Nos. 19-368 & 19-369

IN THE
Supreme Court of the United States

FORD MOTOR COMPANY,
Petitioner,
v.
MONTANA EIGHTH JUDICIAL DISTRICT COURT, *et al.*,
Respondents.

FORD MOTOR COMPANY,
Petitioner,
v.
ADAM BANDEMER,
Respondent.

On Writs of Certiorari to the Supreme Courts of Montana and Minnesota

BRIEF FOR PETITIONER

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QUESTION PRESENTED

The Due Process Clause permits a state court to exercise specific personal jurisdiction over a non-resident defendant only when the plaintiff's claims "arise out of or relate to" the defendant's forum activities. *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462, 472 (1985) (internal quotation marks omitted).

The question presented is:

Whether the "arise out of or relate to" requirement is met when none of the defendant's forum contacts caused the plaintiff's claims, such that the plaintiff's claims would be the same even if the defendant had no forum contacts.

PARTIES TO THE PROCEEDING

Ford Motor Co. v. *Montana Eighth Judicial District Court*, No. 19-368:

Ford Motor Company, petitioner on review, was the petitioner below and a defendant in the trial court.

The Montana Eighth Judicial District Court and the Honorable Elizabeth Best, respondents on review, were the nominal respondents below.

Charles S. Lucero, personal representative of the Estate of Markkaya Jean Gullett, respondent on review, was the real party in interest below and the plaintiff in the trial court.

Ford Motor Co. v. *Bandemer*, No. 19-369:

Ford Motor Company, petitioner on review, was the appellant below and a defendant in the trial court.

Adam Bandemer, respondent on review, was the respondent below and the plaintiff in the trial court.

RULE 29.6 DISCLOSURE STATEMENT

Ford Motor Company has no parent corporation and no publicly held company owns 10% or more of Ford Motor Company's stock.

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BRIEF FOR PETITIONER

INTRODUCTION

General personal jurisdiction can rest on a connection between the defendant and the forum alone. *Specific* personal jurisdiction requires an additional connection, one between the defendant, *the plaintiff's claims*, and the forum. That is what makes specific jurisdiction "case-linked." *Bristol-Myers Squibb Co.* v. *Superior Court of Cal.*, 137 S. Ct. 1773, 1785 (2017). And that link is missing here.

These cases each stem from an accident involving a vehicle that, decades ago, Ford designed, assembled, and sold outside of Montana or Minnesota. Neither plaintiff alleges that Ford did anything in Montana or Minnesota that caused their injuries. The Montana and Minnesota Supreme Courts nonetheless each based specific jurisdiction over Ford on Ford's other, case-unrelated business in their States.

Precedent forecloses that approach. This Court has described the limits of specific jurisdiction in two ways. Generally, the Court has articulated a two-step test: Has a defendant "purposefully availed" itself of the forum—that is, does the defendant itself have contacts with the forum State—and, if so, do the plaintiff's claims "arise out of or relate to" those contacts? *Id.* at 1785–86 (brackets and internal quotation marks omitted). Sometimes, the Court has combined the two steps, simply asking whether a "defendant's suit-related conduct * * * create[d] a substantial connection with the forum State." *Walden* v. *Fiore*, 571 U.S. 277, 284 (2014). Under either formulation, the Court tests for a causal connection between the defendant's forum contacts and the plaintiff's claims.

This causal connection preserves the essential distinction between specific and general personal jurisdiction. It ensures that there is a link not just between the defendant and the forum, but between the defendant, the forum, and the *plaintiff's claims*. It allocates jurisdiction to the States where the defendant *did something* that the suit will regulate. And it gives a defendant the ability to predict where, and *on what claims*, it will be subject to suit.

This Court has already warned of "the danger" of sidestepping specific jurisdiction's requirements and basing jurisdiction on a defendant's other contacts with the forum State. *Bristol-Myers Squibb*, 137 S. Ct. at 1781. The courts below took that path anyway. This Court should reject this latest attempt to create a "loose and spurious form of general jurisdiction," *id.*, and make clear that specific personal jurisdiction requires a causal connection between a defendant's forum contacts and a plaintiff's claims.

The judgments below should be reversed.

OPINIONS BELOW

The Montana Supreme Court's opinion is reported at 443 P.3d 407. Gullett Pet. App. 1a–22a. The Montana Eighth Judicial District Court's opinion is not reported. *Id.* at 23a–36a.

The Minnesota Supreme Court's opinion is reported at 931 N.W.2d 744. Bandemer Pet. App. 1a–36a. The Minnesota Court of Appeals' opinion is reported at 913 N.W.2d 710. *Id.* at 37a–47a. The Todd County District Court's opinion is not reported, but is available at 2017 WL 10185684. *Id.* at 48a–58a.

JURISDICTION

The Montana Supreme Court entered judgment on May 21, 2019. On July 25, 2019, Justice Kagan extended the time within which to file a petition for a writ of certiorari to and including September 18, 2019, and Ford's petition was filed on that date. This Court granted certiorari on January 17, 2020. The Court's jurisdiction rests on 28 U.S.C. § 1257(a). *See Fisher* v. *District Court of Sixteenth Judicial Dist. of Mont.*, 424 U.S. 382, 385 n.7 (1976) (per curiam) ("The writ of supervisory control issued by the Mon-

tana Supreme Court is a final judgment within our jurisdiction.").

The Minnesota Supreme Court entered judgment on July 31, 2019, and Ford filed its petition for writ of certiorari on September 18, 2019. This Court granted certiorari on January 17, 2020. The Court's jurisdiction rests on 28 U.S.C. § 1257(a). The Minnesota Supreme Court's "judgment is plainly final on the federal issue" of whether the Due Process Clause permits the exercise of specific personal jurisdiction over Ford on Bandemer's claims, and the issue "is not subject to further review in the state courts." *Cox Broad. Corp.* v. *Cohn*, 420 U.S. 469, 485 (1975).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Due Process Clause of the Fourteenth Amendment, U.S. Const. amend. XIV, § 1, provides:

> [N]or shall any State deprive any person of life, liberty, or property, without due process of law.

The Montana and Minnesota long-arm statutes are reprinted in the appendix to this brief.

STATEMENT

Ford Motor Company is a global automaker headquartered in Dearborn, Michigan and incorporated in Delaware. Gullett Pet. App. 24a. Ford designs and manufactures a full line of cars, trucks, and SUVs, which it sells to independently owned-and-operated dealerships across the country. *See* J.A. 112. These consolidated cases arise from two accidents involving Ford vehicles.

A. *Ford* v. *Montana Eighth Judicial District Court*

In 2015, Markkaya Jean Gullett, a Montana resident, was driving a 1996 Ford Explorer along a Montana highway when one tire's tread separated. Gullett Pet. App. 3a. Gullett lost control of the vehicle, and it rolled into a ditch. *Id.* She died at the scene. *Id.* Charles Lucero, the personal representative of Gullett's estate, sued Ford in Montana state court, asserting design-defect, failure-to-warn, and negligence claims and seeking compensatory and punitive damages. *Id.*

1. Ford moved to dismiss for lack of personal jurisdiction. Ford explained that due process did not permit the state court to exercise specific jurisdiction over Lucero's claims because Ford had not done anything in Montana giving rise to those claims. The Explorer at issue was assembled in Kentucky. J.A. 41. It was first sold by Ford in 1996 to an independent Ford dealership in Washington State, which then sold it to an Oregon consumer. *Id.* at 41, 46; Gullett Pet. App. 24a. The Explorer arrived in Montana years later, after being bought and sold by several subsequent owners through a series of transactions not involving Ford or an independent Ford dealership. Gullett Pet. App. 3a, 24a.

The trial court denied Ford's motion, holding that Gullett's Montana injury was a sufficient link between the litigation and the forum that supported specific jurisdiction. *Id.* at 32a.

2. The Montana Supreme Court accepted Ford's petition for a writ of supervisory control and affirmed. *Id.* at 4a–5a. After finding that exercising jurisdiction was permissible under Montana's long-

arm statute, *id.* at 5a–8a, the court turned to the Fourteenth Amendment's Due Process Clause.

The court's due-process analysis was limited to specific jurisdiction because Lucero conceded that Ford was not subject to general jurisdiction in Montana. *Id.* at 5a, 26a. The court articulated a three-part test that governed its inquiry. Under it, (1) the nonresident defendant must have "purposefully availed itself of the privilege of conducting activities in Montana, thereby invoking Montana's laws"; (2) the claims must "arise[] out of or relate[] to the defendant's forum-related activities"; and (3) "the exercise of personal jurisdiction" must be "reasonable." *Id.* at 8a.

Although Ford contested only the second prong, the court addressed all three. *Id.* at 9a–21a. On the first, Ford had "purposefully availed itself of the privilege of conducting activities in Montana" because it "delivers its vehicles and parts into the stream of commerce with the expectation that Montana consumers will purchase them" and also "advertises," "is registered to do business," "operates subsidiary companies," and "provides automotive services" in Montana. *Id.* at 11a–12a. Ford also contracts with 36 franchised independent Montana dealerships, sells vehicles—including Ford Explorers—to those dealerships, sells parts in Montana, and has Montana employees. *Id.* On the third—reasonableness—Ford has "extensive" Montana contacts and other considerations did not weigh against exercising jurisdiction. *Id.* at 21a.

