. In Ford's view, the same must be true here. Each of these plaintiffs, like the plaintiffs in *Bristol-Myers*, alleged injury from a particular item (a car, a pill) that the defendant had sold outside the forum State. Ford reads *Bristol-Myers* to preclude jurisdiction when that is true, even if the defendant regularly sold "the same *kind* of product" in the State. Reply Brief 2 (emphasis in original).

But that reading misses the point of our decision. We found jurisdiction improper in *Bristol-Myers* because the forum State, and the defendant's activities there, lacked any connection to the plaintiffs' claims. See 582 U. S., at ___ (slip op., at 8) ("What is needed—and what is missing here—is a connection between the forum and the specific claims at issue"). The plaintiffs, the Court explained, were not residents of California. They had not been prescribed Plavix in California. They had not ingested Plavix in California. And they had not sustained their injuries in California. See *ibid.* (emphasizing these points). In short, the plaintiffs were engaged in forum-shopping—suing in California because it was thought plaintiff-friendly, even though their cases had no tie to the State. See *id.*, at ___ (slip op., at 10) (distinguishing the Plavix claims from the litigation in *Keeton*, see *supra*, at 10, because they "involv[e] no in-state injury and no injury to residents of the forum State"). That is not at all true of the cases before us. Yes, Ford sold the specific products in other States, as Bristol-Myers Squibb had. But here, the plaintiffs are residents of

the forum States. They used the allegedly defective products in the forum States. And they suffered injuries when those products malfunctioned in the forum States. In sum, each of the plaintiffs brought suit in the most natural State—based on an "affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that t[ook] place" there. *Bristol-Myers*, 582 U. S., at ___–___, ___ (slip op., at 5–6, 7) (internal quotation marks omitted). So *Bristol-Myers* does not bar jurisdiction.

Ford falls back on *Walden* as its last resort. In that case, a Georgia police officer working at an Atlanta airport searched, and seized money from, two Nevada residents before they embarked on a flight to Las Vegas. The victims of the search sued the officer in Nevada, arguing that their alleged injury (their inability to use the seized money) occurred in the State in which they lived. This Court held the exercise of jurisdiction in Nevada improper even though "the plaintiff[s] experienced [the] effect[s]" of the officer's conduct there. 571 U. S., at 290. According to Ford, our ruling shows that a plaintiff's residence and place of injury can never support jurisdiction. See Brief for Petitioner 32. And without those facts, Ford concludes, the basis for jurisdiction crumbles here as well.

But *Walden* has precious little to do with the cases before us. In *Walden*, only the plaintiffs had any contacts with the State of Nevada; the defendant-officer had never taken any act to "form[ ] a contact" of his own. 571 U. S., at 290. The officer had "never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada." *Id.*, at 289. So to use the language of our doctrinal test: He had not "purposefully avail[ed himself] of the privilege of conducting activities" in the forum State. *Hanson*, 357 U. S., at 253. Because that was true, the Court had no occasion to address the necessary connection between a defendant's in-state activity and the plaintiff's claims. But

here, Ford has a veritable truckload of contacts with Montana and Minnesota, as it admits. See *supra*, at 11–12. The only issue is whether those contacts are related enough to the plaintiffs' suits. As to that issue, so what if (as *Walden* held) the place of a plaintiff's injury and residence cannot create a defendant's contact with the forum State? Those places still may be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit—including its assertions of who was injured where. And indeed, that relevance is a key part of *Bristol-Myers*' reasoning. See 582 U. S., at ___ (slip op., at 9) (finding a lack of "connection" in part because the "plaintiffs are not California residents and do not claim to have suffered harm in that State"). One of Ford's own favorite cases thus refutes its appeal to the other.

* * *

Here, resident-plaintiffs allege that they suffered in-state injury because of defective products that Ford extensively promoted, sold, and serviced in Montana and Minnesota. For all the reasons we have given, the connection between the plaintiffs' claims and Ford's activities in those States—or otherwise said, the "relationship among the defendant, the forum[s], and the litigation"—is close enough to support specific jurisdiction. *Walden*, 571 U. S., at 284 (internal quotation marks omitted). The judgments of the Montana and Minnesota Supreme Courts are therefore affirmed.

*It is so ordered.*

JUSTICE BARRETT took no part in the consideration or decision of these cases.

# SUPREME COURT OF THE UNITED STATES

Nos. 19–368 and 19–369

FORD MOTOR COMPANY, PETITIONER
19–368 *v.*
MONTANA EIGHTH JUDICIAL DISTRICT COURT, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MONTANA

FORD MOTOR COMPANY, PETITIONER
19–369 *v.*
ADAM BANDEMER

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MINNESOTA

[March 25, 2021]

JUSTICE ALITO, concurring in the judgment.

These cases can and should be decided without any alteration or refinement of our case law on specific personal jurisdiction. To be sure, for the reasons outlined in JUSTICE GORSUCH's thoughtful opinion, there are grounds for questioning the standard that the Court adopted in *International Shoe Co.* v. *Washington*, 326 U. S. 310 (1945). And there are also reasons to wonder whether the case law we have developed since that time is well suited for the way in which business is now conducted. But there is nothing distinctively 21st century about the question in the cases now before us, and the answer to that question is settled by our case law.

Since *International Shoe*, the rule has been that a state court can exercise personal jurisdiction over a defendant if the defendant has "minimum contacts" with the forum—

which means that the contacts must be "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" *Id.*, at 316 (quoting *Milliken* v. *Meyer*, 311 U. S. 457, 463 (1940)).

That standard is easily met here. Ford has long had a heavy presence in Minnesota and Montana. It spends billions on national advertising. It has many franchises in both States. Ford dealers in Minnesota and Montana sell and service Ford vehicles, and Ford ships replacement parts to both States. In entertaining these suits, Minnesota and Montana courts have not reached out and grabbed suits in which they "have little legitimate interest." *Bristol-Myers Squibb Co.* v. *Superior Court of Cal., San Francisco Cty.*, 582 U. S. ___, ___ (2017) (slip op., at 6). *Their* residents, while riding in vehicles purchased within *their* borders, were killed or injured in accidents on *their* roads. Can anyone seriously argue that requiring Ford to litigate these cases in Minnesota and Montana would be fundamentally unfair?

Well, Ford makes that argument. It would send the plaintiffs packing to the jurisdictions where the vehicles in question were assembled (Kentucky and Canada), designed (Michigan), or first sold (Washington and North Dakota) or where Ford is incorporated (Delaware) or has its principal place of business (Michigan).

As might have been predicted, the Court unanimously rejects this understanding of "traditional notions of fair play and substantial justice." And in doing so, we merely follow what we said in *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 297–298 (1980), which was essentially this: If a car manufacturer makes substantial efforts to sell vehicles in States A and B (and other States), and a defect in a vehicle first sold in State A causes injuries in an accident in State B, the manufacturer can be sued in State B. That rule decides these cases.

Ford, however, asks us to adopt an unprecedented rule

under which a defendant's contacts with the forum State must be proven to have been a but-for cause of the tort plaintiff's injury. The Court properly rejects that argument, and I agree with the main thrust of the Court's opinion. My only quibble is with the new gloss that the Court puts on our case law. Several of our opinions have said that a plaintiff's claims "'must arise out of or relate to the defendant's contacts'" with the forum. See *ante*, at 6 (citing cases). The Court parses this phrase "as though we were dealing with language of a statute," *Reiter* v. *Sonotone Corp.*, 442 U. S. 330, 341 (1979), and because this phrase is cast in the disjunctive, the Court recognizes a new category of cases in which personal jurisdiction is permitted: those in which the claims do not "arise out of" (*i.e.*, are not caused by) the defendant's contacts but nevertheless sufficiently "relate to" those contacts in some undefined way, *ante*, at 8–9.

This innovation is unnecessary and, in my view, unwise. To say that the Constitution does not require the kind of proof of causation that Ford would demand—what the majority describes as a "strict causal relationship," *ante*, at 8—is not to say that no causal link of any kind is needed. And here, there is a sufficient link. It is reasonable to infer that the vehicles in question here would never have been on the roads in Minnesota and Montana if they were some totally unknown brand that had never been advertised in those States, was not sold in those States, would not be familiar to mechanics in those States, and could not have been easily repaired with parts available in those States. See *ante*, at 13–14 (describing this relationship between Ford's activities and these suits). The whole point of those activities was to put more Fords (including those in question here) on Minnesota and Montana roads. The common-sense relationship between Ford's activities and these suits, in other words, is causal in a broad sense of the concept, and personal jurisdiction can rest on this type of link without strict

proof of the type Ford would require. When "arise out of" is understood in this way, it is apparent that "arise out of" and "relate to" overlap and are not really two discrete grounds for jurisdiction. The phrase "arise out of or relate to" is simply a way of restating the basic "minimum contacts" standard adopted in *International Shoe*.

Recognizing "relate to" as an independent basis for specific jurisdiction risks needless complications. The "ordinary meaning" of the phrase "relate to" "is a broad one." *Morales* v. *Trans World Airlines, Inc.*, 504 U. S. 374, 383 (1992). Applying that phrase "according to its terms [is] a project doomed to failure, since, as many a curbstone philosopher has observed, everything is related to everything else." *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N. A., Inc.*, 519 U. S. 316, 335 (1997) (Scalia, J., concurring). To rein in this phrase, limits must be found, and the Court assures us that "relate to," as it now uses the concept, "incorporates real limits." *Ante,* at 9. But without any indication what those limits might be, I doubt that the lower courts will find that observation terribly helpful. Instead, what limits the potentially boundless reach of "relate to" is just the sort of rough causal connection I have described.

