No. 21-565



**In The SUPREME COURT OF THE UNITED STATES**

Olga P. Blakley, M.D., Petitioner,

v.

Milling, Benson, Woodward, L.L.P.,

Respondent.

On Petition for a

Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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## QUESTION PRESENTED

In a suit alleging an ongoing scheme, affecting multiple clients, over a period of more than ten years, of legal malpractice, and judicial bias based in part on at least nine judges being clients of the law firm in criminal cases in New Orleans, and a summary judgement issued without review of the evidence, which was overturned on appeal, is an out of state law firm subject specific in personam jurisdiction in the client's home state, where she signed the representation agreement there, she was to perform her contractual obligations there, the law firm regularly sent written and electronic communications to her there, and the majority of the damages she alleges occurred there?

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## STATEMENT of JURISDICTION

Jurisdiction is invoked under 28 U.S.C. @ 1254(1).

## CONSTITUTIONAL/STATUTORY PROVISIONS INVOLVED

Fifth and Fourteenth Amendments:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## INTRODUCTION

Milling Benson has an unfair advantage in the Louisiana Court System. Norman Pizza His firm has a one hundred twenty-five year history in Louisiana. Normand Pizza represented nine of the justices from New Orleans in a criminal proceeding against them Case #.

In our original case, 2015-11551 Civil District Court Parish of Orleans, the court issued a summary judgement without reviewing the evidence or hearing witnesses. The summary judgement was reversed on appeal in the Fourth Circuit State of Louisiana NO. 2020-CA-0115.

The defendant had the case moved to her home state of Texas in an effort to get a fair hearing of the facts. When the potential injury to the plaintiff is minimal in the state where the torturous behavior occurs but is extremely large in the state where the plaintiff resides, should the court deny the protection and the state interest of the plaintiff to have personal jurisdiction in the state where the financial loss is at

its greatest. In this case Milling, Benson, Woodward LLP, hereinafter called Milling, used a scheme which had worked successfully for them in the past, to place the plaintiff's livelihood, assets and future earnings at risk, in order to increase billing, in a strategy that has never been successful for any client and caused great harm physically, mentally and financially to the plaintiff.

## STATEMENT OF THE CASE

This case arises out of intentional acts performed by Milling in Louisiana, to extract excess fees from their client, as part of an ongoing scheme which had been successfully used against prior clients in Louisiana, whose businesses were principally located in states other than Louisiana and which deprived clients of substantial property in their home states.

Milling Benson, LLC as an expert, knew that their actions in Louisiana would have a direct impact on Dr. Blakley's employment and property rights in Texas, causing substantial harm and loss of income. Milling

knew that Dr. Blakley would be forced to take action to protect her rights and property.

## A. Factual background

### 1. Milling's activities in Louisiana.

Milling Benson Woodward L.L.P. was founded in 1896 and currently has offices in New Orleans, Baton Rouge, and Northshore New Orleans.

Our Firm has represented clients in domestic and international business transactions, litigation, arbitration, and maritime matters involving clients' activities throughout the United States, Canada, Europe, Central and South America, Russia, Australia and the Pacific Rim, including Indonesia and Japan.

As a firm that represents clients internationally, Milling would not be severely harmed by moving the

case to Texas. Dr. Blakley feels that due process may not be available in New Orleans, Louisiana.

Firm partners have served as Chair of the Louisiana State Law Institute, as Presidents of the New Orleans Bar Association, and as Presidents of the Louisiana State Bar Association.

Louisiana State Bar Association has denied action on Bar complaints against Milling Benson Woodward, LLP and Normand Pizza.

Dr. Blakley has proceeded in her case as a Pro Se Litigant as her attorney, Joe Bruno, was disbarred by the Louisiana Bar Association.

The Firm is a signatory to the Center for Public Resources, Inc., Statement of Alternatives to Litigation, and subscribed to its Policy Statement by pledging to use alternatives dispute resolution procedures, where appropriate, to reduce our clients'

costs and the burden of litigation.

Milling refused arbitration by the Louisiana Bar Association.