The rest of the Montana Supreme Court's decision focused on the critical second requirement, "whether Lucero's claims arise out of or relate to Ford's forum-

related activities." *Id.* at 12a. The court recognized that the question involved "a challenging legal inquiry." *Id.* at 14a. It also understood that, "technically," the only Ford activities that could be said to have led to Gullett's in-state use of the Explorer, and thus Lucero's claim, were "out-of-state conduct." *Id.* at 14a. That is, Ford's "forum-related activities did not directly result in [Gullett's] use of the product." *Id.* at 14a–15a.

The Montana Supreme Court further recognized that courts had disagreed on whether jurisdiction could be maintained "in similar factual scenarios." *Id.* at 12a–13a. The court nonetheless sided with the minority of jurisdictions holding that "due process does not require a direct connection." *Id.* at 15a. All a plaintiff must prove is a connection "sufficient enough to not offend due process." *Id.* at 16a.

The Montana Supreme Court next announced a standard for what counts as "sufficient" in product-liability cases. If a defendant purposefully avails itself of the forum "by placing a product into the stream of commerce," a plaintiff's "claims 'relate to' the defendant's forum-related activities if a nexus exists between the product and the defendant's in-state activity and if the defendant could have reasonably foreseen its product being used in Montana." *Id.* at 15a–17a. In the court's view, a more stringent test "would unduly restrict courts of this state from exercising specific personal jurisdiction." *Id.* at 16a.

The Montana Supreme Court applied its standard to Lucero's claims and found it satisfied. "A nexus exist[ed] between Gullett's use of the Explorer and Ford's in-state activity," because "Ford advertises, sells, and services" other "vehicles in Montana" and

"makes it convenient for Montana residents to drive Ford vehicles." *Id.* at 17a. And "Ford could have reasonably foreseen the Explorer—a product specifically built to travel—being used in Montana." *Id.*

The Montana Supreme Court next explained why neither *Bristol-Myers Squibb* nor *Walden* foreclosed its approach. *Bristol-Myers Squibb* "d[id] not impact" its decision because Gullett, unlike the plaintiffs in *Bristol-Myers Squibb*, was injured in Montana. *Id.* at 18a. And *Walden* was irrelevant because Lucero's claims had a "relat[ionship] to Ford's in-state activities" that was absent in *Walden*. *Id.* at 20a.

B. *Ford* v. *Bandemer*

In 2015, Adam Bandemer was the passenger in a 1994 Crown Victoria driving along a Minnesota road. Bandemer Pet. App. 3a. The driver "rear-ended a Minnesota county snow plow, * * * the car ended up in a ditch," and the airbags did not deploy. *Id.* Bandemer suffered a brain injury. *Id.* He sued Ford and the vehicle's owner and driver in Minnesota state court, asserting products liability, negligence, and breach-of-warranty claims against Ford. *Id.*

1. Ford moved to dismiss for lack of personal jurisdiction, *id.* at 52a, and the parties stipulated that Ford is not "at home" in Minnesota, *see id.* at 53a. Ford explained that due process did not permit the court to exercise specific personal jurisdiction because Bandemer's injury was not linked to any of Ford's Minnesota conduct. Ford designed the Crown Victoria involved in the accident in Michigan; assembled the vehicle in Ontario, Canada; and sold the vehicle to an independent Ford dealership in Bismarck, North Dakota, in 1993. J.A. 67, 84, 94, 99.

Between 1993 and 2013, the vehicle was bought and sold multiple times without any involvement by Ford. At the time of the accident, the vehicle was in the hands of its fifth owner, who had registered it in Minnesota in 2013. J.A. 132–133.

The trial court denied Ford's motion to dismiss on the ground that Ford had consented to personal jurisdiction by registering to do business in Minnesota. Bandemer Pet. App. 56a.

2. Ford appealed, and the Minnesota Court of Appeals affirmed on specific-jurisdiction grounds. *Id.* at 46a–47a. Ford contested only whether Bandemer's claims arose out of Ford's Minnesota activities. *Id.* at 41a–42a. The court of appeals found that Bandemer's claims were sufficiently connected to Ford's activities in Minnesota because Ford had engaged in marketing in the State. *See id.* at 42a–43a. "Ford sent direct mail to consumers in Minnesota," provided "creative content" for advertising directed by third-parties, and "sponsors many athletic, racing, and educational teams and events in Minnesota." *Id.* at 42a–43a & n.2. Although this marketing did not "specifically promote the Crown Victoria," the court of appeals held that it was "sufficiently related to the cause of action" to support specific jurisdiction. *Id.* at 43a–44a.

3. The Minnesota Supreme Court affirmed in a split 5-2 decision. *Id.* at 1a–36a.

a. The majority first found that Ford purposefully availed itself of Minnesota. "Ford collected data on how its vehicles perform through Ford dealerships" and "used that data to inform improvements * * * and to train mechanics"; Ford "sold more than 2,000 1994 Crown Victoria vehicles in Minnesota" to its

independent dealerships as new vehicles and "about 200,000 vehicles of all kinds in 2013, 2014, and 2015"; and Ford "conducted direct-mail advertising in Minnesota and directed marketing" to Minnesota. *Id.* at 4a, 9a–10a.

On the critical arise-out-of-or-related-to question, the majority held that a causal link is not required between "the defendant's contacts with Minnesota" and "the plaintiff's claims." *Id.* at 11a–12a (internal quotation marks omitted). Instead, the court determined that "the requirements of due process are met so long as Ford's contacts *relate to* the claim," but did not explain what kind of relationship suffices. *Id.* at 16a (emphasis in original).

The majority found its unspecified non-causal test was satisfied. *Id.* at 16a–18a. It recognized that Ford's "contacts * * * that cause[d] the claim"—"designing, manufacturing, warrantying, or warning about the 1994 Crown Victoria" occurred outside of Minnesota. *Id.* at 15a–16a (internal quotation marks omitted). But the majority held that Ford nonetheless had contacts with Minnesota that "relate to [Bandemer's] claims": sales of other 1994 Crown Victorias, sales of other vehicles, data collection to inform future vehicle designs, and advertising and marketing. *Id.* at 16a–17a. And the majority stressed that the accident occurred in Minnesota and injured a Minnesota resident. *Id.* at 17a–18a. All of this created a "substantial connection between the defendant Ford, the forum Minnesota, and the claims brought by Bandemer." *Id.* at 18a.

The majority disagreed that this Court's precedents required more. It distinguished *Bristol-Myers Squibb* as involving an injury to nonresidents out-

side of the forum. *See id.* at 17a. Without disputing Ford's argument that this Court's cases have always "applied a causal standard" when allowing specific jurisdiction, the majority nevertheless held that this Court's use of the term "related to" in some cases meant that the arise-out-of-or-related-to standard is capacious enough to encompass non-causal connections. *See id.* at 14a–18a. And the majority viewed a causal requirement as inconsistent with *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286 (1980), reasoning that the Court would not have been "emphatic[]" about the defendant's lack of purposeful availment there if what mattered was that "the particular vehicle was not designed, manufactured, or sold in Oklahoma." Bandemer Pet. App. 15a.

b. Justice Anderson, joined by Chief Justice Gildea, dissented. *Id.* at 21a–36a. The dissent explained that the majority's test was "inconsistent with controlling Supreme Court jurisprudence" and found the record "entirely insufficient to permit Minnesota to exercise specific personal jurisdiction." *Id.* at 21a, 28a, 36a.

Under *Bristol-Myers Squibb*, the dissent observed, "[w]hat is needed—and what is missing here—is a connection between the forum and the specific claims at issue." *Id.* at 32a (quoting *Bristol-Myers Squibb*, 137 S. Ct. at 1781). The mere "fact that Ford has 'regularly occurring sales' of *other* vehicles in Minnesota, years after it manufactured and sold the 1994 Crown Victoria, cannot justify the exercise of personal jurisdiction over Ford." *Id.* (emphasis in original). This held true even though Bandemer's injury occurred in Minnesota, because "mere injury to a forum resident is not a sufficient connection to the

forum" to satisfy the Constitution's requirements. *Id.* at 34a (quoting *Walden*, 571 U.S. at 290).

The dissent further explained there was no causal connection between Ford's Minnesota activities and Bandemer's claims. "[A]ll of Ford's conduct that, according to Bandemer, relates to his claims"—including the design of the airbag system, the assembly of the vehicle, and the sale of the vehicle—"took place more than 20 years before the accident, in states other than Minnesota." *Id.* at 28a. Ford's nationwide data-collection had nothing to do with Bandemer's claims; the record revealed "no way * * * that Minnesota data influenced the design" of the 1994 Crown Victoria, making any relevance to Bandemer's claims pure "[c]onjecture and guess." *Id.* at 29a–30a. And Ford's "*current* advertising activities" have no connection "to Bandemer's claims," which "focus on the design, manufacturing, and sale of the *1994* Crown Victoria and its restraint system." *Id.* at 30a (emphases in original). At bottom, the dissent objected to the majority allowing Ford to "be haled into a Minnesota court simply because an accident involving a vehicle manufactured by Ford (in another location) occurred" in Minnesota. *Id.* at 34a.

* * *

This Court granted certiorari in both cases, consolidating them for briefing and oral argument.

