No. 24-1190

IN THE

Supreme Court of the United States

SYNGENTA CROP PROTECTION, LLC, *et al.*,

Petitioners,

v.

DOUGLAS NEMETH, *et al.*,

Respondents.

On Petition For A Writ Of Certiorari To The Supreme Court Of Pennsylvania

BRIEF OF ATLANTIC LEGAL FOUNDATION AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF THE *AMICUS CURIAE* [1]

Established in 1977, the Atlantic Legal Foundation (ALF) is a national, nonprofit, nonpartisan, public interest law firm. ALF's mission is to advance the rule of law and civil justice by advocating for individual liberty, free enterprise, property rights, limited and responsible government, sound science in judicial and regulatory proceedings, and effective education, including parental rights and school choice. With the benefit of guidance from the distinguished legal scholars, corporate legal officers, private practitioners, business executives, and prominent scientists who serve on its Board of Directors and Advisory Council, ALF pursues its mission by participating as *amicus curiae* in carefully selected appeals before the Supreme Court, federal courts of appeals, and state supreme courts. *See* atlanticlegal.org.

* * *

Clarity, predictability, and national uniformity concerning the circumstances under which an out-of-state corporation can be haled into a State's courts by an out-of-state plaintiff are critical to civil justice. Until recently, the Court's modern personal jurisdiction jurisprudence achieved this objective. But

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[1] Petitioners' and Respondents' counsel were provided timely notice of this brief in accordance with Supreme Court Rule 37.2. No counsel for a party authored this brief in whole or part, and no party or counsel other than the *amicus curiae* and its counsel made a monetary contribution intended to fund preparation or submission of this brief.

the splintered decision in *Mallory v. Norfolk Southern Railway Co.*, 600 U.S. 122 (2023), has left unanswered important constitutional questions that have created significant uncertainty about whether an out-of-state corporation can be subjected to a State's general ("all purpose") jurisdiction merely by registering to do business even if—unlike in *Mallory*—it has no substantial business operations in the State. Unless and until the Court addresses this issue, *Mallory* not only will enable, but also encourage forum shopping in notoriously plaintiff-friendly state trial courts like Philadelphia's Court of Common Pleas, where this product liability suit (part of that court's "Paraquat Mass Tort Program") was filed. ALF urges the Court to grant review and complete the constitutional analysis of consent-by-registration that it began but did not complete in *Mallory*.

SUMMARY OF ARGUMENT

Mallory did not decide the constitutional question that the Court agreed to decide. *See* 600 U.S. at 127. Because the Court's 5 to 4 holding is limited to a significantly narrower, factually circumscribed question about the constitutionality of Pennsylvania's consent-by-registration scheme, *see id.* at 150 (Alito, J., concurring in part and concurring in the judgment), it left unanswered the crucial question of whether consent-by-registration violates due process where, as is typical, a company registers to do business in a State in order to sell its products, but has no substantial business operations (e.g., manufacturing or distribution facilities) in the State. The present case

affords the Court an ideal and timely opportunity to address this question. It also squarely queues up for the Court's consideration the even more far-reaching, dormant Commerce Clause question posited and discussed by Justice Alito in his separate opinion in *Mallory*.

Because of these unanswered questions, *Mallory* has done nothing to constrain plaintiff-friendly States like Pennsylvania from using consent-by-registration as a hook for imposing general jurisdiction on national corporations that have no practical choice but to register to do business in all 50 States. The potential assertion of general jurisdiction by every State where a corporation registers to do business not only eviscerates the Court's modern personal jurisdiction principles—such as limiting exercise of general jurisdiction to States where a corporation is "at home"—but also sharply skews the civil litigation playing field by significantly increasing forum-shopping opportunities for the plaintiffs' bar.

The lurking issue of whether the dormant Commerce Clause precludes consent-by-registration *regardless* of whether a corporation has substantial operations in a State also needs to be addressed because it provokes serious federalism concerns. If consent-by-registration enables a State to open its courthouse doors to out-of-state plaintiffs who wish to sue out-of-state corporate defendants for causes of action that have no connection to the State, state sovereignty becomes almost meaningless.