I would leave the law exactly where it stood before we took these cases, and for that reason, I concur in the judgment.

# SUPREME COURT OF THE UNITED STATES

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ADAM BANDEMER

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MINNESOTA

[March 25, 2021]

JUSTICE GORSUCH, with whom JUSTICE THOMAS joins, concurring in the judgment.

Since *International Shoe Co.* v. *Washington*, 326 U. S. 310 (1945), this Court's cases have sought to divide the world of personal jurisdiction in two. A tribunal with "general jurisdiction" may entertain any claim against the defendant. But to trigger this power, a court usually must ensure the defendant is "'at home'" in the forum State. *Daimler AG* v. *Bauman*, 571 U. S. 117, 137 (2014). Meanwhile, "specific jurisdiction" affords a narrower authority. It applies only when the defendant "'purposefully avails'" itself of the opportunity to do business in the forum State and the suit "'arise[s] out of or relate[s] to'" the defendant's contacts with the forum State. *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 472, 475 (1985).

While our cases have long admonished lower courts to

keep these concepts distinct, some of the old guardrails have begun to look a little battered. Take general jurisdiction. If it made sense to speak of a corporation having one or two "homes" in 1945, it seems almost quaint in 2021 when corporations with global reach often have massive operations spread across multiple States. To cope with these changing economic realities, this Court has begun cautiously expanding the old rule in "'exceptional case[s].'" *BNSF R. Co.* v. *Tyrrell*, 581 U. S. ___, ___ (2017) (slip op., at 10).

Today's case tests the old boundaries from another direction. Until now, many lower courts have proceeded on the premise that specific jurisdiction requires two things. First, the defendant must "purposefully avail" itself of the chance to do business in a State. Second, the plaintiff's suit must "arise out of or relate to" the defendant's in-state activities. Typically, courts have read this second phrase as a unit requiring at least a but-for causal link between the defendant's local activities and the plaintiff's injuries. *E.g.*, *Tamburo* v. *Dworkin*, 601 F. 3d 693, 708–709 (CA7 2010) (collecting cases); see also *Burger King*, 471 U. S., at 475 (discussing "proximate[] results"). As every first year law student learns, a but-for causation test isn't the most demanding. At a high level of abstraction, one might say any event in the world would not have happened "but for" events far and long removed.

Now, though, the Court pivots away from this understanding. Focusing on the phrase "arise out of or relate to" that so often appears in our cases, the majority asks us to parse those words "as though we were dealing with language of a statute." *Reiter* v. *Sonotone Corp.*, 442 U. S. 330, 341 (1979). In particular, the majority zeros in on the disjunctive conjunction "or," and proceeds to build its entire opinion around that linguistic feature. *Ante*, at 8–9. The majority admits that "arise out of" may connote causation. But, it argues, "relate to" is an independent clause that does

not.

Where this leaves us is far from clear. For a case to "relate to" the defendant's forum contacts, the majority says, it is enough if an "affiliation" or "relationship" or "connection" exists between them. *Ante,* at 6, 12, 16. But what does this assortment of nouns *mean*? Loosed from any causation standard, we are left to guess. The majority promises that its new test "does not mean anything goes," but that hardly tells us what does. *Ante,* at 9. In some cases, the new test may prove more forgiving than the old causation rule. But it's hard not to wonder whether it may also sometimes turn out to be more demanding. Unclear too is whether, in cases like that, the majority would treat causation and "affiliation" as alternative routes to specific jurisdiction, or whether it would deny jurisdiction outright.

For a glimpse at the complications invited by today's decision, consider its treatment of North Dakota and Washington. Those are the States where Ford first sold the allegedly defective cars at issue in the cases before us. The majority seems to suggest that, if the plaintiffs had sought to bring their suits in those States, they would have failed. The majority stresses that the "only connection" between the plaintiffs' claims and North Dakota and Washington is the fact that former owners once bought the allegedly defective cars there. *Ante,* at 15. But the majority never tells us why that "connection" isn't enough. Surely, North Dakota and Washington would contend they have a strong interest in ensuring they don't become marketplaces for unreasonably dangerous products. Nor is it clear why the majority casts doubt on the availability of specific jurisdiction in these States without bothering to consider whether the old causation test might allow it. After all, no one doubts Ford purposefully availed itself of those markets. The plaintiffs' injuries, at least arguably, "arose from" (or were caused by) the sale of defective cars in those places. Even if the majority's new affiliation test isn't satisfied,

don't we still need to ask those causation questions, or are they now to be abandoned?

Consider, too, a hypothetical the majority offers in a footnote. The majority imagines a retiree in Maine who starts a one-man business, carving and selling wooden duck decoys. In time, the man sells a defective decoy over the Internet to a purchaser in another State who is injured. See *ante,* at 13, n. 4. We aren't told how. (Was the decoy coated in lead paint?) But put that aside. The majority says this hypothetical supplies a useful study in contrast with our cases. On the majority's telling, Ford's "continuous" contacts with Montana and Minnesota are enough to establish an "affiliation" with those States; by comparison, the decoy seller's contacts may be too "isolated" and "sporadic" to entitle an injured buyer to sue in his home State. But if this comparison highlights anything, it is only the litigation sure to follow. For between the poles of "continuous" and "isolated" contacts lie a virtually infinite number of "affiliations" waiting to be explored. And when it comes to that vast terrain, the majority supplies no meaningful guidance about what kind or how much of an "affiliation" will suffice. Nor, once more, does the majority tell us whether its new affiliation test supplants or merely supplements the old causation inquiry.

Not only does the majority's new test risk adding new layers of confusion to our personal jurisdiction jurisprudence. The whole project seems unnecessary. Immediately after disavowing any need for a causal link between the defendant's forum activities and the plaintiffs' injuries, the majority proceeds to admit that such a link may be present here. *Ante,* at 14. The majority stresses that the Montana and Minnesota plaintiffs before us "might" have purchased their cars because of Ford's activities in their home States. They "may" have relied on Ford's local advertising. And they "may" have depended on Ford's promise to furnish in-state servicers and dealers. If the majority is right about these

things, that would be more than enough to establish a but-for causal link between Ford's in-state activities and the plaintiffs' decisions to purchase their allegedly defective vehicles. Nor should that result come as a surprise: One might expect such causal links to be easy to prove in suits against corporate behemoths like Ford. All the new euphemisms—"affiliation," "relationship," "connection"—thus seem pretty pointless.[1]

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With the old *International Shoe* dichotomy looking increasingly uncertain, it's hard not to ask how we got here and where we might be headed.

Before *International Shoe*, it seems due process was usually understood to guarantee that only a court of competent jurisdiction could deprive a defendant of his life, liberty, or property. In turn, a court's competency normally depended on the defendant's presence in, or consent to, the sovereign's jurisdiction. But once a plaintiff was able to "tag" the defendant with process in the jurisdiction, that State's courts were generally thought competent to render judgment on any claim against the defendant, whether it involved events inside or outside the State. *Pennoyer* v. *Neff*, 95 U. S. 714, 733 (1878); *Burnham* v. *Superior Court of Cal.*,

[1]The majority says personal jurisdiction should not turn on a plaintiff's ability to "allege" or "establish" his or her reasons for doing business with the defendant. *Ante*, at 14. But the implicit assumption here—that the plaintiff bears the burden of proving personal jurisdiction—is often mistaken. Perhaps because a lack of personal jurisdiction is a waivable affirmative defense, some States place the burden of proving the defense on the defendant. Even in places where the plaintiff bears the burden, I fail to see why it would be so terrible (or burdensome) to require an individual to plead and prove his or her reasons for purchase. Frequently, doing so may be simple—far simpler than showing how the defendant's connections with the jurisdiction satisfy a new and amorphous "affiliation" test.

*County of Marin*, 495 U. S. 604, 610–611 (1990); J. Story, Commentaries on the Conflict of Laws 912–913 (3d ed. 1846); *Massie* v. *Watts*, 6 Cranch 148, 157, 161–162 (1810).[2]

*International Shoe*'s emergence may be attributable to many influences, but at least part of the story seems to involve the rise of corporations and interstate trade. See *Honda Motor Co.* v. *Oberg*, 512 U. S. 415, 431 (1994). A corporation doing business in its State of incorporation is one thing; the old physical presence rules for individuals seem easily adaptable to them. But what happens when a corporation, created and able to operate thanks to the laws of one State, seeks the privilege of sending agents or products into another State?

Early on, many state courts held conduct like that renders an out-of-state corporation present in the second jurisdiction. And a present company could be sued for any claim, so long as the plaintiff served an employee doing corporate business within the second State. *E.g.*, *Pennsylvania Lumbermen's Mut. Fire Ins. Co.* v. *Meyer*, 197 U. S. 407, 413–415 (1905). Other States sought to obviate any potential question about corporate jurisdiction by requiring an out-of-state corporation to incorporate under their laws too, or at least designate an agent for service of process. Either way, the idea was to secure the out-of-state company's presence or consent to suit. *E.g.*, *Pennsylvania Fire Ins. Co. of Philadelphia* v. *Gold Issue Mining & Milling Co.*, 243 U. S. 93,

[2]Some disagree that due process requires even this much. Recent scholarship, for example, contends *Pennoyer*'s territorial account of sovereign power is mostly right, but the rules it embodies are not "fixed in constitutional amber"—that is, Congress might be able to change them. Sachs, *Pennoyer* Was Right, 95 Texas L. Rev. 1249, 1255 (2017). Others suggest that fights over personal jurisdiction would be more sensibly waged under the Full Faith and Credit Clause. Jackson, Full Faith and Credit—The Lawyer's Clause of the Constitution, 45 Colum. L. Rev. 1, 3 (1945). Whether these theories are right or wrong, they at least seek to answer the right question—what the Constitution as originally understood requires, not what nine judges consider "fair" and "just."

