Nos. 19-368 and 19-369

In the Supreme Court of the United States

FORD MOTOR COMPANY, PETITIONER

v.

MONTANA EIGHTH JUDICIAL DISTRICT COURT, ET AL.

FORD MOTOR COMPANY, PETITIONER

v.

ADAM BANDEMER

ON WRITS OF CERTIORARI
TO THE SUPREME COURT OF MONTANA
AND THE SUPREME COURT OF MINNESOTA

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER

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QUESTION PRESENTED

Whether a state court may exercise specific personal jurisdiction over the manufacturer of a defective product that was designed, made, and sold outside the State, on the ground that the product caused injury in the State after the plaintiff or a third party unilaterally brought it there and the manufacturer also sold the same type of product to other consumers in the State.

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INTEREST OF THE UNITED STATES

These cases concern constitutional limits on state courts' exercise of personal jurisdiction over an out-of-state corporation. Under Federal Rule of Civil Procedure 4(k)(1)(A), restrictions on the personal jurisdiction of state courts often also apply to federal district courts.

The United States has a substantial interest in the resolution of the question presented. The United States often brings claims in federal court to enforce federal statutes, and it also has an interest in ensuring that private plaintiffs have access to efficient forums in which to sue

foreign and domestic companies. At the same time, the United States often defends federal officials against claims in federal court, and it also has an interest in preventing risks to interstate and foreign commerce posed by state courts' unduly expansive assertions of jurisdiction.

STATEMENT

A. Legal Background

The Due Process Clause of the Fourteenth Amendment provides that no State may "deprive any person of life, liberty, or property, without due process of law." Under that provision, no state court may render judgment against a defendant over whom it lacks personal jurisdiction. *Pennoyer* v. *Neff*, 95 U.S. 714, 733 (1878).

This Court has developed the modern principles that govern personal jurisdiction in a line of cases starting with *International Shoe Co.* v. *Washington*, 326 U.S. 310 (1945). In those cases, the Court has recognized two distinct categories of jurisdiction: general and specific. A state court may exercise general jurisdiction over a defendant who is "at home" in the State—for instance, an individual who is domiciled there or a corporation that is incorporated or has its principal place of business there. *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U.S. 915, 924 (2011). General jurisdiction allows a state court to hear any and all claims against the defendant—even claims that have nothing to do with the defendant's presence in the State. *Ibid.*

A state court may exercise specific jurisdiction over a defendant who makes purposeful contacts with the State by acting in the State or by directing its conduct toward the State. *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462, 472 (1985). In contrast to general jurisdiction, specific jurisdiction allows a state court to hear

only those claims that "arise out of or relate to" the defendant's purposeful contacts. *Ibid.* (citation omitted); see *Bristol-Myers Squibb Co.* v. *Superior Court*, 137 S. Ct. 1773, 1780 (2017).

B. Factual Background

Petitioner Ford Motor Company is an automobile manufacturer that is incorporated in Delaware and headquartered in Dearborn, Michigan. 19-368 Pet. App. 24a. Ford sells cars in all 50 States. *Ibid.* Each of these cases is a suit against Ford for an accident involving one of its cars.

1. *Ford Motor Co.* v. *Montana Eighth Judicial District Court*, No. 19-368, involves a 1996 Ford Explorer. 19-368 Pet. App. 24a. Ford assembled the car in Kentucky and sold it to a dealer in Washington, which sold it to a resident of Oregon. *Ibid.* The car was resold to a resident of Montana in 2007, and resold again to another resident of Montana in 2009. *Ibid.* In May 2015, Markkaya Gullett, the daughter of the most recent owner, suffered a fatal accident while driving the car on a highway in Montana. *Ibid.* The tread of one of the tires separated from the body of the tire, the car rolled into a ditch, and Gullett died at the scene. *Id.* at 3a, 24a.