If necessary, the Court should overrule, in whole or part, the archaic precedent that the *Mallory* majority found controlling, *Pennsylvania Fire Insurance Co. of Philadelphia v. Gold Issue Mining & Milling Co.,* 243 U.S. 93 (1917). Although not a model of clarity, *Pennsylvania Fire* apparently holds that a nonresident corporation's appointment of an agent to accept service of process in a State can be deemed consent to the State's general jurisdiction. Overruling *Pennsylvania Fire* insofar as it conflicts with the Court's modern personal jurisdiction jurisprudence would comport with the Court's *stare decisis* principles.

The Court needs to answer *Mallory*'s unanswered questions by granting certiorari here.

ARGUMENT

The Court Should Grant Certiorari To Address The Important Constitutional Questions That *Mallory* Left Unanswered

A. *Mallory*'s unanswered questions undermine the civil justice system

Mallory has left the Court's personal jurisdiction jurisprudence in an untenable state of limbo. The Court needs to remedy this situation by addressing the constitutional questions about corporate consent-by-registration that *Mallory* did not answer. Until the Court does so, *Mallory* will continue to undermine the civil justice system by incentivizing forum shopping and eroding interstate federalism.

1. The Court expressly declined to decide whether consent-by-registration violates the dormant Commerce Clause, *see* 600 U.S. at 127 n.3, even though, for the reasons Justice Alito explained at length in his separate opinion, "there is a good prospect" that it does where, as here, a State asserts general jurisdiction "over an out-of-state company in a suit brought by an out-of-state plaintiff on claims wholly unrelated" to the State. *Id.* at 160 (Alito, J., concurring in part and concurring in the judgment).

Nor did the Court's factually circumscribed decision address whether consent-by-registration violates due process where as here—but unlike in *Mallory*—an out-of-state corporation has no substantial business operations in the forum State. *See id.* at 150 (Justice Alito stating that "[t]he sole question before [the Court] is whether the Due Process Clause of the Fourteenth Amendment is violated when a large out-of-state corporation *with substantial operations in a State* complies with a registration requirement that conditions the right to do business in that State on the registrant's submission to personal jurisdiction in any suits that are brought there") (emphasis added).

Despite this uncertainty about the constitutionality, or at least the permissible limits, of consent-by-registration, "*Mallory* cleared a path allowing all states to adopt and apply 'consent by registration.'" Will Lattimore, *"Consent by Registration" After Mallory*—A Fifty State Summary, 12 Belmont L. Rev. 83, 85 (2024). "If States take up

the Court's invitation to manipulate registration, *Daimler* and *Goodyear* will be obsolete, and at least for corporations, specific jurisdiction will be 'superfluous.'" *Mallory*, 600 U.S. at 180 (Barrett, J., dissenting) (citing *Daimler AG v. Bauman*, 571 U.S. 117 (2014); *Goodyear Dunlop Tires Ops., S.A. v. Brown*, 564 U.S. 915 (2011)). Under *Goodyear* and *Daimler*, a corporation must be "at home" in the forum State for it to be subjected to the State's general jurisdiction. *See Goodyear*, 564 U.S. at 919, 924; *Daimler*, 571 U.S. at 137; *see also see also BNSF Ry. Co. v. Terrell*, 581 U.S. 402, 405-06 (2017) ("Our precedent . . . explains that the Fourteenth Amendment's Due Process Clause does not permit a State to hale an out-of-state corporation before its courts when the corporation is not 'at home' in the State and the episode-in-suit occurred elsewhere.")

"Left unchecked, *Mallory* could give rise to a patchwork quilt of conflicting general jurisdiction rules." Anthony J. Gaughan, *The Unsettled State of Corporate General Personal Jurisdiction*, 103 Neb. L. Rev. 131, 132 (2024). "[C]onsent-by-registration statutes, if adopted more broadly, would make it impossible for businesses to predict where they will be sued, leading to massive litigation costs that will be especially burdensome for small and medium-sized businesses." U.S. Chamber of Commerce Institute for Legal Reform ("ILR"), *Personal Jurisdiction After*

Mallory, ILR Briefly (Nov. 2023) 2;[2] *see also Mallory*, 600 U.S. at 161-62 ("Pennsylvania's scheme injects intolerable unpredictability into doing business across state borders. Large companies may be able to manage the patchwork of liability regimes, damages caps, and local rules in each State, but the impact on small companies, which constitute the majority of all U. S. corporations, could be devastating.") (Alito, J., concurring in part and concurring in the judgment).