95–96 (1917).

Unsurprisingly, corporations soon looked for ways around rules like these. No one, after all, has ever liked greeting the process server. For centuries, individuals facing imminent suit sought to avoid it by fleeing the court's territorial jurisdiction. But this tactic proved "too crude for the American business genius," and it held some obvious disadvantages. See Jackson, What Price "Due Process," 5 N. Y. L. Rev. 435, 436 (1927). Corporations wanted to retain the privilege of sending their personnel and products to other jurisdictions where they lacked a charter to do business. At the same time, when confronted with lawsuits in the second forum, they sought to hide behind their foreign charters and deny their presence. Really, their strategy was to do business without being seen to do business. *Id.*, at 438 ("No longer is the foreign corporation confronted with the problem 'to be or not to be'—it can both be and not be!").

Initially and routinely, state courts rejected ploys like these. See, *e.g.*, *Pullman Palace Car Co.* v. *Lawrence*, 74 Miss. 782, 796–799, 22 So. 53, 55–56 (Miss. 1897). But, in a series of decisions at the turn of the last century, this Court eventually provided a more receptive audience. On the one hand, the Court held that an out-of-state corporation often has a right to do business in another State unencumbered by that State's registration rules, thanks to the so-called dormant Commerce Clause. *International Textbook Co.* v. *Pigg*, 217 U. S. 91, 107–112 (1910). On the other hand, the Court began invoking the Due Process Clause to restrict the circumstances in which an out-of-state corporation could be deemed present. So, for example, the Court ruled that even an Oklahoma corporation purchasing a large portion of its merchandise in New York was not "doing business" there. *Rosenberg Bros. & Co.* v. *Curtis Brown Co.*, 260 U. S. 516, 517–518 (1923). Perhaps advocates of this arrangement thought it promoted national economic growth. See Dodd, Jurisdiction in Personal Actions, 23 Ill.

L. Rev. 427, 444–445 (1929). But critics questioned its fidelity to the Constitution and traditional jurisdictional principles, noting that it often left injured parties with no practical forum for their claims too. Jackson, 5 N. Y. L. Rev., at 436–438.

In many ways, *International Shoe* sought to start over. The Court "cast . . . aside" the old concepts of territorial jurisdiction that its own earlier decisions had seemingly twisted in favor of out-of-state corporations. *Burnham*, 495 U. S., at 618. At the same time, the Court *also* cast doubt on the idea, once pursued by many state courts, that a company "consents" to suit when it is forced to incorporate or designate an agent for receipt of process in a jurisdiction other than its home State. *Ibid.*[3] In place of nearly everything that had come before, the Court sought to build a new test focused on "'traditional notions of fair play and substantial justice.'" *International Shoe*, 326 U. S., at 316 (quoting *Milliken* v. *Meyer*, 311 U. S. 457, 463 (1940)).

It was a heady promise. But it is unclear how far it has really taken us. Even today, this Court usually considers corporations "at home" and thus subject to general jurisdiction in only one or two States. All in a world where global conglomerates boast of their many "headquarters." The Court has issued these restrictive rulings, too, even though *individual* defendants remain subject to the old "tag" rule, allowing them to be sued on any claim anywhere they can be found. *Burnham*, 495 U. S., at 610–611.[4] Nearly 80

[3] It is unclear what remains of the old "consent" theory after *International Shoe*'s criticism. Some courts read *International Shoe* and the cases that follow as effectively foreclosing it, while others insist it remains viable. Compare *Lanham* v. *BNSF R. Co.*, 305 Neb. 124, 130–136, 939 N. W. 2d 363, 368–371 (Neb. 2020), with *Rodriguez* v. *Ford Motor Co.*, 2019-NMCA-023, ¶12–¶14, 458 P. 3d 569, 575–576 (N. M. Ct. App. 2018).

[4] Since *Burnham*, some courts have sought to revive the tag rule for artificial entities while others argue that doing so would be inconsistent

years removed from *International Shoe*, it seems corporations continue to receive special jurisdictional protections in the name of the Constitution. Less clear is why.

Maybe, too, *International Shoe* just doesn't work quite as well as it once did. For a period, its specific jurisdiction test might have seemed a reasonable new substitute for assessing corporate "presence," a way to identify those out-of-state corporations that were simply pretending to be absent from jurisdictions where they were really transacting business. When a company "purposefully availed" itself of the benefits of another State's market in the 1940s, it often involved sending in agents, advertising in local media, or developing a network of on-the-ground dealers, much as Ford did in these cases. *E.g., International Shoe*, 326 U. S., at 313–314, 320. But, today, even an individual retiree carving wooden decoys in Maine can "purposefully avail" himself of the chance to do business across the continent after drawing online orders to his e-Bay "store" thanks to Internet advertising with global reach. *Ante*, at 12–13, n. 4. A test once aimed at keeping corporations honest about their out-of-state operations now seemingly risks hauling individuals to jurisdictions where they have never set foot.

Perhaps this is the real reason why the majority introduces us to the hypothetical decoy salesman. Yes, he arguably availed himself of a new market. Yes, the plaintiff's injuries arguably arose from (or were caused by) the product he sold there. Yes, *International Shoe*'s old causation test would seemingly allow for personal jurisdiction. But maybe the majority resists that conclusion because the old test no longer seems as reliable a proxy for determining corporate presence as it once did. Maybe *that's* the intuition

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with *International Shoe*. Compare *First Am. Corp.* v. *Price Waterhouse LLP*, 154 F. 3d 16, 20–21 (CA2 1998), with *Martinez* v. *Aero Caribbean*, 764 F. 3d 1062, 1067–1069 (CA9 2014).

lying behind the majority's introduction of its new "affiliation" rule and its comparison of the Maine retiree's "sporadic" and "isolated" sales in the plaintiff's State and Ford's deep "relationships" and "connections" with Montana and Minnesota. *Ante,* at 13, n. 4.

If that is the logic at play here, I cannot help but wonder if we are destined to return where we began. Perhaps all of this Court's efforts since *International Shoe,* including those of today's majority, might be understood as seeking to recreate in new terms a jurisprudence about corporate jurisdiction that was developing before this Court's muscular interventions in the early 20th century. Perhaps it was, is, and in the end always will be about trying to assess fairly a corporate defendant's presence or consent. *International Shoe* may have sought to move past those questions. But maybe all we have done since is struggle for new words to express the old ideas. Perhaps, too, none of this should come as a surprise. New technologies and new schemes to evade the process server will always be with us. But if our concern is with "'*traditional* notions of fair play and substantial justice,'" *International Shoe,* 326 U. S., at 316 (emphasis added), not just our personal and idiosyncratic impressions of those things, perhaps we will always wind up asking variations of the same questions.[5]

None of this is to cast doubt on the outcome of these cases.

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[5]The majority worries that the thoughts expressed here threaten to "transfigure our specific jurisdiction standard as applied to corporations" and "return [us] to the mid-19th century." *Ante,* at 7, n. 2; *ante,* at 9, n. 3. But it has become a tired trope to criticize any reference to the Constitution's original meaning as (somehow) both radical and antiquated. Seeking to understand the Constitution's original meaning is part of our job. What's the majority's real worry anyway—that corporations might lose special protections? The Constitution has always allowed suits against *individuals* on any issue in any State where they set foot. *Supra,* at 8–9. Yet the majority seems to recoil at even entertaining the possibility the Constitution might tolerate similar results for "nationwide corporation[s]," whose "business is everywhere." *Ante,* at 2; *ante,* at 9, n. 3.

The parties have not pointed to anything in the Constitution's original meaning or its history that might allow Ford to evade answering the plaintiffs' claims in Montana or Minnesota courts. No one seriously questions that the company, seeking to do business, entered those jurisdictions through the front door. And I cannot see why, when faced with the process server, it should be allowed to escape out the back. Jackson, 5 N. Y. L. Rev., at 439. The real struggle here isn't with settling on the right outcome in these cases, but with making sense of our personal jurisdiction jurisprudence and *International Shoe*'s increasingly doubtful dichotomy. On those scores, I readily admit that I finish these cases with even more questions than I had at the start. Hopefully, future litigants and lower courts will help us face these tangles and sort out a responsible way to address the challenges posed by our changing economy in light of the Constitution's text and the lessons of history.

471 U.S. 462 (1985)

# BURGER KING CORP.
v.
# RUDZEWICZ

No. 83-2097.

Supreme Court of United States.

Argued January 8, 1985
Decided May 20, 1985

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

463 *463 *Joel S. Perwin* argued the cause and filed briefs for appellant.

*Thomas H. Oehmke* argued the cause and filed a brief for appellee.

JUSTICE BRENNAN delivered the opinion of the Court.

The State of Florida's long-arm statute extends jurisdiction to "[a]ny person, whether or not a citizen or resident of this state," who, *inter alia*, "[b]reach[es] a contract in this state by failing to perform acts required by the contract to be
464 performed in this state;" so long as the cause of action *464 arises from the alleged contractual breach. Fla. Stat. § 48.193 (1)(g) (Supp. 1984). The United States District Court for the Southern District of Florida, sitting in diversity, relied on this provision in exercising personal jurisdiction over a Michigan resident who allegedly had breached a franchise agreement with a Florida corporation by failing to make required payments in Florida. The question presented is whether this exercise of long-arm jurisdiction offended "traditional conception[s] of fair play and substantial justice" embodied in the Due Process Clause of the Fourteenth Amendment. *International Shoe Co. v. Washington*, 326 U. S. 310, 320 (1945).