**2. Milling's relationship with Dr. Blakley**

Milling inflated Dr. Blakley's billing by hiring four expert witnesses, at a cost of over $20,000. The experts hired by Milling could not testify under Louisiana Law. The law has since been revised to allow experts not licensed in Louisiana to testify. Dr. Blakley's efforts to hire local experts were hampered by threats to the experts of legal prosecution if they testified.

Milling continued to charge for services for five months after formally withdrawing from the case on September 23, 2014.

Milling prepared a manuscript of approximately five hundred pages, that was never used. The bulk of the manuscript was copies of documents provided by client and expert witnesses. The only original parts to the manuscript were a two-page letter insulting the

opposing party and jury, accusing them of criminal acts, being unethical and being unprofessional, at a time when they had statutory immunity, and a fifteen-page analysis that repeated the same arguments five times.

Milling intentionally gave Dr. Blakley erroneous advice, lied about conflicts of interest, violated numerous rules of the Bar Associations Code of Ethics and made verbal and written threats of criminal prosecution directed at the opposing parties, knowing that they had statutory immunity, in order to prevent peaceful resolution.

Milling refused arbitration by the Louisiana Bar Association to peacefully resolve Dr. Blakley's case against Milling.

The original case out of which this related cause originated, was finally peacefully resolved for less than $10,000, other similar cases were resolved for less than $5,000. Milling's total billing without resolution was over $110,000 of which approximately $54,000 has been paid. Over $250,000 was spent for

additional legal assistance in efforts to correct Milling's errors and over $100,000 was lost from employment problems and forced sale of property.

**B. PROCEDURAL HISTORY**

**2. Milling Benson Woodward, LLP v John E. Britt, M.D. Civil District Court for the Parish of Orleans 2005-10571**

Britt alleged that Milling failed to provide effective counsel, billed for useless mounds of paperwork. He was forced to seek alternative council to resolve the issues created by Milling.

3. **Milling Benson Woodward LLP v U S Medical Management, Civil District Court for the Parish of Orleans 2009-10121**

U S Medical Management was a corporation chartered in Indiana, doing business in Louisiana.

U S Medical Management Inc was eventually forced in to dissolution by Milling's excessive billing and

turning a minor disagreement into a major loss for the company.

Conversations with US Medical Management revealed a lack of resolution to the case, Milling quoted a low upfront fee then escalated billing to continue the case, actions by Milling escalated the animosity by the plaintiffs against U S Medical Management and Milling produced excessive useless paperwork.

**Milling Benson Woodward, LLP vs Olga Pavlovna Blakley, MD Civil District Court for the Parish of Orleans 2015-11551**

Summary judgement for Milling Benson Woodward LLP

**Milling Benson Woodward, LLP vs Olga Pavlovna Blakley, MD Fourth Circuit State of Louisiana NO. 2020-CA-0115**

The record reflects that on September 23, 2014, Milling informed Dr. Blakley that it would cease representation due to the unpaid balance on her

account. Specifically, the notice provides that "if the Board does proceed against you... we will not represent you unless your balance is made current." However, the invoices demonstrate that Milling billed Dr. Blakley in October 2014 for work performed on her case. Additionally, Milling submitted invoices for November 2014 and February 2015. As previously noted, a fact is material if it has the potential to determine the outcome of a case. Id. We find the latter creates a genuine issue of material fact regarding the accuracy of the legal fees billed, thus affecting the amount due to Milling.
DECREE The November 26, 2019 judgment of the trial court granting summary judgment in favor of Milling is reversed and the matter is remanded to the trial court for further proceedings.
REVERSED AND REMANDED

**Milling Benson Woodward, LLP vs Olga Pavlovna Blakley, MD, United States District Court Southern District of Texas, Houston Division 4:20-cv-00239**

**Milling Benson Woodward, LLP vs Olga**

**Pavlovna Blakley, MD, United States Court of Appeals, 5th Circuit 20-20425**

**Olga Blakley et al vs Normand Pizza et al, United State District Court Southern District of Texas, Civil Action 4:20-CV-02962**

Milling Benson Woodward, LLP has declined arbitration by the Louisiana State Bar Association.