2. Pennsylvania and other States that currently or in the future may assert general jurisdiction over out-of-state corporations based on consent-by-registration will be magnets for plaintiff-side forum shoppers, who are better equipped than ever to exploit sweeping long-arm statutes like Pennsylvania's.

> With success in mass litigation, the plaintiffs' bar attracted new resources and developed a litigation prowess that matches some of the top litigation teams employed by corporate defendants. . . . [S]everal factors . . . help to explain this shift in the litigation landscape, namely the increased availability of litigation funding, increased coordination among plaintiffs' lawyers, and directed or targeted advertising to identify potential claimants in favorable forums.

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[2] Available at https://tinyurl.com/mubmuupu.

James E. Pfander & Jackie O'Brien, *Realism, Formalism, and Personal Jurisdiction: Due Process after Mallory and Ford Motor*, 103 Tex L. Rev. 65, 100 (Nov. 2024).

Forum shopping includes "the practice of filing a lawsuit in a location believed to provide a litigation advantage to the plaintiff regardless of the forum's affiliation with the parties or claims." Philip S. Goldberg, et al., *The U.S. Supreme Court's Paradigm Shift To End Litigation Tourism*, 14 Duke J. of Const. Law & Pub. Policy 51, 52 (2019). "As a rule, counsel, judges, and academicians employ the term 'forum shopping' to reproach a litigant who, in their opinion, unfairly exploits jurisdictional or venue rules to affect the outcome of a lawsuit." Friedrich K. Juenger, *Forum Shopping, Domestic and International*, 63 Tulane L. Rev. 553 (1989); *see also* Richard Maloy, *Forum Shopping – What's Wrong With That?*, 24 Quinnipiac L. Rev. 25, 28 (2005) ("[F]orum shopping is the taking of an unfair advantage of a party in litigation.") "Loose jurisdictional rules" also can lead to "forum selling," a corollary to forum shopping, where "some courts are likely to be biased in favor of plaintiffs in order to attract litigation." Daniel Klerman & Greg Reilly, *Forum Selling*, 89 S. Cal. L. Rev. 241, 243 (2016).

This Court has endeavored to deter forum shopping at least since *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938). *See Hanna v. Plumer*, 380 U.S. 460, 468 (1965) ("discouragement of forum-shopping" is one of the *Erie* rule's aims). "[T]he *Goodyear*

trilogy"—*Goodyear*, *Daimler*, and *BNSF*—"reduced forum shopping." Gaughan, *supra*, at 181. But *Mallory* is having the opposite effect.

"*Goodyear* and its companion cases placed plaintiffs and defendants on a level playing field. But the *Mallory* decision destroys that equilibrium and creates a new era of instability in corporate general jurisdiction. . . . *Mallory* thus gives forum shopping special new potency." *Id.* at 136, 137.

> The plaintiffs' bar has seized on *Mallory* to press for a return to the days of abusive forum shopping when, prior to cases like *Daimler*, they could bring a case almost anywhere—even if the state lacked any connection to the parties or the dispute. Indeed, Justice Alito recognized that *Mallory* is about forum shopping—describing the Philadelphia court system involved in that case as a "venue that is reputed to be especially favorable to tort plaintiffs."

ILR, *supra*, at 9 (quoting *Mallory*, 600 U.S. at 154 (Alito, J., concurring in part and concurring in the judgment)).

Having decided *Mallory* narrowly, the Court now needs to follow up and "get to the end of the story for registration-based jurisdiction" by granting certiorari here and restoring credibility and vitality to its personal jurisdiction precedents. *Mallory*, 600

U.S. at 154 (Alito, J., concurring in part and concurring in the judgment).

3. Justice Alito's observation that Philadelphia's Court of Common Pleas—the plaintiff bar's chosen home for the "Paraquat Mass Tort Program," *see* Pet. at 8-9—is "especially favorable to tort plaintiffs" is an understatement. That court (along with the Pennsylvania Supreme Court) is # 1 on the American Tort Reform Foundation's latest list of the nation's worst "Judicial Hellholes." *See* ATR Found., *Judicial Hellholes 2024/2025* 4-11.[3] The Judicial Hellholes report emphasizes that "[l]awsuit abuse in the City of Brotherly Love has reached a fever pitch with nuclear verdicts becoming the norm and novel theories of liability flourishing. Eye-popping nine-figure damage awards were issued without hardly a thought . . . ." *Id.* at 1; *see e.g.*, Law360 Staff, *Exxon Owes $816M For Man's Cancer After Judge Ups Verdict*, Law360 (Sept. 13, 2024).[4]