## I

### A

Burger King Corporation is a Florida corporation whose principal offices are in Miami. It is one of the world's largest restaurant organizations, with over 3,000 outlets in the 50 States, the Commonwealth of Puerto Rico, and 8 foreign nations. Burger King conducts approximately 80% of its business through a franchise operation that the company styles the "Burger King System" — "a comprehensive restaurant format and operating system for the sale of uniform and quality food products." App. 46.[1] Burger King licenses its franchisees to use its trademarks and service marks for a period of 20 years and leases standardized restaurant facilities to them for the same term. In addition, franchisees acquire a variety of proprietary information concerning the "standards, specifications, procedures and methods for
465 operating *465 a Burger King Restaurant." *Id.*, at 52. They also receive market research and advertising assistance, ongoing training in restaurant management;[2] and accounting, cost-control, and inventory-control guidance. By permitting franchisees to tap into Burger King's established national reputation and to benefit from proven procedures for dispensing standardized fare, this system enables them to go into the restaurant business with significantly lowered barriers to entry.[3]

In exchange for these benefits, franchisees pay Burger King an initial $40,000 franchise fee and commit themselves to payment of monthly royalties, advertising and sales promotion fees, and rent computed in part from monthly gross sales. Franchisees also agree to submit to the national organization's exacting regulation of virtually every conceivable

aspect of their operations.[4] Burger King imposes these standards and undertakes its rigid regulation out of conviction that "[u]niformity of service, appearance, and quality of product is essential to the preservation of the Burger King image and the benefits accruing therefrom to both Franchisee and Franchisor." *Id.*, at 31.

466 Burger King oversees its franchise system through a two-tiered administrative structure. The governing contracts *466 provide that the franchise relationship is established in Miami and governed by Florida law, and call for payment of all required fees and forwarding of all relevant notices to the Miami headquarters.[5] The Miami headquarters sets policy and works directly with its franchisees in attempting to resolve major problems. See nn. 7, 9, *infra*. Day-to-day monitoring of franchisees, however, is conducted through a network of 10 district offices which in turn report to the Miami headquarters.

The instant litigation grows out of Burger King's termination of one of its franchisees, and is aptly described by the franchisee as "a divorce proceeding among commercial partners." 5 Record 4. The appellee John Rudzewicz, a Michigan citizen and resident, is the senior partner in a Detroit accounting firm. In 1978, he was approached by Brian MacShara, the son of a business acquaintance, who suggested that they jointly apply to Burger King for a franchise in the Detroit area. MacShara proposed to serve as the manager of the restaurant if Rudzewicz would put up the investment capital; in exchange, the two would evenly share the profits. Believing that MacShara's idea offered attractive investment and tax-deferral opportunities, Rudzewicz agreed to the venture. 6 *Id.*, at 438-439, 444, 460.

Rudzewicz and MacShara jointly applied for a franchise to Burger King's Birmingham, Michigan, district office in the autumn of 1978. Their application was forwarded to Burger King's Miami headquarters, which entered into a preliminary agreement with them in February 1979. During the ensuing four months it was agreed that Rudzewicz and MacShara would assume operation of an existing facility in Drayton Plains, Michigan. MacShara attended the prescribed management courses in Miami during this period, see n. 2, *supra*, and the franchisees purchased $165,000
467 worth of restaurant equipment from Burger King's Davmor Industries division in *467 Miami. Even before the final agreements were signed, however, the parties began to disagree over site-development fees, building design, computation of monthly rent, and whether the franchisees would be able to assign their liabilities to a corporation they had formed.[6] During these disputes Rudzewicz and MacShara negotiated both with the Birmingham district office and with the Miami headquarters.[7] With some misgivings, Rudzewicz and MacShara finally obtained limited concessions from the Miami headquarters,[8] signed the final agreements, and commenced operations in June 1979. By signing the final agreements, Rudzewicz obligated himself personally to payments exceeding $1 million over the 20-year franchise relationship.

468 *468 The Drayton Plains facility apparently enjoyed steady business during the summer of 1979, but patronage declined after a recession began later that year. Rudzewicz and MacShara soon fell far behind in their monthly payments to Miami. Headquarters sent notices of default, and an extended period of negotiations began among the franchisees, the Birmingham district office, and the Miami headquarters. After several Burger King officials in Miami had engaged in prolonged but ultimately unsuccessful negotiations with the franchisees by mail and by telephone,[9] headquarters terminated the franchise and ordered Rudzewicz and MacShara to vacate the premises. They refused and continued to occupy and operate the facility as a Burger King restaurant.

## B

Burger King commenced the instant action in the United States District Court for the Southern District of Florida in May 1981, invoking that court's diversity jurisdiction pursuant to 28 U. S. C. § 1332(a) and its original jurisdiction over federal trademark disputes pursuant to § 1338(a).[10] Burger King alleged that Rudzewicz and MacShara had breached their franchise obligations "within [the jurisdiction of] this district court" by failing to make the required payments "at plaintiff's place of business in Miami, Dade County, Florida," ¶ 6, App. 121, and also charged that they were tortiously
469 infringing *469 its trademarks and service marks through their continued, unauthorized operation as a Burger King restaurant, ¶¶ 35-53, App. 130-135. Burger King sought damages, injunctive relief, and costs and attorney's fees.

Rudzewicz and MacShara entered special appearances and argued, *inter alia*, that because they were Michigan residents and because Burger King's claim did not "arise" within the Southern District of Florida, the District Court lacked personal jurisdiction over them. The District Court denied their motions after a hearing, holding that, pursuant to Florida's long-arm statute, "a non-resident Burger King franchisee is subject to the personal jurisdiction of this Court in actions arising out of its franchise agreements." *Id.*, at 138. Rudzewicz and MacShara then filed an answer and a counterclaim seeking damages for alleged violations by Burger King of Michigan's Franchise Investment Law, Mich. Comp. Laws § 445.1501 *et seq.* (1979).

After a 3-day bench trial, the court again concluded that it had "jurisdiction over the subject matter and the parties to this cause." App. 159. Finding that Rudzewicz and MacShara had breached their franchise agreements with Burger King and had infringed Burger King's trademarks and service marks, the court entered judgment against them, jointly and severally, for $228,875 in contract damages. The court also ordered them "to immediately close Burger King Restaurant Number 775 from continued operation or to immediately give the keys and possession of said restaurant to Burger King Corporation," *id.*, at 163, found that they had failed to prove any of the required elements of their counterclaim, and awarded costs and attorney's fees to Burger King.

Rudzewicz appealed to the Court of Appeals for the Eleventh Circuit.[11] A divided panel of that Circuit reversed the
470 *470 judgment, concluding that the District Court could not properly exercise personal jurisdiction over Rudzewicz pursuant to Fla. Stat. § 48.193(1)(g) (Supp. 1984) because "the circumstances of the Drayton Plains franchise and the negotiations which led to it left Rudzewicz bereft of reasonable notice and financially unprepared for the prospect of franchise litigation in Florida." Burger King Corp. v. MacShara, 724 F. 2d 1505, 1513 (1984). Accordingly, the panel majority concluded that "[j]urisdiction under these circumstances would offend the fundamental fairness which is the touchstone of due process." *Ibid.*

Burger King appealed the Eleventh Circuit's judgment to this Court pursuant to 28 U. S. C. § 1254(2), and we postponed probable jurisdiction. 469 U. S. 814 (1984). Because it is unclear whether the Eleventh Circuit actually held that Fla. Stat. § 48.193(1)(g) (Supp. 1984) *itself* is unconstitutional as applied to the circumstances of this case, we conclude that jurisdiction by appeal does not properly lie and therefore dismiss the appeal.[12] Treating the jurisdictional
471 *471 statement as a petition for a writ of certiorari, see 28 U. S. C. § 2103, we grant the petition and now reverse

## II

### A

472 The Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a *472 forum with which he has established no meaningful "contacts, ties, or relations." International Shoe Co. v. Washington, 326 U. S., at 319.[13] By requiring that individuals have "fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign," Shaffer v. Heitner, 433 U. S. 186, 218 (1977) (STEVENS, J., concurring in judgment), the Due Process Clause "gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit," World-Wide Volkswagen Corp. v. Woodson, 444 U. S. 286, 297 (1980).

Where a forum seeks to assert specific jurisdiction over an out-of-state defendant who has not consented to suit there, [14] this "fair warning" requirement is satisfied if the defendant has "purposefully directed" his activities at residents of the forum, Keeton v. Hustler Magazine, Inc., 465 U. S. 770, 774 (1984), and the litigation results from alleged injuries that "arise out of or relate to" those activities, Helicopteros Nacionales de Colombia, S. A. v. Hall, 466 U. S. 408, 414
473 *473 (1984).[15] Thus "[t]he forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State" and those products subsequently injure forum consumers World-Wide Volkswagen Corp. v. Woodson, supra, at 297-298. Similarly, a publisher who distributes magazines in a

distant State may fairly be held accountable in that forum for damages resulting there from an allegedly defamatory story. Keeton v. Hustler Magazine, Inc., supra; see also Calder v. Jones, 465 U. S. 783 (1984) (suit against author and editor). And with respect to interstate contractual obligations, we have emphasized that parties who "reach out beyond one state and create continuing relationships and obligations with citizens of another state" are subject to regulation and sanctions in the other State for the consequences of their activities. Travelers Health Assn. v. Virginia, 339 U. S. 643, 647 (1950). See also McGee v. International Life Insurance Co., 355 U. S. 220, 222-223 (1957).