SUMMARY OF ARGUMENT

I. For 75 years, a "minimum contacts" standard has governed whether a state court can exercise specific jurisdiction over a defendant. A forum State's exercise of specific jurisdiction comports with due process

if the defendant has "certain minimum contacts with it such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *International Shoe Co.* v. *Washington*, 326 U.S. 310, 316 (1945) (internal quotation marks omitted). But where minimum contacts are absent, a State cannot hale the defendant into its courts.

In the decades since, this Court has made clear that these "minimum contacts" must be "the defendant's *suit-related*" contacts. *Walden*, 571 U.S. at 284 (emphasis added). The defendant must *itself* reach out and make contact with the forum—that is, the defendant must purposefully avail itself of the forum. *See World-Wide Volkswagen*, 444 U.S. at 297. And the plaintiff's suit must " 'arise out of or relate to' those activities." *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462, 472–473 (1985) (citation omitted).

These cases concern this second requirement. Because due process requires suit-related contacts, the arise-out-of-or-relate-to requirement is met only if the defendant's forum conduct *gave rise* to the plaintiff's claims. If a plaintiff's claim would be the same whether or not the defendant engaged in any in-state activity, then the defendant's "*suit-related* conduct" has not "create[d] a substantial connection with the forum State," even if it has non-suit-related contacts with that State. *Walden*, 571 U.S. at 284 (emphasis added).

Indeed, every specific-jurisdiction case from *International Shoe* and after has noted the presence or absence of a causal link between the defendant's forum-state conduct and the plaintiff's claims. Only where a causal link was present has the Court up-

held an exercise of specific jurisdiction. And it has never suggested a lesser relationship would suffice.

There are good reasons why 75 years of cases line up this way. The causal rule implements the rationales underlying the minimum-contacts requirement. It allocates jurisdiction among the States in our federal system. It is administrable. And it provides predictability for defendants.

II. The non-causal rules adopted by the decisions below cannot be squared with this Court's precedents or the principles that underlie them. The courts below adopted a bare relatedness test, asking only if the plaintiff was injured in the forum and whether the defendant did something in the forum that resembles the subject matter of the plaintiff's suit.

The Court has already deemed any specific-jurisdiction test that relies on a defendant's "unconnected" forum contacts to be an impermissible "loose and spurious form of general jurisdiction." *Bristol-Myers Squibb*, 137 S. Ct. at 1781. And it has made clear that specific jurisdiction does not turn on where a plaintiff's injury occurred. A "mere injury to a forum resident is not a sufficient connection to the forum" for specific jurisdiction because it is not a connection the defendant itself formed with the forum. *Walden*, 571 U.S. at 290.

The courts below relied on *World-Wide Volkswagen*, but that decision does not support a non-causal relatedness rule. The decision addressed only the purposeful-availment requirement, 444 U.S. at 297, and did not touch on the distinct arise-out-of-or-relate-to requirement, which was not clearly articulated until four years later. *See Burger King*, 471

U.S. at 472–473 (citing *Helicopteros Nacionales de Colombia, S.A.* v. *Hall*, 466 U.S. 408, 414 (1984)).

Respondents' policy arguments do not move the needle. Respondents complain that a causal test would limit jurisdiction to an illogical set of States, but to describe this result as "illogical," respondents have to jettison the federalism principles that animate due-process restrictions on personal jurisdiction. As this Court underscored just two Terms ago, these restrictions "are a consequence of territorial limitations on the power of the respective States." *Bristol-Myers Squibb*, 137 S. Ct. at 1780 (internal quotation marks omitted). Respondents' effort to portray a causal test as unworkable falls equally flat. A majority of federal courts of appeals and state high courts to have addressed the question have required a causal test for years—without issue. Gullett Pet. 9, 12–17.

III. Applying a causal rule, due process does not permit specific jurisdiction over Ford on these claims. None of Ford's forum contacts "caused" respondents' claims. *Goodyear Dunlop Tires Operations, S.A.* v. *Brown*, 564 U.S. 915, 919 (2011). The courts below acknowledged the lack of a causal connection, and respondents have never alleged one.

ARGUMENT

I. SPECIFIC JURISDICTION REQUIRES A CAUSAL CONNECTION BETWEEN THE DEFENDANT'S FORUM CONTACTS AND THE PLAINTIFF'S CLAIMS.

"A state court's assertion of jurisdiction exposes defendants to the State's coercive power, and," as a result, a state court's exercise of personal jurisdiction

over a defendant must comply "with the Fourteenth Amendment's Due Process Clause." *Goodyear* 564 U.S. at 918. The Due Process Clause, in turn, requires that a defendant "have certain minimum contacts with [the forum State] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *International Shoe*, 326 U.S. at 316 (internal quotation marks omitted). As would be expected of a test that safeguards the defendant's rights, this inquiry's "primary focus * * * is the defendant's relationship to the forum State." *Bristol-Myers Squibb*, 137 S. Ct. at 1779.[1]

This Court has recognized two species of personal jurisdiction: "'general' (sometimes called 'all-purpose') jurisdiction and 'specific' (sometimes called 'case-linked') jurisdiction." *Id.* at 1780 (quoting *Goodyear*, 564 U.S. at 919). General jurisdiction looks to the number and intensity of *all* of the defendant's contacts with the forum State. If a corporate defendant "is fairly regarded as at home" in the State, then its courts may hear *any* claim against the company, regardless of whether the claim is connected to the forum. *Id.* at 1780 (internal quotation marks omitted).

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[1] These cases involve the Fourteenth Amendment's Due Process Clause and thus provide "no occasion" for the Court to address any Fifth Amendment limitation on a federal court's exercise of personal jurisdiction. *Omni Capital Int'l, Ltd.* v. *Rudolf Wolff & Co.*, 484 U.S. 97, 102 n.5 (1987) (internal quotation marks omitted); *cf. Bristol-Myers Squibb*, 137 S. Ct. at 1784 ("[W]e leave open the question whether the Fifth Amendment imposes the same restrictions on the exercise of personal jurisdiction by a federal court.").

But "[s]pecific jurisdiction is very different." *Id*. It looks to a defendant's "*suit-related* conduct" in the forum. *Walden*, 571 U.S. at 284 (emphasis added). A defendant's "contact with and activity directed at a sovereign may justify specific jurisdiction in a suit arising out of or related to the defendant's contacts with the forum." *J. McIntyre Mach., Ltd.* v. *Nicastro*, 564 U.S. 873, 881 (2011) (plurality op.) (internal quotation marks omitted). Put differently, " 'the *suit*' must 'aris[e] out of or relat[e] to the defendant's contacts with the *forum*." *Bristol-Myers Squibb*, 137 S. Ct. at 1780 (emphases added) (quoting *Daimler AG* v. *Bauman*, 571 U.S. 117, 127 (2014)). "When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." *Id.* at 1781.

These cases present the question whether the requirement that a defendant have "suit-related contacts" with the forum is satisfied when the defendant's forum contacts did not give rise to the plaintiff's claims. The courts below approved of specific personal jurisdiction because the plaintiff suffered an injury in the forum, and because Ford engaged in various activities directed at third persons in the forum, such as marketing Ford vehicles to other buyers.

The Court's precedents make clear that such a loose approach is "unacceptably grasping." *Daimler*, 571 U.S. at 138. A defendant must have engaged in forum conduct that *gave rise* to the plaintiff's claims. That rule flows directly from this Court's cases. And it vindicates both of the rationales for the minimum-contacts requirement: implementing our federal system and providing predictability for defendants.

A. This Court's Precedents Dictate That Specific Jurisdiction Exists Only Where The Defendant's Forum Contacts Give Rise To The Plaintiff's Claims.

1. Specific jurisdiction requires that the defendant have "suit-related" contacts with the forum State. *Walden*, 571 U.S. at 284. That means that the defendant must form a contact with the forum that gives rise to the plaintiff's suit. Two related strands of this Court's specific-jurisdiction case law dictate that straightforward rule.

First, this Court has held that specific jurisdiction "must arise out of contacts that the 'defendant *himself*' creates with the forum State." *Id.* (quoting *Burger King*, 471 U.S. at 475). As *Walden* explained, "[d]ue process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties." *Id.* (citing *World-Wide Volkswagen*, 444 U.S. at 291–292). The Court has therefore "consistently rejected attempts to satisfy the defendant-focused 'minimum contacts' inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State." *Id.*; *see also Helicopteros*, 466 U.S. at 417 (holding that "unilateral 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"). "[I]t is *the defendant's* conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him." *Walden*, 571 U.S. at 285 (emphasis added).

It follows that "mere injury to a forum resident is not a sufficient connection to the forum." *Id.* at 290. *World-Wide Volkswagen* deemed it irrelevant that the plaintiffs "happened to suffer an accident" in Oklahoma, when the accident's location was attributable to the plaintiffs' "unilateral" decision to drive their car through the State. 444 U.S. at 295, 298 (quoting *Hanson* v. *Denckla*, 357 U.S. 235, 253 (1958)). *Walden* likewise found it immaterial that the plaintiffs "suffered the 'injury' caused by [defendant's] allegedly tortious conduct * * * while they were residing in the forum," because their injury did not "evince a connection between [the defendant] and" the forum. 571 U.S. at 289–290. The Court explained that "an injury is jurisdictionally relevant only insofar as it shows that *the defendant* has formed a contact with the forum State." *Id.* at 290 (emphasis added). Where an injury occurs in the forum because of something someone other the defendant did, the injury is not a relevant "contact" between the defendant and the forum.