Mallory has turbo-charged the personal injury bar's incentives for filing mass tort litigation in Philadelphia's Court of Common Pleas. The "*Mallory* decision has all roads leading to Pennsylvania." Tracey McDevitt Hagan & Molly Reilly, Commentary, *A Fork In the Road To Justice In Pennsylvania*, Mealey's Litig. Rep. (May 28, 2025) at 2. "The impact

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[3]Available at https://tinyurl.com/25mhh27b.

[4] Available at https://tinyurl.com/3zddvuk5 (subscription required).

of forum shopping on litigation in Philadelphia is undeniable." *Id.* at 1 (citing "the docket for the Paraquat Mass Tort Program [which] includes more than 1,100 single-plaintiff cases, with only around 7% of the total filings involving a plaintiff who is either a Pennsylvania resident or alleges exposure within the state"); *see also* Pet. at 8-9.

The nationwide allure of Philadelphia's Court of Common Pleas for mass tort litigation also is reflected by the plaintiff bar's astronomical advertising expenditures, which are intended to bias the juror pool as well as troll for plaintiffs. According to the Judicial Hellholes report, between January 2023 and June 2024 alone, the plaintiffs' bar "spent $52.4 million on over 516,000 advertisements across all mediums." ATR Found., *supra*, at 4. The fact that "Pennsylvania is one of eight states that use partisan elections to initially select judges" also adds to the post-*Mallory* forum-shopping fervor. *See* Ballotpedia, Pennsylvania judicial elections.[5] Not surprisingly, "Plaintiffs lawyers spend millions of dollars [in judicial campaign contributions] to ensure that Pennsylvania remains a plaintiff-friendly jurisdiction." ATR Found., *supra*, at 4-5.

As the certiorari petition observes, in the wake of *Mallory* even one exceptionally plaintiff-friendly State, *e.g.*, Pennsylvania, that asserts general jurisdiction over every corporation registered to do

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[5] https://tinyurl.com/bdfysxhc (last visited June 11, 2025).

business in the State is enough to upend litigation across the United States. *See* Pet. at 30-31. This is reason enough for the Court to grant certiorari in this case and decide whether consent-by-registration violates the Commerce Clause, or at most, as a matter of due process, should apply only if a corporation has substantial operations in the forum State.

4. Consent-by-registration undermines the civil justice system not only by promoting and facilitating forum shopping, but also by upsetting the balance of "interstate federalism." This term "refers to the relationship between the states within our federal system, their status as coequal sovereigns, and the limits on state power that derive from that status." A. Benjamin Spencer, *Jurisdiction to Adjudicate: A Revised Analysis*, 73 U. Chi. L. Rev. 616, 624, 637 (2006). The fifty States are "coequal sovereigns," *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980), and "'[t]he sovereignty of each State . . . implie[s] a limitation on the sovereignty of all its sister States.'" *Bristol-Myers Squibb Co. v. Super. Ct. of Cal.*, 582 U.S. 255, 263 (2017) (quoting *World-Wide Volkswagen*, 444 U.S. at 293).

Five Justices in *Mallory* expressed serious concerns about the effect of consent-by-registration on interstate federalism. In her dissenting opinion, Justice Barrett, joined by Chief Justice Roberts and Justices Kagan and Kavanaugh, argued that

> [t]he Due Process Clause protects more than the rights of defendants—it also

> protects interstate federalism. . . . [W]hen a State announces a blanket rule that ignores the territorial boundaries on its power, federalism interests are implicated too.
>
> Pennsylvania's effort to assert general jurisdiction over every company doing business within its borders infringes on the sovereignty of its sister States . . . .

Mallory, 600 U.S. at 169 (Barrett, J., dissenting).