We have noted several reasons why a forum legitimately may exercise personal jurisdiction over a nonresident who "purposefully directs" his activities toward forum residents. A State generally has a "manifest interest" in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors. *Id.*, at 223; see also Keeton v. Hustler Magazine, Inc., supra, at 776. Moreover, where individuals "purposefully derive benefit" from their interstate
474 activities, Kulko v. California Superior Court, *474 436 U. S. 84, 96 (1978), it may well be unfair to allow them to escape having to account in other States for consequences that arise proximately from such activities; the Due Process Clause may not readily be wielded as a territorial shield to avoid interstate obligations that have been voluntarily assumed. And because "modern transportation and communications have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity," it usually will not be unfair to subject him to the burdens of litigating in another forum for disputes relating to such activity. McGee v. International Life Insurance Co., supra, at 223.

Notwithstanding these considerations, the constitutional touchstone remains whether the defendant purposefully established "minimum contacts" in the forum State. International Shoe Co. v. Washington, supra, at 316. Although it has been argued that foreseeability of causing *injury* in another State should be sufficient to establish such contacts there when policy considerations so require,[18] the Court has consistently held that this kind of foreseeability is not a "sufficient benchmark" for exercising personal jurisdiction. World-Wide Volkswagen Corp. v. Woodson, 444 U. S., at 295. Instead, "the foreseeability that is critical to due process analysis . . . is that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there." *Id.*, at 297. In defining when it is that a potential defendant should "reasonably anticipate" out-of-state litigation, the Court frequently has drawn from the reasoning of Hanson v. Denckla, 357 U. S. 235, 253 (1958):

> "The unilateral activity of those who claim some relationship with a nonresident defendant cannot
> 475 satisfy the requirement of contact with the forum State. The application *475 of that rule will vary with the quality and nature of the defendant's activity, but it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws."

This "purposeful availment" requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of "random," "fortuitous," or "attenuated" contacts, Keeton v. Hustler Magazine, Inc., 465 U. S., at 774; World-Wide Volkswagen Corp. v. Woodson, supra, at 299, or of the "unilateral activity of another party or a third person," Helicopteros Nacionales de Colombia, S. A. v. Hall, supra, at 417.[17] Jurisdiction is proper, however, where the contacts proximately result from actions by the defendant *himself* that create a "substantial connection" with the forum State. McGee v. International Life Insurance Co., supra, at 223; see also Kulko v. California Superior Court, supra, at
476 94, n. 7.[18] Thus where the defendant "deliberately" has *476 engaged in significant activities within a State, Keeton v. Hustler Magazine, Inc., supra, at 781, or has created "continuing obligations" between himself and residents of the forum, Travelers Health Assn. v. Virginia, 339 U. S., at 648, he manifestly has availed himself of the privilege of conducting business there, and because his activities are shielded by "the benefits and protections" of the forum's laws it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.

Jurisdiction in these circumstances may not be avoided merely because the defendant did not *physically* enter the forum State. Although territorial presence frequently will enhance a potential defendant's affiliation with a State and reinforce the reasonable foreseeability of suit there, it is an inescapable fact of modern commercial life that a substantial amount of business is transacted solely by mail and wire communications across state lines, thus obviating

the need for physical presence within a State in which business is conducted. So long as a commercial actor's efforts are "purposefully directed" toward residents of another State, we have consistently rejected the notion that an absence of physical contacts can defeat personal jurisdiction there. Keeton v. Hustler Magazine, Inc., supra, at 774-775; see also Calder v. Jones, 465 U. S., at 788-790; McGee v. International Life Insurance Co., 355 U. S., at 222-223. Cf. Hoopeston Canning Co. v. Cullen, 318 U. S. 313, 317 (1943).

Once it has been decided that a defendant purposefully established minimum contacts within the forum State, these contacts may be considered in light of other factors to determine whether the assertion of personal jurisdiction would
477 comport with "fair play and substantial justice." International Shoe Co. v. Washington, 326 U. S., at 320. Thus *477 courts in "appropriate case[s]" may evaluate "the burden on the defendant," "the forum State's interest in adjudicating the dispute," "the plaintiff's interest in obtaining convenient and effective relief," "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," and the "shared interest of the several States in furthering fundamental substantive social policies." World-Wide Volkswagen Corp. v. Woodson, 444 U. S., at 292. These considerations sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required. See, e. g., Keeton v. Hustler Magazine, Inc., supra, at 780; Calder v. Jones, supra, at 788-789; McGee v. International Life Insurance Co., supra, at 223-224. On the other hand, where a defendant who purposefully has directed his activities at forum residents seeks to defeat jurisdiction, he must present a compelling case that the presence of some other considerations would render jurisdiction unreasonable. Most such considerations usually may be accommodated through means short of finding jurisdiction unconstitutional. For example, the potential clash of the forum's law with the "fundamental substantive social policies" of another State may be accommodated through application of the forum's choice-of-law rules.[19] Similarly, a defendant claiming substantial inconvenience may seek a change of venue.[20] Nevertheless, minimum requirements inherent in the concept of "fair
478 play and substantial *478 justice" may defeat the reasonableness of jurisdiction even if the defendant has purposefully engaged in forum activities. World-Wide Volkswagen Corp. v. Woodson, supra, at 292; see also Restatement (Second) of Conflict of Laws §§ 36-37 (1971). As we previously have noted, jurisdictional rules may not be employed in such a way as to make litigation "so gravely difficult and inconvenient" that a party unfairly is at a "severe disadvantage" in comparison to his opponent. The Bremen v. Zapata Off-Shore Co., 407 U. S. 1, 18 (1972) (re forum-selection provisions); McGee v. International Life Insurance Co., supra, at 223-224.

## B

## (1)

Applying these principles to the case at hand, we believe there is substantial record evidence supporting the District Court's conclusion that the assertion of personal jurisdiction over Rudzewicz in Florida for the alleged breach of his franchise agreement did not offend due process. At the outset, we note a continued division among lower courts respecting whether and to what extent a contract can constitute a "contact" for purposes of due process analysis.[21] If the question is whether an individual's contract with an out-of-state party *alone* can automatically establish sufficient minimum contacts in the other party's home forum, we believe the answer clearly is that it cannot. The Court long ago rejected the notion that personal jurisdiction might turn on "mechanical" tests, International Shoe Co. v. Washington, supra, at 319, or on "conceptualistic . . . theories of the place of contracting or of performance," Hoopeston Canning
479 Co. v. Cullen, *479 318 U. S., at 316. Instead, we have emphasized the need for a "highly realistic" approach that recognizes that a "contract" is "ordinarily but an intermediate step serving to tie up prior business negotiations with future consequences which themselves are the real object of the business transaction." Id., at 316-317. It is these factors — prior negotiations and contemplated future consequences, along with the terms of the contract and the parties' actual course of dealing — that must be evaluated in determining whether the defendant purposefully established minimum contacts within the forum.

In this case, no physical ties to Florida can be attributed to Rudzewicz other than MacShara's brief training course in Miami.[22] Rudzewicz did not maintain offices in Florida and, for all that appears from the record, has never even visited there. Yet this franchise dispute grew directly out of "a contract which had a *substantial* connection with that State." McGee v. International Life Insurance Co., 355 U. S., at 223 (emphasis added). Eschewing the option of operating an independent local enterprise, Rudzewicz deliberately "reach[ed] out beyond" Michigan and negotiated with a Florida
480 corporation for the purchase of a long-term franchise and *480 the manifold benefits that would derive from affiliation with a nationwide organization. Travelers Health Assn. v. Virginia, 339 U. S., at 647. Upon approval, he entered into a carefully structured 20-year relationship that envisioned continuing and wide-reaching contacts with Burger King in Florida. In light of Rudzewicz' voluntary acceptance of the long-term and exacting regulation of his business from Burger King's Miami headquarters, the "quality and nature" of his relationship to the company in Florida can in no sense be viewed as "random," "fortuitous," or "attenuated." Hanson v. Denckla, 357 U. S., at 253; Keeton v. Hustler Magazine, Inc., 465 U. S., at 774; World-Wide Volkswagen Corp. v. Woodson, 444 U. S., at 299. Rudzewicz' refusal to make the contractually required payments in Miami, and his continued use of Burger King's trademarks and confidential business information after his termination, caused foreseeable injuries to the corporation in Florida. For these reasons it was, at the very least, presumptively reasonable for Rudzewicz to be called to account there for such injuries.

The Court of Appeals concluded, however, that in light of the supervision emanating from Burger King's district office in Birmingham, Rudzewicz reasonably believed that "the Michigan office was for all intents and purposes the embodiment of Burger King" and that he therefore had no "reason to anticipate a Burger King suit outside of Michigan." 724 F. 2d, at 1511. See also *post*, at 488-489 (STEVENS, J., dissenting). This reasoning overlooks substantial record evidence indicating that Rudzewicz most certainly knew that he was affiliating himself with an enterprise based primarily in Florida. The contract documents themselves emphasize that Burger King's operations are conducted and supervised from the Miami headquarters, that all relevant notices and payments must be sent there, and that the agreements were made in and enforced from Miami. See n. 5, *supra*. Moreover, the parties' actual course
481 of dealing repeatedly confirmed that decisionmaking authority was vested in the Miami headquarters *481 and that the district office served largely as an intermediate link between the headquarters and the franchisees. When problems arose over building design, site-development fees, rent computation, and the defaulted payments, Rudzewicz and MacShara learned that the Michigan office was powerless to resolve their disputes and could only channel their communications to Miami. Throughout these disputes, the Miami headquarters and the Michigan franchisees carried on a continuous course of direct communications by mail and by telephone, and it was the Miami headquarters that made the key negotiating decisions out of which the instant litigation arose. See nn. 7, 9, *supra*.