Louisiana State Bar Association has denied action on Bar complaints against Milling Benson Woodward, LLP and Normand Pizza.

## ARGUMENT/REASONS FOR GRANTING WRIT of CENTIORARI

Dr. Blakley has no other recourse than to file this petition for a Writ of Certiorari. Other courts have only considered the casual contacts issues and have ignored the torts, serious enough to be a breach of contract, that created the damage and potential damages in Texas. Dr. Blakley had no property in the State of Louisiana and worked there only on a temporary basis.

The state of injury has the strongest interest in regulating dangerous products. As a business domiciled in Texas with all assets titled and owned in Texas and principal licenses held in Texas, Dr. Blakley had the greatest risk of loss in Texas. Dr. Blakley had minimal assets in Louisiana. Milling placed Dr. Blakley's Texas licenses at risk creating the desperation to save her family's livelihood.

**Texas Has a Manifest Interest.**

A Texas "has a 'manifest interest' in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors." *Burger King,* 471 U.S. at 473; *see also Watson v. Employers Liab. Assur. Corp.,* 348 U.S. 66, 73 (1954) (noting the states' "legitimate interest in safeguarding the rights of persons injured there"). Thus, although *Bristol-Myers* held that California lacked personal jurisdiction over the claims of non-resident plaintiffs who did "not claim to have suffered harm in that State," it never questioned that the state had jurisdiction over the claims of plaintiffs who lived, and were injured, in the state.

Court's cases have long held that "it is beyond dispute that" each state "has a significant interest in

redressing injuries that actually occur within the State." *Keeton,* 465 U.S. at 776.

States have a strong interest in ensuring "faithful observance" of the law within their borders—an interest that is particularly powerful when enforcement is necessary to protect citizens from dangerous products in the state. *Travelers Health Ass'n,* 339 U.S. at 648. The importance of that interest does not depend on whether the manufacturer sells the products directly in the forum or to an out-of-state distributor. If, for example, a state's citizen is injured by a nutritional supplement falsely marketed by the manufacturer in the state as safe, the state should not be foreclosed from investigating and prosecuting the manufacturer just because the citizen happened to have bought the particular bottle online from a distributor in another state. To be sure, a state's jurisdiction over particular claims may be limited to the extent that assertion of its regulatory interests interferes with the legitimate interests of other states. Due process ensures that states "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.

The state of injury has the strongest interest in regulating dangerous products—an interest rooted in protecting its citizens from harm.

But applying the choice-of-law standards that prevail across the United States, Milling likely will be liable in these cases under the laws of Louisiana and Texas no matter where the cases are heard. The Solicitor General argues otherwise, pointing out (at 25) that most states have abandoned the "bright-line rule" that torts are governed by the law of the place of injury. But the very article it cites for that proposition goes on to clarify that the erosion of this bright-line rule has meant little "in terms of the final choice of the law governing tort conflicts," with the states that have departed from the bright-line rule still tending to "continue to apply the law of the *locus delicti.*" Symeonides, *The Choice-of-Law Revolution Fifty Years After Currie,* 2015 U. Ill. L. Rev. 1847, 1901-04. Across

a "comprehensive review of American products liability conflicts cases," "seventy-seven percent of all cases applied the law of a state that had only plaintiff-affiliating contacts," *id.* at 1900-01.

Although the Solicitor General cites Section 145 of the Restatement (Second) of Conflict of Laws for the general rule according weight to "the place [where] the conduct" giving rise to the injury occurred, U.S. Br. 25, he does not mention that the very next section provides the rule that specifically governs personal-injury cases: "the local law of the state where the injury occurred determines the rights and liabilities of the parties." Restatement (Second) of Conflict of Laws § 146. Despite the Solicitor General's assertion (at 25) that "the place of sale probably has a greater interest" in these cases than Texas, it is hard to imagine how Louisiana—where the injury was limited, and where none of the injured is not a resident—could have a stronger interest.