Justice Alito contended that "[t]he federalism concerns that this case presents fall more naturally within the scope of the Commerce Clause." *Id.* at 157 (Alito, J., concurring in part and concurring in the judgment). Referring to the Commerce Clause's "negative component, the so-called dormant Commerce Clause," he explained that it "prohibits state laws that unduly restrict interstate commerce." *Id.* (internal quotation marks omitted). "The notion that the Commerce Clause restrains States . . . vindicates a fundamental aim of the Constitution: fostering the creation of a national economy and avoiding the every-State-for-itself practices." *Id.*

In Justice Alito's view,

> [i]t is especially appropriate to look to the dormant Commerce Clause in considering the constitutionality of the authority asserted by Pennsylvania's registration scheme. Because the right of an out-of-state corporation to do business in

> another State is based on the dormant Commerce Clause, it stands to reason that this doctrine may also limit a State's authority to condition that right.

Id. at 158-59.

"[A] state law may offend the Commerce Clause's negative restrictions in two ways: when the law discriminates against interstate commerce or when it imposes 'undue burdens' on interstate commerce." *Id.* at 160. In addition for "reason to believe that Pennsylvania's registration-based jurisdiction law discriminates against out-of-state companies," Justice Alito was "hard-pressed to identify any *legitimate local* interest that is advanced by requiring an out-of-state company to defend a suit brought by an out-of-state plaintiff on claims wholly unconnected to the forum State." *Id.* at 161, 162.

The Court explicitly left the dormant Commerce Clause issue open. *See id.* at 127 n.3, 146. Unlike *Mallory*, the present case squarely raises it for the Court's consideration.

B. If necessary, the Court should overrule *Pennsylvania Fire*

1. *Amicus curiae* Atlantic Legal Foundation agrees with petitioners that "[i]f the Court finds that it must choose between expanding *Mallory*'s holding to defendants with no substantial operations in the state, or overruling *Pennsylvania Fire*, then *Pennsylvania Fire* should yield." Pet. at 29. Five Justices in *Mallory* found *Pennsylvania Fire*

Insurance Co. of Philadelphia v. Gold Issue Mining & Milling Co., 243 U.S. 93 (1917), controlling. *See Mallory*, 600 U.S. at 134 (plurality opinion); *id.* at 154 (Alito, J., concurring in part and concurring in the judgment). But Justice Alito "stress[ed] that [he did] so due to the clear overlap with the facts of [the *Mallory*] case." *Id.* More specifically, he observed that "[t]he parallels between *Pennsylvania Fire* and the case before us are undeniable. In both, a large company incorporated in one State was *actively engaged in business* in another State." *Id.* at 152 (emphasis added); *see also id.* at 150 (explaining that *Mallory* involved "a large out-of-state corporation with substantial operations" in Pennsylvania).

This is not the case here, where, as the certiorari petition explains, Syngenta has no substantial operations in Pennsylvania. *See* Pet. at 7-8, 25. Nonetheless, expressly overruling *Pennsylvania Fire* would comport with the Court's *stare decisis* principles insofar as that case conflicts with *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its personal jurisdiction progeny, and/or would require *Mallory*'s holding to apply to consent-by-registration for corporations that do not have substantial operations in a State.

2. Although *stare decisis* "serves . . . many valuable ends," the Court has "long recognized . . . that *stare decisis* is not an inexorable command." *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 264 (2022) (internal quotation marks omitted). This is especially true in constitutional cases, where, in view

of the "notoriously hard" task of amending the Constitution to fix "[a]n erroneous constitutional decision," the *stare decisis* doctrine "is at its weakest." *Id.*; *see also Ramos v. Louisiana*, 140 S. Ct. 1390, 1412, 1413 (2020) (Kavanaugh, J., concurring in part) ("[T]he Court's precedents on precedents distinguish statutory cases from constitutional cases. . . . In constitutional cases. . . the Court has repeatedly said . . . that the doctrine of *stare decisis* is not as inflexible.") (internal quotation marks omitted).

"Therefore, in appropriate circumstances," the Court "must be willing to reconsider and, if necessary, overrule constitutional decisions." *Dobbs*, 597 U.S. at 264; *see, e.g.*, *id.* at 265 n.48 (collecting cases where the Court has "overruled important constitutional decisions"); *Ramos*, 140 S. Ct. at 1411-12 (same).

"The difficult question, then, is when to overrule an erroneous precedent." *Id.* at 1412. The Court's "cases have attempted to provide a framework for deciding when a precedent should be overruled, and they have identified factors that should be considered in making such a decision." *Dobbs*, 597 U.S. at 267-68; *see Ramos*, 140 S. Ct. at 1414 (listing some of the "*stare decisis* factors identified by the Court in its past cases").