Moreover, we believe the Court of Appeals gave insufficient weight to provisions in the various franchise documents providing that all disputes would be governed by Florida law. The franchise agreement, for example, stated:

> "This Agreement shall become valid when executed and accepted by BKC at Miami, Florida; it shall be deemed made and entered into in the State of Florida and shall be governed and construed under and in accordance with the laws of the State of Florida. The choice of law designation does not require that all suits concerning this Agreement be filed in Florida." App. 72.

See also n. 5, *supra*. The Court of Appeals reasoned that choice-of-law provisions are irrelevant to the question of personal jurisdiction, relying on Hanson v. Denckla for the proposition that "the center of gravity for choice-of-law purposes does not necessarily confer the sovereign prerogative to assert jurisdiction." 724 F. 2d, at 1511-1512, n. 10, citing 357 U. S., at 254. This reasoning misperceives the import of the quoted proposition. The Court in *Hanson* and subsequent cases has emphasized that choice-of-law *analysis* — which focuses on all elements of a transaction, and not simply on the defendant's conduct — is distinct from minimum-contacts jurisdictional analysis — which focuses at
482 the threshold *482 solely on the defendant's purposeful connection to the forum.[23] Nothing in our cases, however, suggests that a choice-of-law *provision* should be ignored in considering whether a defendant has "purposefully invoked the benefits and protections of a State's laws" for jurisdictional purposes. Although such a provision standing alone would be insufficient to confer jurisdiction, we believe that, when combined with the 20-year interdependent

relationship Rudzewicz established with Burger King's Miami headquarters, it reinforced his deliberate affiliation with the forum State and the reasonable foreseeability of possible litigation there. As Judge Johnson argued in his dissent below, Rudzewicz "purposefully availed himself of the benefits and protections of Florida's laws" by entering into contracts expressly providing that those laws would govern franchise disputes. 724 F. 2d, at 1513.[24]

## (2)

Nor has Rudzewicz pointed to other factors that can be said persuasively to outweigh the considerations discussed above and to establish the *unconstitutionality* of Florida's assertion of jurisdiction. We cannot conclude that Florida had
483 no "legitimate interest in holding [Rudzewicz] answerable *483 on a claim related to" the contacts he had established in that State. *Keeton v. Hustler Magazine, Inc.*, 465 U. S., at 776; see also *McGee v. International Life Insurance Co.*, 355 U. S., at 223 (noting that State frequently will have a "manifest interest in providing effective means of redress for its residents").[25] Moreover, although Rudzewicz has argued at some length that Michigan's Franchise Investment Law, Mich. Comp. Laws § 445.1501 *et seq.* (1979), governs many aspects of this franchise relationship, he has not demonstrated how Michigan's acknowledged interest might possibly render jurisdiction in Florida *unconstitutional*.[26] Finally, the Court of Appeals' assertion that the Florida litigation "severely impaired [Rudzewicz's] ability to call Michigan witnesses who might be essential to his defense and counterclaim," 724 F. 2d, at 1512-1513, is wholly without support
484 in the record.[27] And even to the extent that it is inconvenient *484 for a party who has minimum contacts with a forum to litigate there, such considerations most frequently can be accommodated through a change of venue. See n. 20, *supra*. Although the Court has suggested that inconvenience may at some point become so substantial as to achieve *constitutional* magnitude, *McGee v. International Life Insurance Co.*, *supra*, at 223, this is not such a case.

The Court of Appeals also concluded, however, that the parties' dealings involved "a characteristic disparity of bargaining power" and "elements of surprise," and that Rudzewicz "lacked fair notice" of the potential for litigation in Florida because the contractual provisions suggesting to the contrary were merely "boilerplate declarations in a lengthy printed contract." 724 F. 2d, at 1511-1512, and n. 10. See also *post*, at 489-490 (STEVENS, J., dissenting) Rudzewicz presented many of these arguments to the District Court, contending that Burger King was guilty of misrepresentation, fraud, and duress; that it gave insufficient notice in its dealings with him; and that the contract was one of adhesion. See 4 Record 687-691. After a 3-day bench trial, the District Court found that Burger King had made no misrepresentations, that Rudzewicz and MacShara "were and are experienced and sophisticated businessmen," and that "at no time" did they "ac[t] under economic duress or disadvantage imposed by" Burger King. App. 157-158. See also 7 Record 648-649. Federal Rule of Civil Procedure 52(a) requires that "[f]indings of fact shall not be set aside unless clearly erroneous," and neither Rudzewicz nor the Court of Appeals has pointed to record evidence that would support a "definite and firm conviction" that the District Court's findings are mistaken. *United States v. United States*
485 *Gypsum Co.*, 333 U. S. 364, 395 (1948). See also *485 *Anderson v. Bessemer City*, 470 U. S. 564, 573-576 (1985). To the contrary, Rudzewicz was represented by counsel throughout these complex transactions and, as Judge Johnson observed in dissent below, was himself an experienced accountant "who for five months conducted negotiations with Burger King over the terms of the franchise and lease agreements, and who obligated himself personally to contracts requiring over time payments that exceeded $1 million." 724 F. 2d, at 1514. Rudzewicz was able to secure a modest reduction in rent and other concessions from Miami headquarters, see nn. 8, 9, *supra*; moreover, to the extent that Burger King's terms were inflexible, Rudzewicz presumably decided that the advantages of affiliating with a national organization provided sufficient commercial benefits to offset the detriments.[28]

## III

Notwithstanding these considerations, the Court of Appeals apparently believed that it was necessary to reject jurisdiction in this case as a prophylactic measure, reasoning that an affirmance of the District Court's judgment would result in the exercise of jurisdiction over "out-of-state consumers to collect payments due on modest personal purchases" and would "sow the seeds of default judgments against franchisees owing smaller debts." 724 F. 2d, at

1511. We share the Court of Appeals' broader concerns and therefore reject any talismanic jurisdictional formulas, "the
486 *486 facts of each case must [always] be weighed" in determining whether personal jurisdiction would comport with "fair play and substantial justice." Kulko v. California Superior Court, 436 U. S., at 92 [29] The "quality and nature" of an interstate transaction may sometimes be so "random," "fortuitous," or "attenuated" [30] that it cannot fairly be said that the potential defendant "should reasonably anticipate being haled into court" in another jurisdiction. World-Wide Volkswagen Corp. v. Woodson, 444 U. S., at 297; see also n. 18, *supra*. We also have emphasized that jurisdiction may not be grounded on a contract whose terms have been obtained through "fraud, undue influence, or overweening bargaining power" and whose application would render litigation "so gravely difficult and inconvenient that [a party] will for all practical purposes be deprived of his day in court." The Bremen v. Zapata Off-Shore Co., 407 U. S., at 12, 18 Cf. Fuentes v. Shevin, 407 U. S. 67, 94-96 (1972); National Equipment Rental, Ltd. v. Szukhent, 375 U. S. 311, 329 (1964) (Black, J., dissenting) (jurisdictional rules may not be employed against small consumers so as to "crippl[e] their defense") Just as the Due Process Clause allows flexibility in ensuring that commercial actors are not effectively "judgment proof" for the consequences of obligations they voluntarily assume in other States McGee v. International Life Insurance Co., 355 U. S., at 223, so too does it prevent rules that would unfairly enable them to obtain default judgments against unwitting customers Cf. United States v. Rumely, 345 U. S. 41, 44 (1953) (courts must not be " 'blind' " to what " '[a]ll others can see and understand' ")

487 *487 For the reasons set forth above, however, these dangers are not present in the instant case. Because Rudzewicz established a substantial and continuing relationship with Burger King's Miami headquarters, received fair notice from the contract documents and the course of dealing that he might be subject to suit in Florida, and has failed to demonstrate how jurisdiction in that forum would otherwise be fundamentally unfair, we conclude that the District Court's exercise of jurisdiction pursuant to Fla Stat. § 48.193(1)(g) (Supp 1984) did not offend due process The judgment of the Court of Appeals is accordingly reversed, and the case is remanded for further proceedings consistent with this opinion

*It is so ordered.*

# SUPREME COURT OF THE UNITED STATES

No. 12-574

ANTHONY WALDEN, PETITIONER *v.* GINA FIORE ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[February 25, 2014]

JUSTICE THOMAS delivered the opinion of the Court.

This case asks us to decide whether a court in Nevada may exercise personal jurisdiction over a defendant on the basis that he knew his allegedly tortious conduct in Georgia would delay the return of funds to plaintiffs with connections to Nevada. Because the defendant had no other contacts with Nevada, and because a plaintiff's contacts with the forum State cannot be "decisive in determining whether the defendant's due process rights are violated," *Rush* v. *Savchuk*, 444 U. S. 320, 332 (1980), we hold that the court in Nevada may not exercise personal jurisdiction under these circumstances.

## I

Petitioner Anthony Walden serves as a police officer for the city of Covington, Georgia. In August 2006, petitioner was working at the Atlanta Hartsfield-Jackson Airport as a deputized agent of the Drug Enforcement Administration (DEA). As part of a task force, petitioner conducted investigative stops and other law enforcement functions in support of the DEA's airport drug interdiction program.