Respondent Charles Lucero, the personal representative of Gullett's estate, sued Ford and several tire companies in Montana state court. 19-368 Pet. App. 3a. He asserted claims against Ford for design defect, failure to warn, and negligence. *Ibid.* Ford moved to dismiss the claims for lack of personal jurisdiction, but the state trial court denied the motion. *Id.* at 23a-36a.

The Montana Supreme Court affirmed, concluding that the exercise of personal jurisdiction over Ford complied with the Due Process Clause of the Fourteenth Amendment. 19-368 Pet. App. 1a-22a. The court

reasoned that "Ford 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," "advertises in Montana," "is registered to do business in Montana," "operates subsidiary companies in Montana," "has thirty-six dealerships in Montana," "has employees in Montana," "sells automobiles" in Montana, and provides "repair, replacement, and recall services" in Montana. *Id.* at 11a-12a. The court further reasoned that the claims here "'relate to' Ford's Montana activities," because "Gullett's use of the Explorer in Montana is tied to Ford's activities of selling, maintaining, and repairing vehicles in Montana," and because "Ford could have reasonably foreseen the Explorer—a product specifically built to travel—being used in Montana." *Id.* at 17a. The court emphasized that "Ford's purposeful interjections into Montana are extensive," "the accident involved a Montana resident," and "the accident occurred in Montana." *Id.* at 21a.

2. *Ford Motor Co.* v. *Bandemer*, No. 19-369, involves a 1994 Ford Crown Victoria. 19-369 Pet. App. 3a. Ford designed the car in Michigan, assembled it in Ontario, and sold it to a dealer in North Dakota in 1994. *Id.* at 25a. The car's fourth owner registered it in Minnesota in 2011, and its fifth owner registered it in Minnesota in 2013. *Ibid.* In January 2015, the son of the fifth owner rear-ended a snow plow while driving the car in Minnesota. *Id.* at 3a. The passenger-side airbag did not deploy, leading the passenger, respondent Adam Bandemer, to suffer a severe brain injury. *Ibid.*

Bandemer sued Ford, the owner, and the driver in Minnesota state court. 19-369 Pet. App. 3a. He asserted claims against Ford for product liability, breach

of warranty, and negligence. *Ibid.* Ford moved to dismiss the claims for lack of personal jurisdiction, but the state trial court denied the motion. *Id.* at 48a-49a, 50a-58a. The state court of appeals affirmed. *Id.* at 37a-47a.

The Minnesota Supreme Court affirmed. 19-369 Pet. App. 1a-36a. The court reasoned that Ford made purposeful contacts with Minnesota because it "collected data on how its vehicles perform through Ford dealerships in Minnesota and used that data to inform improvements to its designs," "sold more than 2,000 1994 Crown Victoria vehicles in Minnesota," "sold about 200,000 vehicles of all types in Minnesota during a three-year period," and "conducted direct-mail advertising in Minnesota." *Id.* 9a-10a. The court concluded that, because Ford "has sold thousands of [1994] Crown Victoria cars" in Minnesota and "the Crown Victoria is the very type of car that Bandemer alleges was defective," Ford's contacts with Minnesota "relate to" the claims at issue in this case. *Id.* at 16a (emphasis omitted). The court emphasized that the accident at issue "occurred on a Minnesota road, between a Minnesota resident as plaintiff and both Ford—a corporation that does business regularly in Minnesota—and two Minnesota residents as defendants." *Id.* at 19a.

Two justices dissented. 19-369 Pet. App. 21a-36a. They reasoned that the Minnesota courts could not exercise personal jurisdiction over Ford because "all of Ford's Minnesota contacts, such as its data collection and marketing efforts, are unrelated to Bandemer's claims." *Id.* at 21a.

SUMMARY OF ARGUMENT

A. This Court has explained that specific jurisdiction allows a state court to hear claims that arise out of or relate to the defendant's contacts with the forum. In

every modern case in which the Court has upheld a state court's exercise of specific jurisdiction, the claim has arisen, at least in part, out of the activities that the defendant has conducted in or directed at the forum. The Court has made clear that a defendant's general business connections with a State do not support the exercise of specific jurisdiction on a claim unrelated to those connections. The Court also has rejected the proposition that, when a claim arises out of business conducted outside the forum State, it "relates" to the defendant's contacts with the State simply because of the fortuity that the defendant engages in the same line of business within the State. That approach avoids erosion of the fundamental distinction between conduct-linked specific jurisdiction and all-purpose general jurisdiction.