Justice Kavanaugh's separate opinion in *Ramos* consolidates the Court's "varied and somewhat elastic *stare decisis* factors into three broad considerations that . . . together provide a structured methodology and roadmap for determining whether

to overrule an erroneous constitutional precedent." *Id.* at 1414, 1415; *see also Dobbs*, 597 U.S. at 268 (citing Justice Kavanaugh's *stare decisis* analytical framework). These interrelated *stare decisis* considerations "help guide the inquiry and help determine what constitutes a special justification or strong grounds to overrule a prior constitutional decision." *Ramos*, 140 S. Ct. at 1414. They weigh strongly in favor of expressly overruling *Pennsylvania Fire* in whole or part if that precedent would subject a corporation without substantial operations in a State to the State's general jurisdiction merely by registering to do business there.

"*First*, is the prior decision not just wrong, but grievously or egregiously wrong?" *Ramos*, 140 S. Ct. at 1414 (Kavanaugh, J., concurring in part). The answer is yes. *Pennsylvania Fire* is an archaic decision that has been "unmasked as egregiously wrong based on later legal . . . understandings or developments," and directly and irreconcilably conflicts "with other decisions [and] changed law." *Id.* at 1414, 1415. More specifically, *Pennsylvania Fire*'s holding that a corporation can be sued in any State where it merely can be served with process (rather than only where it is "at home") for any and all claims arising anywhere, patently conflicts with the narrow limits on general jurisdiction established by *Goodyear* and *Daimler*, and also with the Court's principles governing case-specific personal jurisdiction.

Justice Barrett's dissenting opinion in *Mallory*, joined by three additional Justices, explains that *Pennsylvania Fire* already has been effectively overruled by *International Shoe* and the modern personal jurisdiction jurisprudence that landmark decision has spawned. In so doing, Justice Barrett's opinion refutes the fiction of "consent," which is the *Mallory* plurality's rationale, *see* 600 U.S. at 137, for distinguishing *Pennsylvania Fire* from *International Shoe*. She explained that

> [*Pennsylvania Fire*] was decided before this Court's transformative decision on personal jurisdiction in *International Shoe*, and we have already stated that prior decisions [that] are inconsistent with this standard . . . are overruled. . . . The only innovation of Pennsylvania's statute is to make "doing business" synonymous with "consent." If *Pennsylvania Fir*e endorses that trick, then *Pennsylvania Fire* is no longer good law. . . .
>
> Over and over, we have reminded litigants that *International Shoe* is "canonical," "seminal," "pathmarking," and even "momentous"—to give just a few examples. Yet the Court acts as if none of this ever happened.

Mallory, 600 U.S. 177-78 (Barrett, J., dissenting) (citations and some internal quotation marks and citations omitted). *Pennsylvania Fire*,

therefore, is not just wrong, but egregiously wrong.

"*Second*, has the prior decision caused significant negative jurisprudential or real-world consequences?" *Ramos*, 140 S. Ct. at 1415 (Kavanaugh, J., concurring in part). Again, the answer is yes. The Court need look no further than *Mallory*, where, as discussed above, five Justices found *Pennsylvania Fire* to be controlling. As the certiorari petition explains, the real-world consequences, for example, are that *Mallory* affects the more than 100,000 out-of-state corporations registered to do business in Pennsylvania, especially—in the absence of a follow-up decision by this Court— those that do not have substantial business operations there. *See* Pet. at 30.

"*Third*, would overruling the prior decision unduly upset reliance interests?" *Ramos*, 140 S. Ct. at 1415 (Kavanaugh, J., concurring in part). The answer is no. Justice Alito's separate opinion in *Mallory* recognizes that the Court has "infrequently invoked [*Pennsylvania Fire*'s] due process holding." 600 U.S. at 152 (Alito, J., concurring in part and concurring in the judgment). Any reliance interests based on *Pennsylvania Fire* are necessarily *de minimis*. In light of *International Shoe* and its progeny, including but not limited to *Goodyear* and *Daimler*, no litigant can reasonably rely on *Pennsylvania Fire* outside the context of the narrow question that the *Mallory* majority addressed.

In short, if *Pennsylvania Fire* stands in the way of the Court addressing the constitutionality of consent-by-registration where, as here, a corporation does not have substantial operations in a State, that case should be overruled in whole or part.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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