Second, specific jurisdiction requires "a connection between the forum and the *specific claims* at issue." *Bristol-Myers Squibb*, 137 S. Ct. at 1781. It is not sufficient that a defendant sells the allegedly injury-causing product to "*other* plaintiffs" in the forum, that it causes *other* persons in the forum to suffer "the same injuries," or that *other* plaintiffs can bring "similar" claims against the defendant. *Id.* Those are connections between defendant and "third part[ies]," not between the defendant and the litigation, and so they are "an insufficient basis for jurisdiction." *Id.* (quoting *Walden*, 571 U.S. at 286); *see Goodyear*, 564 U.S. at 930 n.6 ("[E]ven regularly occurring sales of a product in a State do not justify

the exercise of jurisdiction over a claim unrelated to those sales.").

"Nor is it sufficient—or even relevant—that [the defendant] conducted" business on "unrelated" matters in the forum. *Bristol-Myers Squibb*, 137 S. Ct. at 1781. "What is needed * * * is a connection between the forum and the specific claims at issue." *Id.* And that connection is lacking if "all the conduct giving rise to the [plaintiff's] claims occurred elsewhere." *Id.* at 1782.

2. This Court has followed this rule since *International Shoe*. In *International Shoe*, the Court stated that specific jurisdiction exists where "the activities of the corporation [in the forum] have not only been continuous and systematic, *but also give rise to the liabilities sued on*." 326 U.S. at 317 (emphasis added). That requirement distinguishes specific jurisdiction from general jurisdiction, under which a defendant's "continuous corporate operations within a state [are] 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." *Id.* at 318. And in *International Shoe*, the Court held that Washington could exercise specific jurisdiction over International Shoe because its activities in the forum "were systematic and continuous throughout the years in question" and "[t]he obligation which is here sued upon arose out of those very activities." *Id.* at 319.

The Court repeated that principle in *Goodyear*. The Court explained that specific jurisdiction may be asserted where either "the corporation's in-state activity is 'continuous and systematic' and *that activity gave rise to the episode-in-suit*," or where a

corporation commits "certain 'single or occasional acts' in a State" and is made "answerable in that State *with respect to those acts*." 564 U.S. at 923 (first emphasis in original) (quoting *International Shoe*, 326 U.S. at 317–318). By contrast, specific jurisdiction cannot be asserted "with respect to matters unrelated to the [defendant's] forum connections." *Id.* Thus, the plaintiffs could not sue Goodyear in North Carolina for manufacturing an allegedly defective tire that caused a bus accident outside Paris, because none of Goodyear's activities giving rise to the claim occurred in North Carolina; "the episode-in-suit * * * occurred in France, and the tire alleged to have caused the accident was manufactured and sold abroad." *Id.* at 919. And that was true even though Goodyear sold similar tires to *other* persons in the forum. *Id.* at 919–920; *see id.* at 930 n.6 ("[E]ven regularly occurring sales of a product in a State do not justify the exercise of jurisdiction over a claim unrelated to those sales.")

Every one of this Court's specific-jurisdiction cases since *International Shoe* has hewed to this same requirement. In every case since *International Shoe* in which this Court has found a defendant subject to specific jurisdiction, it has cited some forum contact by the defendant that gave rise to the plaintiff's claims. *See McGee* v. *International Life Ins. Co.*, 355 U.S. 220, 223 (1957) (finding specific jurisdiction where "the suit was based on a contract which had substantial connection with that State"); *Burger King*, 471 U.S. at 479 (finding specific jurisdiction where the "franchise dispute grew directly out of a contract which had a substantial connection with that State." (internal quotation marks and emphasis omitted)); *Calder* v. *Jones*, 465 U.S. 783, 790 (1984)

(finding specific jurisdiction where the defendants were "primary participants in an alleged wrongdoing intentionally directed at a California resident"); *Keeton* v. *Hustler Magazine, Inc.*, 465 U.S. 770, 781 (1984) (finding specific jurisdiction for "libel action based on the contents of [a] magazine" the defendant circulated in the forum). And in every case since *International Shoe* in which the Court has found specific jurisdiction lacking, it has noted the absence of such a connection. *See, e.g.*, *Walden*, 571 U.S. at 291 (finding no specific jurisdiction where the defendant's "relevant conduct occurred entirely in Georgia"); *Hanson*, 357 U.S. at 251 (finding no specific jurisdiction where the claims at issue did not "arise[] out of an act done or transaction consummated in the forum State"); *Kulko* v. *Superior Court of Cal.*, 436 U.S. 84, 97 (1978) (finding no specific jurisdiction where claims "ar[o]s[e] from a separation that occurred" elsewhere); *World-Wide Volkswagen*, 444 U.S. at 299 (finding no specific jurisdiction where claims did not "*stem from* a constitutionally cognizable contact with" the forum (emphasis added)).

In short, this Court's precedents require a "suit-related" contact to establish specific jurisdiction. *Walden*, 571 U.S. at 284. And they establish that such a contact must consist of two things. It must be the *defendant's* contact: a contact between the defendant and the forum, not an in-state act done, or injury suffered by, the plaintiff. *See id*. at 285–286. And it must be a "suit-related" contact: in-state conduct that gives rise to the claims in suit, not in-state conduct involving third parties that is "similar" to the conduct the plaintiff complains of. *Bristol-Myers Squibb*, 137 S. Ct. at 1781.

B. A Causal Requirement Is Most Consistent With The Principles Underlying The Due-Process Limitations On State Courts.

This causal test for specific jurisdiction stems from the federalism and fairness principles that undergird the due-process restrictions on specific jurisdiction. These restrictions are "a consequence of territorial limitations on the power of the respective States," allocating authority among them. *Hanson*, 357 U.S. at 251. And the restrictions ensure that defendants have "fair warning" about "where th[eir] conduct will and will not render them liable to suit." *Burger King*, 471 U.S. at 472 (internal quotation marks omitted). The requirement that specific jurisdiction be grounded on the defendant's suit-related forum contacts—its own contacts that caused the plaintiff's claims—implements these principles.

1. The Due Process Clause operates as "an instrument of interstate federalism." *Bristol-Myers Squibb*, 137 S. Ct. at 1781 (quoting *World-Wide Volkswagen*, 444 U.S. at 294). In our federal system, "[t]he sovereignty of each State * * * implie[s] a limitation on the sovereignty of all of its sister States." *World-Wide Volkswagen*, 444 U.S. at 293. A State's exercise of personal jurisdiction over a defendant is an exercise of its sovereign authority because the suit, no less than a statute, serves to regulate the defendant's conduct. *See BMW of N. Am., Inc.* v. *Gore*, 517 U.S. 559, 572 n.17 (1996) ("State power may be exercised as much by a jury's application of a state rule of law in a civil lawsuit as by a statute."); *see also Goodyear*, 564 U.S. at 919 (specific jurisdiction requires an act that is "subject to the State's regulation"). By limiting the authority

of a state court to adjudicate a given dispute, the Due Process Clause "acts to ensure that the States[,] through their courts, do not reach out beyond the limits imposed on them by their status as coequal sovereigns in a federal system." *World-Wide Volkswagen*, 444 U.S. at 292.

Requiring that the defendant's contacts with the forum State have caused the plaintiff's claims serves this jurisdiction-allocating function. A causal test permits state courts to exercise jurisdiction over a plaintiff's claim according to a sensible division of authority, one linked to the State's interest in regulating the defendant's actions. *See* Lea Brilmayer, *Related Contacts and Personal Jurisdiction*, 101 Harv. L. Rev. 1444, 1457 (1988) ("Adjudication of a dispute is a means towards the legitimate end of regulating local conduct or prescribing its legal consequences."). Under a causal test, jurisdiction is proper in only those places where the defendant took or aimed some act that the plaintiff's suit seeks to regulate. A court in a State where the defendant took or aimed an action that ultimately led to the plaintiff's claim can regulate the action by exercising personal jurisdiction over the defendant. *See Goodyear*, 564 U.S. at 919 (specific personal jurisdiction turns, "principally, [on] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation"); *Nicastro*, 564 U.S. at 881 (plurality op.) (specific personal jurisdiction ensures that sovereign "power is exercised in connection with the defendant's activities touching on the State"). In States where the defendant did not take or aim its actions, courts cannot. *See Bristol-Myers Squibb*, 137 S. Ct. at 1780 (specific jurisdiction requires "an affiliation between the forum and the

underlying controversy" (quoting *Goodyear*, 564 U.S. at 919)).

A non-causal test, by contrast, does not allocate jurisdiction among States consistent with "the context of our federal system of government." *International Shoe*, 326 U.S. at 317. A non-causal test would allow a forum State to use a defendant's unconnected in-state activities as a hook to regulate the defendant's out-of-state activities that actually form the basis of the plaintiff's claims. The test would therefore authorize a State to enforce "obligations" that arose entirely outside its boundaries. *Id.* at 319–320. That outcome is at odds with our federal system. *See Nicastro*, 564 U.S. at 884 (plurality op.) ("[E]ach State has a sovereignty that is not subject to unlawful intrusion by other States.").