Further, this Court has explained that the analysis of specific jurisdiction must focus on the defendant and the defendant's activities. The unilateral acts of another party or a third person generally are not an appropriate consideration—even if those unilateral acts give the forum State an interest in the underlying controversy or make it the most convenient location for litigation. That approach reflects the principle that the principal purpose of the rules of personal jurisdiction is to protect defendants, not plaintiffs or third parties.

Those principles foreclose the theory of jurisdiction adopted in these cases. None of the activities the state supreme courts identified that Ford conducted in or directed at the forum States gave rise, even in part, to the claims at issue here. Ford sold the type of car involved in the accidents in the States, but similarity is not a basis for specific jurisdiction. Ford engaged in extensive and wide-ranging activities in the States, but a corporation's general business connections also are not a basis

for specific jurisdiction. Finally, the car accidents occurred in the States and injured residents of the States, but the unilateral activities of third parties cannot justify specific jurisdiction either.

B. The state supreme courts' contrary theory is unsound. Under that approach, a state court seemingly may exercise specific jurisdiction on the basis of a combination of the extensiveness of the defendant's contacts with the forum State, a resemblance between those contacts and out-of-state activities giving rise to the claim, and the plaintiff's activities in the State. That approach gives insufficient weight to the defendant's interests, fails to provide an administrable or predictable rule, improperly blends general and specific jurisdiction, and allows jurisdiction to turn on fortuities and coincidences.

C. Ford would go further and require a plaintiff invoking specific jurisdiction to identify a discrete act of the defendant in or directed at the forum State that proximately caused the plaintiff's injury. That inflexible test lacks a sound basis in this Court's cases and would unduly complicate the courts' administration of the rules of specific jurisdiction. This Court should instead hold that a state court may exercise specific jurisdiction if a manufacturer's ties to the State give rise, at least in part, to the plaintiff's claims.

D. This case concerns the Fourteenth Amendment's limits on personal jurisdiction of state courts. The application of the Fifth Amendment to personal jurisdiction of federal courts involves different considerations and is not at issue here.

ARGUMENT

A. The State Supreme Courts Erred In Upholding The Exercise Of Specific Jurisdiction Over Ford

A state court may not exercise specific jurisdiction over a manufacturer with respect to a product sold outside the forum State simply because the manufacturer also sells the same type of product within the State or has extensive general connections to the State. That is so even if the product causes injury in the State after the plaintiff or a third party unilaterally brings it there.

1. Specific jurisdiction requires contacts related to the claim, not just general connections to the forum

a. A state court may exercise specific jurisdiction over a defendant that "purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." *Hanson* v. *Denckla*, 357 U.S. 235, 253 (1958). A state court also may exercise specific jurisdiction over a defendant who "'purposefully direct[s]' his activities" at the State. *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462, 472 (1985) (citation omitted).

But "[i]n order for a state court to exercise specific jurisdiction, 'the suit' must 'arise out of or relate to the defendant's contacts with the forum.'" *Bristol-Myers Squibb* v. *Superior Court*, 137 S. Ct. 1773, 1780 (2017) (brackets, citation, and emphases omitted). Thus, in every case since *International Shoe Co.* v. *Washington*, 326 U.S. 310 (1945), in which this Court has upheld a state court's exercise of specific jurisdiction, the claims brought by the plaintiff have arisen, at least in part, out of the activities that tied the defendant to the forum State. For example, in *International Shoe* itself, an out-of-state company sent its salesmen to a State,