On August 8, 2006, Transportation Security Admin-

istration agents searched respondents Gina Fiore and Keith Gipson and their carry-on bags at the San Juan airport in Puerto Rico. They found almost $97,000 in cash. Fiore explained to DEA agents in San Juan that she and Gipson had been gambling at a casino known as the El San Juan, and that they had residences in both California and Nevada (though they provided only California identification). After respondents were cleared for departure, a law enforcement official at the San Juan airport notified petitioner's task force in Atlanta that respondents had boarded a plane for Atlanta, where they planned to catch a connecting flight to Las Vegas, Nevada.

When respondents arrived in Atlanta, petitioner and another DEA agent approached them at the departure gate for their flight to Las Vegas. In response to petitioner's questioning, Fiore explained that she and Gipson were professional gamblers. Respondents maintained that the cash they were carrying was their gambling "'bank'" and winnings. App. 15, 24. After using a drug-sniffing dog to perform a sniff test, petitioner seized the cash.[1] Petitioner advised respondents that their funds would be returned if they later proved a legitimate source for the cash. Respondents then boarded their plane.

After respondents departed, petitioner moved the cash to a secure location and the matter was forwarded to DEA headquarters. The next day, petitioner received a phone call from respondents' attorney in Nevada seeking return of the funds. On two occasions over the next month, petitioner also received documentation from the attorney regarding the legitimacy of the funds.

At some point after petitioner seized the cash, he helped draft an affidavit to show probable cause for forfeiture of

[1] Respondents allege that the sniff test was "at best, inconclusive," and there is no indication in the pleadings that drugs or drug residue were ever found on or with the cash. App. 21.

the funds and forwarded that affidavit to a United States Attorney's Office in Georgia.[2] According to respondents, the affidavit was false and misleading because petitioner misrepresented the encounter at the airport and omitted exculpatory information regarding the lack of drug evidence and the legitimate source of the funds. In the end, no forfeiture complaint was filed, and the DEA returned the funds to respondents in March 2007.

Respondents filed suit against petitioner in the United States District Court for the District of Nevada, seeking money damages under *Bivens* v. *Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (1971). Respondents alleged that petitioner violated their Fourth Amendment rights by (1) seizing the cash without probable cause; (2) keeping the money after concluding it did not come from drug-related activity; (3) drafting and forwarding a probable cause affidavit to support a forfeiture action while knowing the affidavit contained false statements; (4) willfully seeking forfeiture while withholding exculpatory information; and (5) withholding that exculpatory information from the United States Attorney's Office.

The District Court granted petitioner's motion to dismiss. Relying on this Court's decision in *Calder* v. *Jones*, 465 U. S. 783 (1984), the court determined that petitioner's search of respondents and his seizure of the cash in Georgia did not establish a basis to exercise personal jurisdiction in Nevada. The court concluded that even if petitioner caused harm to respondents in Nevada while knowing they lived in Nevada, that fact alone did not confer jurisdiction. Because the court dismissed the complaint for lack of personal jurisdiction, it did not determine

[2] The alleged affidavit is not in the record. Because this case comes to us at the motion-to-dismiss stage, we take respondents' factual allegations as true, including their allegations regarding the existence and content of the affidavit.

whether venue was proper.

On appeal, a divided panel of the United States Court of Appeals for the Ninth Circuit reversed. The Court of Appeals assumed the District Court had correctly determined that petitioner's search and seizure in Georgia could not support exercise of jurisdiction in Nevada. The court held, however, that the District Court could properly exercise jurisdiction over "the false probable cause affidavit aspect of the case." 688 F. 3d 558, 577 (2011). According to the Court of Appeals, petitioner "expressly aimed" his submission of the allegedly false affidavit at Nevada by submitting the affidavit with knowledge that it would affect persons with a "significant connection" to Nevada.[3] *Id.*, at 581. After determining that the delay in returning the funds to respondents caused them "foreseeable harm" in Nevada and that the exercise of personal jurisdiction over petitioner was otherwise reasonable, the court found the District Court's exercise of personal jurisdiction to be proper.[4] *Id.*, at 582, 585. The Ninth Circuit denied rehearing en banc, with eight judges, in two separate opinions, dissenting. *Id.*, at 562, 568.

We granted certiorari to decide whether due process permits a Nevada court to exercise jurisdiction over petitioner. 568 U. S. ___ (2013). We hold that it does not and

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[3] The allegations in the complaint suggested to the Court of Appeals that petitioner "definitely knew, at some point *after* the seizure but *before* providing the alleged false probable cause affidavit, that [respondents] had a significant connection to Nevada." 688 F. 3d, at 578.

[4] Judge Ikuta dissented. In her view, the "false affidavit/forfeiture proceeding aspect" over which the majority found jurisdiction proper was not raised as a separate claim in the complaint, and she found it "doubtful that such a constitutional tort even exists." *Id.*, at 593. After the court denied rehearing en banc, the majority explained in a postscript that it viewed the filing of the false affidavit, which effected a "continued seizure" of the funds, as a separate Fourth Amendment violation. *Id.*, at 588–589. Petitioner does not dispute that reading here.

therefore reverse.[5]

II

A

"Federal courts ordinarily follow state law in determining the bounds of their jurisdiction over persons." *Daimler AG* v. *Bauman*, 571 U. S. ___, ___ (2014) (slip op., at 6). This is because a federal district court's authority to assert personal jurisdiction in most cases is linked to service of process on a defendant "who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located." Fed. Rule of Civ. Proc. 4(k)(1)(A). Here, Nevada has authorized its courts to exercise jurisdiction over persons "on any basis not inconsistent with . . . the Constitution of the United States." Nev. Rev. Stat. §14.065 (2011). Thus, in order to determine whether the Federal District Court in this case was authorized to exercise jurisdiction over petitioner, we ask whether the exercise of jurisdiction "comports with the limits imposed by federal due process" on the State of Nevada. *Daimler*, *supra*, at ___ (slip op., at 6).

B

1

The Due Process Clause of the Fourteenth Amendment constrains a State's authority to bind a nonresident defendant to a judgment of its courts. *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 291 (1980). Although a nonresident's physical presence within the territorial jurisdiction of the court is not required, the nonresident generally must have "certain minimum contacts . . . such that the maintenance of the suit does not

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[5] We also granted certiorari on the question whether Nevada is a proper venue for the suit under 28 U. S. C. §1391(b)(2). Because we resolve the case on jurisdictional grounds, we do not decide whether venue was proper in Nevada.

offend 'traditional notions of fair play and substantial justice.'" *International Shoe Co.* v. *Washington*, 326 U. S. 310, 316 (1945) (quoting *Milliken* v. *Meyer*, 311 U. S. 457, 463 (1940)).

This case addresses the "minimum contacts" necessary to create specific jurisdiction.[6] The inquiry whether a forum State may assert specific jurisdiction over a nonresident defendant "focuses on 'the relationship among the defendant, the forum, and the litigation.'" *Keeton* v. *Hustler Magazine, Inc.*, 465 U. S. 770, 775 (1984) (quoting *Shaffer* v. *Heitner*, 433 U. S. 186, 204 (1977)). For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State. Two related aspects of this necessary relationship are relevant in this case.

First, the relationship must arise out of contacts that the "defendant *himself*" creates with the forum State. *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 475 (1985). Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties. See *World-Wide Volkswagen Corp.*, *supra*, at 291–292. We have consistently rejected attempts to satisfy the defendant-focused "minimum contacts" inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State. See *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408, 417 (1984) ("[The] unilateral

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[6] "Specific" or "case-linked" jurisdiction "depends on an 'affiliatio[n] between the forum and the underlying controversy'" (*i.e.*, an "activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation"). *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. ___, ___ (2011) (slip op., at 2). This is in contrast to "general" or "all purpose" jurisdiction, which permits a court to assert jurisdiction over a defendant based on a forum connection unrelated to the underlying suit (*e.g.*, domicile). Respondents rely on specific jurisdiction only.

activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction"). We have thus rejected a plaintiff's argument that a Florida court could exercise personal jurisdiction over a trustee in Delaware based solely on the contacts of the trust's settlor, who was domiciled in Florida and had executed powers of appointment there. *Hanson* v. *Denckla*, 357 U. S. 235, 253–254 (1958). We have likewise held that Oklahoma courts could not exercise personal jurisdiction over an automobile distributor that supplies New York, New Jersey, and Connecticut dealers based only on an automobile purchaser's act of driving it on Oklahoma highways. *World-Wide Volkswagen Corp.*, *supra*, at 298. Put simply, however significant the plaintiff's contacts with the forum may be, those contacts cannot be "decisive in determining whether the defendant's due process rights are violated." *Rush*, 444 U. S., at 332.

Second, our "minimum contacts" analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there. See, *e.g.*, *International Shoe*, *supra*, at 319 (Due process "does not contemplate that a state may make binding a judgment *in personam* against an individual ... with which the state has no contacts, ties, or relations"); *Hanson*, *supra*, at 251 ("However minimal the burden of defending in a foreign tribunal, a defendant may not be called upon to do so unless he has had the 'minimal contacts' with that State that are a prerequisite to its exercise of power over him"). Accordingly, we have upheld the assertion of jurisdiction over defendants who have purposefully "reach[ed] out beyond" their State and into another by, for example, entering a contractual relationship that "envisioned continuing and wide-reaching contacts" in the forum State, *Burger King*, *supra*, at 479–480, or by circulating maga-

zines to "deliberately exploi[t]" a market in the forum State, *Keeton*, *supra*, at 781. And although physical presence in the forum is not a prerequisite to jurisdiction, *Burger King*, *supra*, at 476, physical entry into the State—either by the defendant in person or through an agent, goods, mail, or some other means—is certainly a relevant contact. See, *e.g.*, *Keeton*, *supra*, at 773–774.