And where, as here, a defendant operates nationwide, a non-causal test would not allocate jurisdiction among the States at all. A corporation frequently engages in activity in one State—selling or marketing a product—that mirrors the activities it takes in the other 49. If a State can exercise jurisdiction over—that is, regulate—a defendant's out-of-state activity simply because the activity resembles something the defendant did in the forum State, the "territorial limitations on [state] power" would be nullified. *World-Wide Volkswagen*, 444 U.S. at 294 (internal quotation marks omitted). Each State would be free to "tread on the domain" of its sister States. *Nicastro*, 564 U.S. at 899 (Ginsburg, J., dissenting).

This Court has previously rejected tests that would enable this kind of jurisdictional free for all. In *Goodyear*, the Court held that a "sprawling view of

general jurisdiction" that would make "any substantial manufacturer or seller of goods * * * amenable to suit, on any claim for relief, wherever its products are distributed" was inconsistent with due process. 564 U.S. at 929. And in *Bristol-Myers Squibb*, the Court rejected a test that would permit specific jurisdiction so long as "third parties * * * can bring claims similar to those brought by the" plaintiffs for the same reason, deeming it "a loose and spurious form of general jurisdiction." 137 S. Ct. at 1781. The Court should do so again here and reject a test that allows a State to exercise jurisdiction over a defendant merely because it does unconnected business there.

2. A causal test for specific jurisdiction also furthers fairness. It ensures that a defendant will have "fair warning that a particular activity may subject [it] to the jurisdiction of a foreign sovereign." *Burger King*, 471 U.S. at 472 (internal quotation marks omitted). This warning tells a defendant not just where it may be sued, but what choice-of-law framework will govern, *Day & Zimmermann, Inc.* v. *Challoner*, 423 U.S. 3 (1975) (per curiam), and what statute of limitations will apply, *Sun Oil Co.* v. *Wortman*, 486 U.S. 717 (1988); *see also* Allan R. Stein, *Frontiers of Jurisdiction: From Isolation to Connectedness*, 2001 U. Chi. Legal F. 373, 385 (2001) (forum affects the availability of juries, discovery rules, and fee-shifting). That, in turn, allows "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*, 444 U.S. at 297.

A causal test likewise puts defendants on notice of where they might be liable and on what claims because it anchors personal jurisdiction to the defendant's contacts that cause a plaintiff's claims. In this way, a state court's focus on a defendant's suit-related forum contacts embodies the bargain that specific jurisdiction strikes. A defendant that makes contacts with a State "submits to the judicial power of an otherwise foreign sovereign to the extent that power is exercised in connection with the defendant's activities touching on the State." *Nicastro*, 564 U.S. at 881 (plurality op.). A defendant will know what it did, and in what forums. And so a causal test gives that defendant certainty as to what it can be sued about and where. *Id.* (citing *Helicopteros*, 466 U.S. at 414 n.8.).

This knowledge, in turn, allows a defendant to structure its conduct to avoid suit in any given forum, if it wishes. A defendant that knows, for example, that its activities with respect to a given product took place in three different States can take steps to mitigate its litigation risk in each State by, for example, "procuring insurance, passing the expected costs on to customers, or, if the risks are too great, severing its connection with the State." *World-Wide Volkswagen*, 444 U.S. at 297. And a defendant that knows how much of its product is sold in a given State can take similar steps, tailored to the litigation risk posed by the volume of its sales in each State.

A non-causal relatedness test provides no similar notice. Defendants have no guidance on what forum contacts are sufficiently "related to" any given claim. *See Mellouli* v. *Lynch*, 135 S. Ct. 1980, 1990 (2015)

(noting that the words "relating to" "are 'broad' and 'indeterminate'" (citation omitted)); *Maracich* v. *Spears*, 570 U.S. 48, 60 (2013) (applying a "relate to" standard is "a project doomed to failure, since, as many a curbstone philosopher has observed, everything is related to everything else" (internal quotation marks omitted)). Must a defendant's contacts involve *identical* activities—such as selling products identical to the one that caused a plaintiff's injury—to count as related forum contacts? Are *similar* activities—such as selling other products in the State—sufficient, and if similarity is enough, just how similar must the activities be? Is one identical or similar contact enough or must there be more, and, if so, how many identical or similar contacts are required? *See* Brilmayer, *supra*, at 1460. A non-causal test does not provide clear, predictable results, and it does not "allow a defendant to anticipate his jurisdictional exposure based on his own actions." *Dudnikov* v. *Chalk & Vermilion Fine Arts, Inc.*, 514 F.3d 1063, 1079 (10th Cir. 2008) (Gorsuch, J.).

Moreover, a non-causal test would give defendants little choice in how to structure their conduct to avoid suit. The decisions below show why. Under their relatedness test, so long as Ford does some automobile-related business in Montana or Minnesota, it is subject to suit by any person injured in those States by one of its vehicles. Ford could avoid being subject to suit on respondents' claims in these cases only if it entirely stopped doing business in Montana or Minnesota—or at least reduced its activities to a level that a court might deem too minimal to reasonably subject Ford to suit.

For this reason, the Court should not conflate predictability with constitutionally sufficient notice. It is not enough for Ford to know that it could be sued on car-related claims anywhere it does car-related business. This Court has rejected similar arguments before. Under an "exorbitant" test of general jurisdiction, for example, a defendant may predict that it will be subject to suit wherever it has "sizeable" sales. *Daimler*, 571 U.S. at 139. But that test does not provide constitutionally sufficient notice because it does not allow a defendant "to structure [its] primary conduct" as due process requires. *Id.* (internal quotation marks omitted). Likewise, under a bare "foreseeability" test for specific jurisdiction, a defendant may predict that it will be subject to suit wherever its products could possibly travel. *World-Wide Volkswagen*, 444 U.S. at 297. But that test does not provide constitutionally sufficient notice either. *See id.* (explaining that "the foreseeability that is critical to due process" is what will "allow[] 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").

Here, under a bare relatedness test, a defendant will know that it risks suit wherever it does business. But that test does not provide the constitutionally required notice because it does not allow a defendant to "structure [its] primary conduct" to affect where it will and will not be subject to suit for that conduct. *Id.* For example, Ford will be unable to structure its *future* conduct—such as where it manufactures or sells a new vehicle—with confidence as to where it might be subject to suits related to that vehicle, because Ford's amenability to suit will

depend on its *other* conduct, such as past sales of similar vehicles. The Court should reject the lower courts' unpredictable non-causal standard.

II. THE LOWER COURTS' NON-CAUSAL TEST DEPARTS FROM PRECEDENT AND PRINCIPLE.

The Montana and Minnesota Supreme Courts held that a non-causal test satisfies due process. But their reasoning cannot be reconciled with this Court's cases. And respondents' policy-based arguments do not justify the test either.

A. The Courts Below Sidestepped This Court's Precedents To Find Relatedness, In Its Broadest Sense, Sufficient For Specific Jurisdiction.

1. By holding causation unnecessary, the lower courts revived the sort of "sliding scale approach" that *Bristol-Myers Squibb* rejected as "a loose and spurious form of general jurisdiction." 137 S. Ct. at 1781. A sliding-scale approach is one in which "the requisite connection between the forum and the specific claims at issue is relaxed if the defendant has extensive forum contacts that are unrelated to those claims." *Id.* But the Court held that no amount of marketing or sales of even the *same* product at issue in the plaintiffs' suit—and no activities related to other products—could substitute for a "connection between the forum and the specific claims at issue." *Id.*

Bristol-Myers Squibb's criticism of California's approach applies equally to the decisions below. Under them, the arise-out-of-or-related-to requirement is satisfied if "the quality and quantity of [the defendant's] contacts with [the forum] were sufficient to

support personal jurisdiction." Bandemer Pet. App. 10a; *accord* Gullett Pet. App. 16a (not requiring a causal connection "as long as the connection between the defendant's in-state conduct and the plaintiff's claim is sufficient enough to not offend due process"). That is, the non-causal tests applied below treat a defendant's contacts with third parties in the forum as a substitute for *suit-related* contacts, so long as enough of the third-party contacts *resemble* the suit's subject matter. That blurs the line between general and specific jurisdiction in just the way *Bristol-Myers Squibb* forbids. *See, e.g.*, *Dudnikov*, 514 F.3d at 1078 (rejecting the non-causal test because it "varies the required connection between the contacts and the claims asserted based on the number of the contacts"); *O'Connor* v. *Sandy Lane Hotel Co.*, 496 F.3d 312, 321 (3d Cir. 2007) (same).