thereby enabling the state court to hear a suit to collect employment taxes due for "those very activities." 326 U.S. at 320. Likewise, in *Travelers Health Ass'n* v. *Virginia*, 339 U.S. 643 (1950), an out-of-state insurer's illegal solicitations in a State allowed a state court to hear a suit to stop those solicitations. *Id.* at 648. In *McGee* v. *International Life Insurance Co.*, 355 U.S. 220 (1957), and *Burger King*, out-of-state defendants entered into contracts that had substantial ties to the forum States, allowing courts in those States to hear claims "based on" those contracts. *McGee*, 355 U.S. at 223; see *Burger King*, 471 U.S. at 479-480. And in *Keeton* v. *Hustler Magazine, Inc.*, 465 U.S. 770 (1984), and *Calder* v. *Jones*, 465 U.S. 783 (1984), out-of-state defendants published magazine articles that were circulated in or aimed at the forum States, allowing state courts to hear claims for libel based on those articles. *Keeton*, 465 U.S. at 773-777; *Calder*, 465 U.S. at 788-789.

b. As relevant here, this Court's cases establish that a manufacturer purposefully avails itself of the forum State by directly selling its goods there. See *International Shoe*, 326 U.S. at 320. In addition, a manufacturer (at a minimum) purposefully directs its goods at the State if it places its goods in the "stream of commerce" while also engaging in conduct that "indicate[s] an intent or purpose to serve the market in the forum State, for example, designing the product for the market in the forum State, advertising in the forum State, establishing channels for providing regular advice to customers in the forum State, or marketing the product through a distributor who has agreed to serve as the sales agent in the forum State." *Asahi Metal Industry Co.* v. *Superior Court*, 480 U.S. 102, 112 (1987) (opinion

of O'Connor, J.); see *id.* at 116-121 (Brennan, J., concurring in part and concurring in the judgment); see also *J. McIntyre Machinery, Ltd.* v. *Nicastro*, 564 U.S. 873, 879-885 (2011) (plurality opinion); *id.* at 890-893 (Breyer, J., concurring in the judgment). In those circumstances, a plaintiff's claim about a product ultimately sold in the forum State arises out of or relates to the purposeful conduct in or directed at the State.

At the same time, this Court's cases establish that, when a product is ultimately sold outside the forum State, a claim about that product does not "relate" to the manufacturer's contacts with the forum State merely because of the fortuity that the same type of product also is sold within that State. For example, in *International Shoe*, the Court thrice cited its previous decision in *Old Wayne Mutual Life Ass'n* v. *McDonough*, 204 U.S. 8 (1907), to illustrate the line between claims that "arise out of or are connected with the activities within the state" and claims that are "unrelated to" or "unconnected with" those activities. *International Shoe*, 326 U.S. at 317-319. In *Old Wayne*, an insurer from Indiana sold an insurance policy in Indiana to insure the life of a citizen of Pennsylvania. 204 U.S. at 20-21. The Pennsylvania courts asserted personal jurisdiction on a claim based on that out-of-state policy, on the ground that the insurer had also sold *other* insurance policies in Pennsylvania. *Id.* at 13. The Court rejected that theory of jurisdiction, explaining that the insurer's "business in Pennsylvania" supported suit in Pennsylvania only "in respect of [that] business." *Id.* at 21. The insurer's activities in Pennsylvania therefore did not support jurisdiction on claims arising from activities in Indiana—even though those activities also involved the sale of insurance, and even though citizens of

Pennsylvania were "interested in" those activities. *Id.* at 23.