The upshot is that Milling's ultimate liability risk in these cases—and the risks of defendants in nearly

all cases like these—will be governed by the substantive law of the place where an injury occurs. *Id.* This is true regardless of whether Milling's causal rule is adopted. As a result, Milling's stance that its liability should depend only on conduct that it "took inside or purposefully aimed at a state" ignores the law that has long governed the liability of defendants. *See MacPherson v. Buick Motor Co.*, 111 N.E. 1050 (N.Y. 1916) (Cardozo, J.). "Few matters could be deemed more appropriately the concern of the state in which [an] injury occurs" than "the bodily safety" of residents, and few things are "more completely within its power." *Pacific Employers Ins. Co. v. Industrial Accident Commission of State of Cal.*, 306 U.S. 493, 503 (1939).

Texas has long held that torturous acts committed in other states affecting property rights in Texas, violate Texas Law at the time they are committed. Texas has asserted jurisdiction over torturous acts that violate Texas Law.

Hanks (defendant) and P.F. Dillman (defendant) (collectively Defendants) were indicted in Travis County, Texas, for the forgery of a transfer of land certificate for property located in Texas. However, all of the acts constituting the forgery were committed in the State of Louisiana. Article 451 of the Texas Penal Code allowed the state to assert jurisdiction over those individuals who commit criminal acts outside the state but which cause injury within Texas.

## A Causal Link Is Not Required for Specific Jurisdiction

Justice Kagan's majority opinion (joined by Chief Justice Roberts and Justices Breyer, Sotomayor, and Kavanaugh) *Ford Motor Co. v. Montana Eighth Judicial District Court, Et Al* 592 U. S. ____(2021) rejected Ford's proposed "causal link" test that would find specific jurisdiction only if the

defendant's actions in the forum state led to the plaintiff's claim, holding that Ford's "causation-only approach finds no support in the Court's requirement of a 'connection' between a plaintiff's suit and a defendant's activities." *Id.* at 8. While Ford argued that the Court's test for specific jurisdiction—whether the case "arise[s] out of or relate[s] to" forum conduct—was a single, causal link test, the majority held that the phrase embraces a broader scope of relationships between a defendant's in-state conduct and a plaintiff's claims. While the first part of the phrase—"arise out of"—speaks of causation, the second part "contemplates that some relationships will support jurisdiction without a causal showing." *Id.* The majority cautioned, however, that its holding "does not mean anything goes." *Id.* "The phrase 'relate to,'" it held, "incorporates real limits, as it must to adequately protect defendants foreign to a forum.".

**C. Depriving injured forum residents of**

**access to their own courts would be manifestly unfair.**

Milling is also wrong that a causal contact test would do anything to promote fairness. It would just shuffle claims from the state where plaintiffs were injured to another forum, like the state of first sale, that is no more convenient for Milling but far more burdensome for plaintiffs. The only advantage for Milling is an illegitimate one: the possibility that the litigation burdens will be so substantial that many plaintiffs will give up their claims.

**1.** Milling does not contend that litigating the plaintiffs' claims in Texas would be an unfair burden to Milling. Nor could it. Milling does not suffer any hardship by litigating in states where it routinely does business and defends itself from other lawsuits.

Milling's only fairness argument is that a strict causal rule would give it "fair warning" of where it may be subject to jurisdiction. Pet. Br. 26 (quoting *Burger King*, 471 U.S. at 472). But a causal test is not needed

for a Major Law Firm like Milling to predict that it may be subject to suit over allegedly torturous acts causing substantial damage in another state.

Milling seeks an unfair advantage by pursuing the case in Louisiana, where they have conducted business for over one hundred years and have personal relationships with all of the judges and court personnel.

2. Plaintiffs' access to the courts of jurisdictions where they reside and are injured, directly serves their "interest in obtaining convenient and effective relief." *Burger King*, 471 U.S. at 477.

## CONCLUSION

Personal and Subject Matter Jurisdiction should be granted to the State of Texas.