But the plaintiff cannot be the only link between the defendant and the forum. Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him. See *Burger King*, *supra*, at 478 ("If the question is whether an individual's contract with an out-of-state party *alone* can automatically establish sufficient minimum contacts in the other party's home forum, we believe the answer clearly is that it cannot"); *Kulko* v. *Superior Court of Cal., City and County of San Francisco*, 436 U. S. 84, 93 (1978) (declining to "find personal jurisdiction in a State ... merely because [the plaintiff in a child support action] was residing there"). To be sure, a defendant's contacts with the forum State may be intertwined with his transactions or interactions with the plaintiff or other parties. But a defendant's relationship with a plaintiff or third party, standing alone, is an insufficient basis for jurisdiction. See *Rush*, *supra*, at 332 ("Naturally, the parties' relationships with each other may be significant in evaluating their ties to the forum. The requirements of *International Shoe*, however, must be met as to each defendant over whom a state court exercises jurisdiction"). Due process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the "random, fortuitous, or attenuated" contacts he makes by interacting with other persons affiliated with the State. *Burger King*, 471 U. S., at 475 (internal quotation marks omitted).

2

These same principles apply when intentional torts are involved. In that context, it is likewise insufficient to rely on a defendant's "random, fortuitous, or attenuated contacts" or on the "unilateral activity" of a plaintiff. *Ibid.* (same). A forum State's exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on intentional conduct by the defendant that creates the necessary contacts with the forum.

*Calder* v. *Jones*, 465 U. S. 783, illustrates the application of these principles. In *Calder*, a California actress brought a libel suit in California state court against a reporter and an editor, both of whom worked for the National Enquirer at its headquarters in Florida. The plaintiff's libel claims were based on an article written and edited by the defendants in Florida for publication in the National Enquirer, a national weekly newspaper with a California circulation of roughly 600,000.

We held that California's assertion of jurisdiction over the defendants was consistent with due process. Although we recognized that the defendants' activities "focus[ed]" on the plaintiff, our jurisdictional inquiry "focuse[d] on 'the relationship among the defendant, the forum, and the litigation.'" *Id.*, at 788 (quoting *Shaffer*, 433 U. S., at 204). Specifically, we examined the various contacts the defendants had created with California (and not just with the plaintiff) by writing the allegedly libelous story.

We found those forum contacts to be ample: The defendants relied on phone calls to "California sources" for the information in their article; they wrote the story about the plaintiff's activities in California; they caused reputational injury in California by writing an allegedly libelous article that was widely circulated in the State; and the "brunt" of that injury was suffered by the plaintiff in that State. 465 U. S., at 788–789. "In sum, California [wa]s the focal point both of the story and of the harm suffered."

*Id.*, at 789. Jurisdiction over the defendants was "therefore proper in California based on the 'effects' of their Florida conduct in California." *Ibid.*

The crux of *Calder* was that the reputation-based "effects" of the alleged libel connected the defendants to California, not just to the plaintiff. The strength of that connection was largely a function of the nature of the libel tort. However scandalous a newspaper article might be, it can lead to a loss of reputation only if communicated to (and read and understood by) third persons. See Restatement (Second) of Torts §577, Comment *b* (1976); see also *ibid.* ("[R]eputation is the estimation in which one's character is held by his neighbors or associates"). Accordingly, the reputational injury caused by the defendants' story would not have occurred but for the fact that the defendants wrote an article for publication in California that was read by a large number of California citizens. Indeed, because publication to third persons is a necessary element of libel, see *id.*, §658, the defendants' intentional tort actually occurred *in* California. *Keeton*, 465 U. S., at 777 ("The tort of libel is generally held to occur wherever the offending material is circulated"). In this way, the "effects" caused by the defendants' article—*i.e.*, the injury to the plaintiff's reputation in the estimation of the California public—connected the defendants' conduct to *California*, not just to a plaintiff who lived there. That connection, combined with the various facts that gave the article a California focus, sufficed to authorize the California court's exercise of jurisdiction.[7]

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[7]The defendants in *Calder* argued that no contacts they had with California were sufficiently purposeful because their employer was responsible for circulation of the article. See *Calder* v. *Jones*, 465 U. S. 783, 789 (1984). We rejected that argument. Even though the defendants did not circulate the article themselves, they "expressly aimed" "their intentional, and allegedly tortious, actions" at California because they knew the National Enquirer "ha[d] its largest circulation" in

III

Applying the foregoing principles, we conclude that petitioner lacks the "minimal contacts" with Nevada that are a prerequisite to the exercise of jurisdiction over him. *Hanson*, 357 U. S., at 251. It is undisputed that no part of petitioner's course of conduct occurred in Nevada. Petitioner approached, questioned, and searched respondents, and seized the cash at issue, in the Atlanta airport. It is alleged that petitioner later helped draft a "false probable cause affidavit" in Georgia and forwarded that affidavit to a United States Attorney's Office in Georgia to support a potential action for forfeiture of the seized funds. 688 F. 3d, at 563. Petitioner never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada. In short, when viewed through the proper lens—whether the *defendant's* actions connect him to the *forum*—petitioner formed no jurisdictionally relevant contacts with Nevada.

The Court of Appeals reached a contrary conclusion by shifting the analytical focus from petitioner's contacts with the forum to his contacts with respondents. See *Rush*, 444 U. S., at 332. Rather than assessing petitioner's own contacts with Nevada, the Court of Appeals looked to petitioner's knowledge of respondents' "strong forum connections." 688 F. 3d, at 577–579, 581. In the court's view, that knowledge, combined with its conclusion that respondents suffered foreseeable harm in Nevada, satisfied the "minimum contacts" inquiry.[8] *Id.*, at 582.

This approach to the "minimum contacts" analysis

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California, and that the article would "have a potentially devastating impact" there. *Id.*, at 789–790.

[8] Respondents propose a substantially similar analysis. They suggest that "a defendant creates sufficient minimum contacts with a forum when he (1) intentionally targets (2) a known resident of the forum (3) for imposition of an injury (4) to be suffered by the plaintiff while she is residing in the forum state." Brief for Respondents 26–27.

impermissibly allows a plaintiff's contacts with the defendant and forum to drive the jurisdictional analysis. Petitioner's actions in Georgia did not create sufficient contacts with Nevada simply because he allegedly directed his conduct at plaintiffs whom he knew had Nevada connections. Such reasoning improperly attributes a plaintiff's forum connections to the defendant and makes those connections "decisive" in the jurisdictional analysis. See *Rush*, *supra*, at 332. It also obscures the reality that none of petitioner's challenged conduct had anything to do with Nevada itself.

Relying on *Calder*, respondents emphasize that they suffered the "injury" caused by petitioner's allegedly tortious conduct (*i.e.*, the delayed return of their gambling funds) while they were residing in the forum. Brief for Respondents 14. This emphasis is likewise misplaced. As previously noted, *Calder* made clear that mere injury to a forum resident is not a sufficient connection to the forum. Regardless of where a plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State. The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way.

Respondents' claimed injury does not evince a connection between petitioner and Nevada. Even if we consider the continuation of the seizure in Georgia to be a distinct injury, it is not the sort of effect that is tethered to Nevada in any meaningful way. Respondents (and only respondents) lacked access to their funds in Nevada not because anything independently occurred there, but because Nevada is where respondents chose to be at a time when they desired to use the funds seized by petitioner. Respondents would have experienced this same lack of access in California, Mississippi, or wherever else they might have traveled and found themselves wanting more money than

they had. Unlike the broad publication of the forum-focused story in *Calder*, the effects of petitioner's conduct on respondents are not connected to the forum State in a way that makes those effects a proper basis for jurisdiction.[9]

The Court of Appeals pointed to other possible contacts with Nevada, each ultimately unavailing. Respondents' Nevada attorney contacted petitioner in Georgia, but that is precisely the sort of "unilateral activity" of a third party that "cannot satisfy the requirement of contact with the forum State." *Hanson*, 357 U. S., at 253. Respondents allege that some of the cash seized in Georgia "originated" in Nevada, but that attenuated connection was not created by petitioner, and the cash was in Georgia, not Nevada, when petitioner seized it. Finally, the funds were eventually returned to respondents in Nevada, but petitioner had nothing to do with that return (indeed, it seems likely that it was respondents' unilateral decision to have their funds sent to Nevada).

* * *

Well-established principles of personal jurisdiction are sufficient to decide this case. The proper focus of the

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[9] Respondents warn that if we decide petitioner lacks minimum contacts in this case, it will bring about unfairness in cases where intentional torts are committed via the Internet or other electronic means (e.g., fraudulent access of financial accounts or "phishing" schemes). As an initial matter, we reiterate that the "minimum contacts" inquiry principally protects the liberty of the nonresident defendant, not the interests of the plaintiff. *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 291–292 (1980). In any event, this case does not present the very different questions whether and how a defendant's virtual "presence" and conduct translate into "contacts" with a particular State. To the contrary, there is no question where the conduct giving rise to this litigation took place: Petitioner seized physical cash from respondents in the Atlanta airport, and he later drafted and forwarded an affidavit in Georgia. We leave questions about virtual contacts for another day.

"minimum contacts" inquiry in intentional-tort cases is "'the relationship among the defendant, the forum, and the litigation.'" *Calder*, 465 U. S., at 788. And it is the defendant, not the plaintiff or third parties, who must create contacts with the forum State. In this case, the application of those principles is clear: Petitioner's relevant conduct occurred entirely in Georgia, and the mere fact that his conduct affected plaintiffs with connections to the forum State does not suffice to authorize jurisdiction. We therefore reverse the judgment of the Court of Appeals.

*It is so ordered.*