More recently, in *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U.S. 915 (2011), a tire company sold tires in France that caused a bus accident in France, killing two boys visiting from North Carolina. *Id.* at 918. The boys' parents sued the tire company in North Carolina, asserting jurisdiction on the ground that the company also regularly sold tires in that State. *Id.* at 920-923. This Court concentrated on questions of general jurisdiction, but also made plain that the North Carolina courts "lacked specific jurisdiction to adjudicate the controversy." *Id.* at 919. The Court explained that specific jurisdiction lies "where the corporation's in-state activity is 'continuous and systematic' and *that activity gave rise to the episode-in-suit*." *Id.* at 923 (citation omitted). The Court further explained that specific jurisdiction also is available where the corporation commits "certain 'single or occasional acts' in [the] State," but again, only "with respect to those acts," not "with respect to matters unrelated to the forum connections." *Ibid.* (citation omitted). Under those principles, the Court concluded, "even regularly occurring sales of a product in a State do not justify the exercise of jurisdiction over a claim unrelated to *those sales*." *Id.* at 930 n.6 (emphasis added). Thus, the sales of tires in North Carolina did not create specific jurisdiction in North Carolina with respect to tires sold in France—even though the tires in France led to the deaths of residents of North Carolina. *Id.* at 920-923.

Similarly, in *Bristol-Myers*, plaintiffs brought a mass tort action against Bristol-Myers in California, claiming that its drug Plavix was defective. 137 S. Ct. at 1778.

Many of the plaintiffs had bought, used, and been injured by Plavix outside California, but the California court still entertained their claims on the ground that Bristol-Myers advertised Plavix in California, "sold almost 187 million Plavix pills" in California, "took in more than $900 million" from sales of Plavix in California, operated five "research and laboratory facilities" in California, employed "about 250 sales representatives" in California, maintained "a small state-government advocacy office in Sacramento," and entered into a contract "'with a California company'" to distribute Plavix. *Id.* at 1778, 1783 (citation omitted); see *id.* at 1778-1779. Rejecting that theory, this Court explained that, "[f]or specific jurisdiction," neither "a defendant's general connections with the forum" nor "'continuous activity of some sorts within [the] state'" is "'enough.'" *Id.* at 1781 (citation omitted). The Court emphasized that "[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." *Ibid.* (quoting *Goodyear*, 564 U.S. at 931 n.6). Applying those principles, the Court concluded that "[t]he mere fact that *other* [buyers] were prescribed, obtained, and ingested Plavix in California" did not "allow the State to assert specific jurisdiction over the [plaintiffs'] claims." *Ibid.* "Nor [wa]s it sufficient—or even relevant—that [Bristol-Myers] conducted research in California on matters unrelated to Plavix." *Ibid.* Nor was "[t]he bare fact that [Bristol-Myers] contracted with a California distributor" sufficient, since the plaintiffs had failed to trace their drugs to that distributor. *Id.* at 1783. "What [wa]s needed—and what [wa]s missing [t]here—[wa]s a connection between the forum and the specific claims at issue." *Id.* at 1781.

c. These and others of this Court's cases reflect the distinction between general and specific jurisdiction. General jurisdiction rests on the principle that each State has a general power to resolve claims against its own citizens and its own corporations. *Nicastro*, 564 U.S. at 880 (plurality opinion). An in-state defendant enjoys the "rights and privileges incident to domicile" even when it "sojourns without the state"; the home State, in turn, enjoys the reciprocal power to require its citizens and corporations to answer for acts in other States. *Milliken* v. *Meyer*, 311 U.S. 457, 464 (1940). Specific jurisdiction, by contrast, rests on the principle that each State has a limited power to resolve claims against out-of-state defendants, "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 opinion). A defendant that "exercises the privilege of conducting activities within a state" invokes "the benefits and protection of the laws of that state" with respect to those activities; that, in turn, makes it just for the State to require the defendant to answer there for those activities. *International Shoe*, 326 U.S. at 319. On that rationale, an out-of-state corporation's business in a State allows the State to hear claims that arise out of or relate to that business—not claims that concern similar business in some other State. See *Bristol-Myers*, 137 S. Ct. at 1781.

Moreover, because specific jurisdiction sometimes allows a State to hale a defendant before its courts on the basis of as little as "a single act," *Burger King*, 471 U.S. at 475 & n.18, the requirement that the claim arise out of or relate to the defendant's contacts with the State provides the main check on the scope of specific jurisdiction. To dilute that check would threaten to

leave specific jurisdiction subject to no meaningful limiting principle.