The courts below tried to cabin *Bristol-Myers Squibb* to its facts, as a case about the proper test when a plaintiff is not injured in the forum. Bandemer Pet. App. 13a, 17a; Gullett Pet. App. 18a. That badly misreads *Bristol-Myers Squibb*. Bristol Myers sold Plavix in California to the tune of almost 187 million pills and over $900 million in sales over the six-year period before the plaintiffs' suit. 137 S. Ct. at 1778. A group of plaintiffs—some California residents, many not—sued for injuries they claimed were caused by Plavix. *Id.* The California residents "were prescribed, obtained, and ingested Plavix in California" and "allegedly sustained the same injuries as did the nonresidents." *Id.* at 1781. But Bristol Myers's extensive contacts with the California residents were "an insufficient basis for jurisdiction" over the *non*residents' claims because those contacts connected Bristol Myers to third parties, not

the nonresident plaintiffs. *Id.* (quoting *Walden*, 571 U.S. at 286). There was no "connection between the forum and the specific claims at issue," and the California court therefore could not exercise specific jurisdiction over those claims. *Id.*

The Court's mention of where the nonresidents had been injured only underscored the lack of a connection between the nonresidents' claims and Bristol-Myers Squibb's California contacts. In both *Walden* and *Bristol-Myers Squibb*, specific jurisdiction was improper because "all the conduct giving rise to the * * * claims occurred elsewhere." *Id.* at 1782. But the case for jurisdiction in *Bristol-Myers Squibb* was "even weaker" than in *Walden* because the plaintiffs were nonresidents who had not been harmed in California. *Id.*

Bristol-Myers Squibb could not have left open the possibility of specific jurisdiction based on where a plaintiff was injured because *Walden* forecloses that option. *Walden* held that where a plaintiff suffered "an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State." 571 U.S. at 290. A "mere injury to a forum resident is not a sufficient connection to the forum." *Id*; *see also Bristol-Myers Squibb*, 137 S. Ct. at 1782 (explaining that "the mere fact that [this] conduct affected plaintiffs with connections to the forum" did not establish jurisdiction (quoting *Walden*, 571 U.S. at 291)).

An example illustrates why the location of a plaintiff's injury cannot be dispositive. Assume that on Day 1, Ford sells and advertises vehicles in Montana. On Day 2, the plaintiff moves to Montana, bringing

his Ford vehicle with him. On Day 3, the plaintiff is in an accident while driving his vehicle.

For the plaintiff's injury to be "jurisdictionally relevant," the injury must show that Ford "formed a contact with the forum." *Walden*, 571 U.S. at 290. But Ford's activities in the forum are exactly the same on Day 1 (before the injury) as on Day 3 (after the injury). As a result, the injury does not establish *Ford's* contacts with Montana. It establishes only the *plaintiff's* contacts with Montana: The plaintiff "would have experienced this same" injury "wherever else [he] might have traveled," and he just happened to travel to Montana. *Id.* An in-forum injury is thus "precisely the sort of 'unilateral activity' of a third party that" does not connect the defendant to the forum and cannot support jurisdiction. *Id.* at 291 (citation omitted); *see also World-Wide Volkswagen*, 444 U.S. at 296 (rejecting the notion that a product's seller "appoint[s] the chattel his agent for service of process").

2. The Montana and Minnesota Supreme Courts also found support for their non-causal tests in *World-Wide Volkswagen*. Each relied on a different part of the opinion. Gullett Pet. App. 15a; Bandemer Pet. App. 15a. Both were wrong.

a. The Montana Supreme Court read *World-Wide Volkswagen* as having approved of the exercise of specific personal jurisdiction if the defendant served the forum State's market and its product caused an injury there. Gullett Pet. App. 15a. The court pointed to this Court's statement that if a manufacturer's "sale of a product * * * 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 other States," then "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*." *Id.* (quoting *World-Wide Volkswagen*, 444 U.S. at 298). The Montana Supreme Court's reliance on this language was wrong for three reasons.

First, *World-Wide Volkswagen* concerned the separate purposeful-availment requirement. Just before sentence that the Montana Supreme Court quoted, the Court explained why due process imposes a purposeful availment requirement. *See World-Wide Volkswagen*, 444 U.S. at 297 ("When a corporation '*purposefully avails itself of the privilege of conducting activities within the forum State*,' it has clear notice that it is subject to suit there * * * ." (emphasis added) (quoting *Hanson*, 357 U.S. at 253)). The next sentence, the one the Montana Supreme Court seized on, describes when a manufacturer might be viewed as availing itself of a forum. It does not speak to the arise-out-of-or-relate-to requirement, which was not even at issue and, indeed, had not yet been fully articulated. *See Robinson* v. *Harley-Davidson Motor Co.*, 316 P.3d 287, 295 (Or. 2013) ("*World-Wide Volkswagen* * * * predated * * * *Helicopteros* and *Burger King*, in which the Court more fully articulated the 'arise out of or relates to' requirement * * * ."); *Myers* v. *Casino Queen, Inc.*, 689 F.3d 904, 912 (8th Cir. 2012) (a case that "predated * * * *Helicopteros* and *Burger King* * * * could not possibly involve an application of the 'arise out of or relate to' requirement").

What's more, the quoted sentence was dicta. The full sentence refers to "the sale of a product of a

manufacturer or distributor *such as Audi or Volkswagen*." *World-Wide Volkswagen*, 444 U.S. at 297 (emphasis added). But Audi and Volkswagen were not before the Court; only the regional distributor and dealer were. *Id.* at 288 n.3. The discussion about what actions by a manufacturer *might* be purposeful availment therefore was not part of the Court's holding. *See Juelich* v. *Yamazaki Mazak Optonics Corp.*, 682 N.W.2d 565, 572 (Minn. 2004); *see also Ruckstuhl* v. *Owens Corning Fiberglas Corp.*, 731 So. 2d 881, 887 (La. 1999) (explaining that "the 'stream of commerce' language of *World-Wide Volkswagen* is dicta").

Regardless, the quoted sentence does not support a non-causal rule. The Court stated only that if the defendant sells a product in a forum (itself, or through an authorized distributor) and *that product* injures the plaintiff there, the forum State can exercise specific jurisdiction over the defendant on the plaintiff's claims. Here, although Ford delivered products into Montana and Minnesota, respondents allege that *different* products that Ford delivered to *different* States decades earlier caused their injuries. This Court's later cases make clear that these distinct sales do not support specific jurisdiction. *See Bristol-Myers Squibb*, 137 S. Ct. at 1781 ("[t]he mere fact that *other* plaintiffs" purchased the same products in the forum State "does not allow the State to assert specific jurisdiction" even when residents "allegedly sustained the same injuries as did the nonresidents"); *see also Helicopteros*, 466 U.S. at 418 ("mere purchases" in a forum State, "even if occurring at regular intervals, are not enough to warrant * * * jurisdiction over a nonresident corporation

in a cause of action not related to those purchase transactions"); *Goodyear*, 564 U.S. at 929 (same).

b. The Minnesota Supreme Court, for its part, relied on *World-Wide Volkswagen*'s recitation of the contacts that the distributor and dealer did *not* have with the forum State—they did not make sales in Oklahoma, did not provide services in Oklahoma, did not advertise in Oklahoma, and so on. Bandemer Pet. App. 15a (citing *World-Wide Volkswagen*, 444 U.S. at 295). In its view, the Court would have bothered to make this list only if it meant to hold that a defendant who *did* have these contacts would be subject to specific jurisdiction. *Id.* But the Court's list merely reinforces that *World-Wide Volkswagen* concerned only the purposeful-availment requirement. The contacts that *World-Wide Volkswagen* found the distributor and dealer lacked *would* support a conclusion that a defendant had purposefully availed itself of Oklahoma. But they do not speak to the distinct requirement that the plaintiff's claim arise out of or relate to that purposeful availment.

3. The courts below also both noted that this Court has used the phrase "arise out of or relate to" to describe the required connection between a plaintiff's claims and a defendant's forum contacts. Applying the surplusage canon, they reasoned that "relate to" must mean something different than "arise out of." Bandemer Pet. App. 13a–14a; Gullett Pet. App. 12a–14a. Yet this Court has explained that its opinions are "not always to be parsed as though we were dealing with language of a statute." *Reiter* v. *Sonotone Corp.*, 442 U.S. 330, 341 (1979). And since coining the standard, the Court has often omitted

"relate to" from the formulation altogether. *See Walden*, 571 U.S. at 284 (a suit "must arise out of [the defendant's] contacts * * * with the forum State"); *Keeton*, 465 U.S. at 780 (specific jurisdiction is warranted "when the cause of action arises out of the very activity being conducted, in part, in" the State); *Hanson*, 357 U.S. at 251 ("The cause of action in this case is not one that arises out of an act done or transaction consummated in the forum State.").

In any case, it is not uncommon for courts to use two phrases to convey one idea. This Court has done so in this very context. It imposed a "fair play and substantial justice" requirement for specific personal jurisdiction, *International Shoe*, 326 U.S. at 316, but has treated that phrase as synonymous with "reasonable under the circumstances." *Bristol-Myers Squibb*, 137 S. Ct. at 1786. Indeed, the Court warned readers to not assume "arise out of" and "relate to" mean different things the very moment it created the standard. *See Helicopteros*, 466 U.S. at 414–415 & n.10 ("declin[ing] to reach * * * whether the terms 'arising out of' and 'related to' describe different connections between a cause of action and a defendant's contacts with a forum," "what sort of tie * * * is necessary," or even "whether * * * 'relates to' * * * should be analyzed as an assertion of specific jurisdiction"). "Doublets and triplets abound in legalese." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 177 (2012). "Arise out of or relate to" is one of them.

Reading "arise out of" and "relate to" to flesh out one standard still allows a variety of connections to establish specific jurisdiction. A suit can seek redress for a tort that occurred in the forum State—

for instance, when the defendant publishes a defamatory statement there. *See Walden*, 571 U.S. at 286–288 (discussing *Calder* and *Keeton*). A suit can also seek to regulate a defendant's conduct that occurred in the forum—for example, where the defendant manufactured a product in the forum that later injured a plaintiff there. *Cf. Bristol-Myers Squibb*, 137 S. Ct. at 1778 (no personal jurisdiction where, for example, defendant "did not manufacture, label, package" product in the forum). "Arise out of or relate to" properly captures all of these varied relationships.

