

21-1168 MALLORY V. NORFOLK SOUTHERN RAILWAY CO.

DECISION BELOW: 266 A.3d 542

LOWER COURT CASE NUMBER: 3 EAP 2021

QUESTION PRESENTED:

"Nearly 80 years removed from *International Shoe*, it seems corporations continue to receive special jurisdictional protections in the name of the Constitution. Less clear is why." *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 141 S. Ct. 1017, 1038 (2021) (Gorsuch J., concurring). This petition seeks resolution of an issue that has divided courts around the country. More than a dozen state supreme courts and every federal court of appeals have weighed in on the question with conflicting results.

An unbroken line of this Court's cases holds that a court may exercise personal jurisdiction with a party's consent. Corporations enforce that precedent to the letter in their contracts of adhesion, requiring flesh and blood consumers to litigate disputes with businesses in often-distant tribunals. *E.g., Carnival Cruise Lines, Inc. v. Shute*, 499 U.S. 585 (1991). Turnabout should be fair play (and is, incidentally, consistent with substantial justice). Consistent with that rule, states have enacted laws requiring corporations operating within their boundaries to consent to personal jurisdiction when they register to do business in those states. The Pennsylvania Supreme Court found such a statute unconstitutional under this Court's decision in *International Shoe v. Washington*, 326 U.S. 310 (1945), and its progeny. That erroneous result is but the latest decision among dozens that are squarely divided on the question presented:

Whether the Due Process Clause of the Fourteenth Amendment prohibits a state from requiring a corporation to consent to personal jurisdiction to do business in the state

CERT. GRANTED 4/25/2022