4. Finally, the courts below justified their expansive test for specific jurisdiction based on their conclusion that it was fair to require Ford to litigate these suits in their State. As the Montana Supreme Court put its view, due process, "[a]t its core * * * is concerned with fairness and reasonableness." Gullett Pet. App. 16a; *see also* Bandemer Pet. App. 16a (emphasizing that Ford sold "hundreds of thousands" of vehicles in Minnesota). But the requirements of due process define what is—and is not—"fair" to a defendant. And this Court's cases hold that the exercise of specific jurisdiction over a defendant is fair only if the defendant has the contacts with the forum that due process requires: suit-related contacts.

The Due Process Clause takes account of generalized fairness considerations, but only *after* that minimum requirement is met. A defendant that has the necessary suit-related contacts with a forum can still argue that a court's exercise of specific jurisdiction would not "comport with fair play and substantial justice." *Burger King*, 471 U.S. at 476 (internal

quotation marks omitted). At *that* stage, a court weighs, among other things, "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." *Id.* at 476–477 (internal quotation marks omitted). But this totality-of-the-circumstances test cannot be imported into the threshold question of whether the plaintiff's claims arise out of or relate to the defendant's forum conduct.

Nor is there reason to think that plaintiffs should prefer a non-causal test. The indefinite nature of a non-causal test means that neither a defendant *nor* a plaintiff will be sure of which State or States can exercise jurisdiction. *See supra* p. 28. This uncertainty invites a party unhappy with a trial court's conclusion to relitigate the issue in hopes of obtaining a different result. *See Burnham* v. *Superior Court of Cal.*, 495 U.S. 604, 623, 626 (1990) (plurality op.) (Scalia., J.) (explaining that a test that turns on a court's "subjective assessment of what is fair and just," will "guarantee * * * uncertainty and litigation over the preliminary issue of the forum's competence"). If this satellite litigation reveals that a trial judge's notion of relatedness differs from an appellate panel's, a plaintiff will be forced to start over in some other State after final judgment. That is to no one's benefit, including plaintiffs. *See Hertz Corp.* v. *Friend*, 559 U.S. 77, 94 (2010) ("Complex jurisdictional tests complicate a case, eating up time and money as the parties litigate, not the merits of their

claims, but which court is the right court to decide those claims."). All of this shows the wisdom in this Court's oft-repeated statement that jurisdictional questions call for "[s]imple * * * rules" that "promote greater predictability." *Id.* A causal test fits that bill; a non-causal test does not.

B. Respondents' Policy Arguments Provide No Reason To Depart From Precedent.

Respondents have offered a series of policy arguments in favor of a non-causal test. But their policy arguments are not grounded in the policies furthered by the Due Process Clause's limitations on personal jurisdiction. They therefore provide no support for a non-causal test.

1. Respondents first suggest that a non-causal rule is appropriate because a State "has a compelling interest in protecting its residents from dangerous products that are marketed and sold there." Gullett Br. in Opp. 26; *see also* Bandemer Br. in Opp. 25. But this Court has already held that this generalized "interest in adjudicating the dispute" is irrelevant when a court assesses whether a defendant has minimum contacts with the forum State. *Burger King*, 471 U.S. at 476–477 (internal quotation marks omitted). That interest speaks instead to the separate question of whether, if minimum contacts exist, exercising jurisdiction is reasonable. *See id.*

The minimum-contacts requirement tests for a different kind of state interest in the suit: an interest in regulating the defendant's conduct that is at issue. As explained (*supra* pp. 23–26), due-process limits on state courts' ability to exercise personal jurisdiction "are a consequence of territorial limitations on the power of the respective States." *Bristol-Myers*

Squibb, 137 S. Ct. at 1780 (quoting *Hanson*, 357 U.S. at 251)); *accord Daimler*, 571 U.S. at 126 (discussing the change from a "strict territorial approach" to a "less rigid understanding" of how a defendant's conduct can be connected to the forum). A causal test locates jurisdiction in those States that have a regulatory interest in the plaintiff's claims because it grounds jurisdiction in an act the defendant itself took inside or purposefully aimed at a State that led to the plaintiff's claims. The test, for example, permits the State where a defendant manufactured the product at issue in a plaintiff's suit to exercise jurisdiction. That State has an interest in preventing the manufacture of harmful products within its borders and in not allowing companies to use the State's resources to do so. The same goes for the State where a defendant designs or sells its product. Under a causal rule, States with an interest in regulating what Ford does within their borders will have jurisdiction when a plaintiff's claims seek to do just that.

Respondents next criticize the causal test as leading to "arbitrary" results, such as requiring a plaintiff to sue a defendant outside the plaintiff's home state. Gullett Br. in Opp. 26; *see also* Bandemer Br. in Opp. 26 (calling this result "illogical"). But a defendant's due-process rights cannot turn on a plaintiff's convenience. "The primary focus of [the] personal jurisdiction inquiry is the *defendant's* relationship to the forum State." *Bristol-Myers Squibb*, 137 S. Ct. at 1779 (emphasis added). A defendant-focused inquiry means that the required connection may sometimes not exist—making specific jurisdiction improper—even if the plaintiff would prefer his home forum. *See Walden*, 571 U.S. at 290

n.9 ("[W]e reiterate that the 'minimum contacts' inquiry principally protects the liberty of the nonresident defendant, not the interests of the plaintiff." (citation omitted)).

Respondents' criticism is not just doctrinally unsound, but wrong in practice. There is nothing strange about allocating jurisdiction to those States where the defendant took actions that caused the plaintiff's claims. That is, after all, where the evidence and witnesses relevant to the plaintiff's claims against the defendant will likely be found. And that is where the defendant will have taken some action that the plaintiff's claims seek to regulate. *See supra* pp. 23–24 (discussing the regulatory function of litigation). Respondents' contention that a causal rule would require plaintiffs to file suit in States with "no interest in the controversy" is simply incorrect. Gullett Br. in Opp. 27.

2. Respondents argue that adopting a causal requirement would require courts to determine *what* causal connection suffices. Bandemer Br. in Opp. 26; Gullett Br. in Opp. 28. Because the courts below did not find—and respondents did not allege—*any* causal link in these cases, this Court need not answer that question here. Even so, precedent and principle already provide the answer. If a defendant has made contact with a forum, it may be called "to account * * * for consequences that arise proximately from such activities." *Burger King*, 471 U.S. at 474. What this means, in practice, is that "the operative facts of the controversy arise from the defendant's contacts with the state." *Beydoun* v. *Wataniya Rests. Holding, Q.S.C.*, 768 F.3d 499, 507 (6th Cir. 2014) (internal quotation marks omitted); *see also United Elec.,*

Radio & Mach. Workers of Am. v. *163 Pleasant St. Corp.*, 960 F.2d 1080, 1089 (1st Cir. 1992) (requiring "the defendant's in-state conduct" to "form an important, or at least material, element of proof in the plaintiff's case" (alteration and internal quotation marks omitted)).

Once again, this proximate-cause requirement best serves the federalism and predictability principles that underlie due-process limits on personal jurisdiction.

As for federalism, a proximate-cause standard ensures that States will not "reach out beyond the limits imposed on them by their status as coequal sovereigns." *World-Wide Volkswagen*, 444 U.S. at 292. If a plaintiff's claims must arise from something the defendant did in, or aimed at, the forum, and that is material to the plaintiff's proofs, then the forum will by definition have a direct interest in regulating the defendant's conduct at issue in the suit. The proximate-cause standard thus limits the set of States that can exercise jurisdiction over a plaintiff's claims to those States with an interest in regulating the defendant's conduct that the claims seek to regulate. *See supra* pp. 23–26. A but-for standard alone cannot serve this important limiting function. *See, e.g.*, *uBID, Inc.* v. *GoDaddy Grp., Inc.*, 623 F.3d 421, 430 (7th Cir. 2010) ("But-for causation would be 'vastly overinclusive,' haling defendants into court in the forum state even if they gained nothing from those contacts."); Gullett Br. in Opp. 27 (acknowledging that "[a] but-for causation requirement has no limiting principle" (internal quotation marks omitted)).

As for predictability, a proximate-causation standard serves the "animating principle" behind specific jurisdiction: "the notion of a tacit quid pro quo that makes litigation in the forum reasonably foreseeable." *O'Connor*, 496 F.3d at 322. Under a proximate-cause standard, a defendant must answer for its conduct in any forum where *that* conduct is material to the plaintiff's proofs. By tying jurisdiction to an action the defendant itself took in the forum in this way, "the proximate cause standard * * * easily correlates to foreseeability." *Harlow* v. *Children's Hosp.*, 432 F.3d 50, 61 (1st Cir. 2005) (internal quotation marks omitted). Here again, a but-for standard would not provide the same degree of predictability because it would allow jurisdiction based on "attenuated and indirect" connections between a defendant's in-forum conduct and the plaintiff's claims. *United Elec., Radio & Mach. Workers of Am.*, 960 F.2d at 1089; *see also Robinson*, 316 P.3d at 298 ("[T]he but-for test * * * pays * * * too little regard to whether litigation in a forum state is reasonably foreseeable by a nonresident defendant.").

Respondents are also wrong that a causal or proximate-cause standard would be too hard to apply. Bandemer Br. in Opp. 25–26; Gullett Br. in Opp. 27–28. "[C]ourts have a great deal of experience applying" causal standards, "and there is a wealth of precedent for them to draw upon in doing so." *Lexmark Int'l, Inc.* v. *Static Control Components, Inc.*, 572 U.S. 118, 133 (2014) (discussing proximate cause). That is true in the personal-jurisdiction context, too. A majority of the courts of appeals and state high courts that have addressed this issue already require a causal connection between a de-

fendant's in-forum conduct and a plaintiff's claims. Gullett Pet. 9, 12–17. And many of those courts already use the proximate-cause standard just described. *See id.* at 14–16. These jurisdictions get along just fine.

That leaves respondents' charge that a causal test might require a plaintiff with claims against multiple defendants to litigate in multiple States. Bandemer Br. in Opp. 26–27. But their problem is with *Rush* v. *Savchuk*'s 40-year-old holding that personal jurisdiction must be established "as to each defendant," not a causal rule. 444 U.S. 320, 332 (1980). Because personal jurisdiction is a defendant-by-defendant inquiry, a plaintiff sometimes cannot establish personal jurisdiction in the same forum over every defendant he wants to sue. *See Bristol-Myers Squibb*, 137 S. Ct. at 1783 (citing *Rush* to explain why nonresidents' ability to sue a California-headquartered Plavix distributor did not allow them to bootstrap personal jurisdiction over Bristol-Myers Squibb). Respondents' unhappiness with this result does not justify jettisoning basic due-process principles in favor of their impossible-to-pin-down non-causal test.

III. FORD'S FORUM CONTACTS DID NOT CAUSE RESPONDENTS' CLAIMS.

Under the proper causal test, the Montana and Minnesota state courts cannot exercise specific jurisdiction over Ford on respondents' claims.

It is undisputed that Ford did not have any forum contacts "alleged to have caused" respondents' claims. *Goodyear*, 564 U.S. at 919. Respondents have never argued otherwise, not in responding to Ford's motions to dismiss, not on appeal, and not in

their briefs in opposition. Respondents' claims would be precisely the same if Ford had never done anything in Montana and Minnesota.

The courts below acknowledged this lack of a causal connection between Ford's in-state contacts and respondents' claims. Bandemer Pet. App. 15a–16a (Ford "argues that '[n]o part of Ford's allegedly tortious conduct—designing, manufacturing, warrantying, or warning about the 1994 Crown Victoria—occurred in Minnesota.' Those contacts are only those that cause the claim, though." (emphasis omitted)); Gullett Pet. App. 14a–15a (acknowledging that Ford's "forum-related activities did not directly result in the plaintiff's use of the product in th[e] forum"). That alone resolves these appeals.

Respondents' in-forum residences, accidents, and injuries do not change this result. Where respondents chose to live and drive their vehicles were respondents' decisions—not Ford's. *See World-Wide Volkswagen*, 444 U.S. at 295 (a forum cannot "base jurisdiction on * * * the fortuitous circumstance" that a plaintiff "happened to suffer an accident" while in the forum). Respondents' residences, accidents, and injuries are the kinds of "contacts between the plaintiff (or third parties) and the forum State" that this Court has "consistently rejected" as sufficient "to satisfy the defendant-focused 'minimum contacts' inquiry." *Walden*, 571 U.S. at 284.

Ford's unrelated activities within Montana and Minnesota also do not provide the necessary connection. Gullett Pet. App. 17a (Ford "advertises, sells, and services vehicles" to *other* individuals and entities in the forum States); Bandemer Pet. App. 16a (Ford "sold thousands of * * * Crown Victoria cars" to

"Minnesota dealerships"). Although Ford has never disputed it does some business in Montana and Minnesota, none of that business is jurisdictionally relevant to respondents' claims. They are contacts with "third part[ies]" unconnected to respondents' suits. *Bristol-Myers Squibb*, 137 S. Ct. at 1781 (quoting *Walden*, 571 U.S. at 286); *see supra* pp. 19–20.

The same goes for the Minnesota Supreme Court's discussion of Ford's nationwide data collection and advertising. The court emphasized that Ford "collected data on how its cars performed" in Minnesota, implying that the data related to Bandemer's claim that "Ford failed to detect a defect in" the design of its 1994 Crown Victoria. Bandemer Pet. App. 17a. But Bandemer did not allege any causal link between the data collection and his claims. *See* J.A. 58–65. And as the dissent below made clear, the parties' jurisdictional discovery turned up no indication that data Ford collected in Minnesota played any role in Ford's design or evaluation of the 1994 Crown Victoria. Bandemer Pet. App. 27a n.3 (Anderson, J., dissenting); *see also* J.A. 79. Ford admitted only "that it receives information regarding vehicle performance [from] across the United States, including in Minnesota, and that information *may* be used by Ford as it *considers future* designs." J.A. 79. The majority thus could only "[c]onjecture and guess" that Ford's data collection had some connection to Bandemer's claims. Bandemer Pet. App. 30a (Anderson, J., dissenting).

The Minnesota Supreme Court's suggestion that the Crown Victoria's owner might have been influenced by Ford's "marketing and advertisements

direct[ed] to Minnesotans" was misplaced for the same reason. *Id.* at 17a. Bandemer never alleged that Ford advertising influenced the car's owner, and it is unlikely that it could have given that the Crown Victoria was decades old when the current owner bought it. *See* J.A. 58–65. The speculative and "attenuated" links the Minnesota Supreme Court hypothesized cannot support specific jurisdiction over Ford on Bandemer's claims. *Walden*, 571 U.S. at 286 (internal quotation marks omitted).

CONCLUSION

For these reasons, the judgments of the Montana and Minnesota Supreme Courts should be reversed.

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APPENDIX

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STATUTORY PROVISIONS INVOLVED

1. The Minnesota long-arm statute, Minn. Stat. § 543.19, provides:

543.19. PERSONAL JURISDICTION OVER NONRESIDENTS.

Subdivision 1. Personal jurisdiction. As to a cause of action arising from any acts enumerated in this subdivision, a court of this state with jurisdiction of the subject matter may exercise personal jurisdiction over any foreign corporation or any nonresident individual, or the individual's personal representative, in the same manner as if it were a domestic corporation or the individual were a resident of this state. This section applies if, in person or through an agent, the foreign corporation or nonresident individual:

(1) owns, uses, or possesses any real or personal property situated in this state; or

(2) transacts any business within the state; or

(3) commits any act in Minnesota causing injury or property damage; or

(4) commits any act outside Minnesota causing injury or property damage in Minnesota, subject to the following exceptions when no jurisdiction shall be found:

(i) Minnesota has no substantial interest in providing a forum; or

(ii) the burden placed on the defendant by being brought under the state's jurisdiction would violate fairness and substantial justice.

[See Note.]

Subd. 2. Service of process. The service of process on any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the summons upon the defendant outside this state with the same effect as though the summons had been personally served within this state.

Subd. 3. Acts enumerated. Only causes of action arising from acts enumerated in subdivision 1 may be asserted against a defendant in an action in which jurisdiction over the defendant is based upon this section.

Subd. 4. No limit right to serve process. Nothing contained in this section shall limit or affect the right to serve any process in any other manner now or hereafter provided by law or the Minnesota Rules of Civil Procedure.

Subd. 5. Definition. "Nonresident individual," as used in this section, means any individual, or the individual's personal representative, who is not domiciled or residing in the state when suit is commenced.

NOTE: Subdivision 1 was found preempted by the federal Uniformed Services Former Spouses' Protection Act to the extent that it authorizes broader personal jurisdiction for military pension benefits than under federal law in *Mortenson* v. *Mortenson*, 409 N.W.2d 20 (Minn. Ct. App. 1987).

2. The Montana long-arm statute, Mont. Code Ann. tit. 25, ch. 20, § II, Rule 4(b)(1) (Mont. R. Civ. P. 4(b)(1)), provides in relevant part:

Rule 4. Persons Subject to Jurisdiction; Process; Service.

* * * * *

(b) Jurisdiction of Persons.

(1) Subject to Jurisdiction. All persons found within the state of Montana are subject to the jurisdiction of Montana courts. Additionally, any person is subject to the jurisdiction of Montana courts as to any claim for relief arising from the doing personally, or through an employee or agent, of any of the following acts:

(A) the transaction of any business within Montana;

(B) the commission of any act resulting in accrual within Montana of a tort action;

(C) the ownership, use, or possession of any property, or of any interest therein, situated within Montana;

(D) contracting to insure any person, property, or risk located within Montana at the time of contracting;

(E) entering into a contract for services to be rendered or for materials to be furnished in Montana by such person;

(F) acting as director, manager, trustee, or other officer of a corporation organized under the laws of, or having its principal place of business within, Montana; or

(G) acting as personal representative of any estate within Montana.

(2) Acquisition of Jurisdiction. Jurisdiction may be acquired by Montana courts over any person:

(A) through service of process as herein provided; or

(B) by the voluntary appearance in an action by any person either personally or through an attorney, authorized officer, agent, or employee.

* * * * *