2. Specific jurisdiction turns on the conduct of the defendant, not the unilateral acts of other parties

a. The "central concern" of the inquiry into specific jurisdiction is "the relationship among the defendant, the forum, and the litigation." *Shaffer* v. *Heitner*, 433 U.S. 186, 204 (1977). That test is "defendant-focused." *Walden* v. *Fiore*, 571 U.S. 277, 284 (2014). It "looks to the defendant's contacts with the forum State," *id.* at 285, and thus differs from the constitutional test constraining choice of law, which "examine[s] the contacts of the State, whose law was applied, with the parties and with the occurrence or transaction giving rise to the litigation," *Allstate Insurance Co.* v. *Hague*, 449 U.S. 302, 308 (1981) (plurality opinion).

Under this Court's defendant-focused approach, the "unilateral activity of another party or a third person" ordinarily "is not an appropriate consideration." *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U.S. 408, 417 (1984). If the defendant's own ties fail to create the necessary connection to the State, the plaintiff does not establish jurisdiction "by demonstrating contacts between the plaintiff (or third parties) and the forum State." *Walden*, 571 U.S. at 284. Conversely, "when the cause of action arises out of the very activity being conducted, [even] in part, in [the forum]," the defendant does not "defeat jurisdiction" by highlighting "the extremely limited contacts of the plaintiff with [the forum]." *Keeton*, 465 U.S. at 779-780 (emphasis omitted). To put the point another way, specific jurisdiction requires an "'affiliation between the forum and the underlying controversy,'" but "the relationship must arise out of contacts that the 'defendant *himself*' creates with the

forum State." *Walden*, 571 U.S. at 283-284 & n.6 (brackets and citations omitted); see *Bristol-Myers*, 137 S. Ct. at 1780 (equating the requirement of "an affiliation between the forum and the underlying controversy" with the requirement that the suit "arise out of or relate to the defendant's contacts with the forum") (brackets, citations, and emphases omitted). Any effort to "shift the focus of the inquiry from the relationship among the defendant, the forum, and the litigation to that among the plaintiff, the forum, * * * and the litigation" is "forbidden by *International Shoe* and its progeny." *Rush* v. *Savchuk*, 444 U.S. 320, 332 (1980).

b. A long line of decisions exemplifies those principles. For example, in *Hanson*, Florida sought to assert jurisdiction against an out-of-state trustee on a claim about the validity of a trust agreement. 357 U.S. at 252. Florida had substantial ties to the underlying controversy: The settlor of the trust moved to Florida after creating the trust; the settlor carried out acts of trust administration from Florida; the settlor executed instruments related to the trust in Florida; and the main beneficiaries lived in Florida. *Id.* at 251-255. This Court nonetheless rejected Florida's claim of jurisdiction, explaining that the trustee lacked sufficient ties to Florida and that "th[e] suit cannot be said to be one to enforce an obligation that arose from a privilege the [trustee] exercised in Florida." *Id.* at 252. The Court then held that Florida could not "remedy" that deficiency by relying on its "being the 'center of gravity' of the controversy, or the most convenient location for litigation." *Id.* at 254. The Court explained: "The issue is personal jurisdiction, not choice of law. It is resolved in this case by considering the acts of the trustee." *Ibid.*

Similarly, in *Shaffer*, a Delaware court sought to exercise specific jurisdiction over directors of a company incorporated in Delaware, on claims about their management of the company. 433 U.S. at 189-195. Delaware rested jurisdiction on the ground that the directors owned property located in Delaware, but this Court rejected that theory, explaining that "th[e] property [wa]s not the subject matter of th[e] litigation, nor [wa]s the underlying cause of action related to the property." *Id.* at 213. The Court then concluded that Delaware could not make up for that inadequacy by asserting an interest "in supervising the management of a Delaware corporation." *Id.* at 214. The Court repeated *Hanson*'s observation that a State cannot "acquire jurisdiction by being the 'center of gravity' of the controversy." *Id.* at 215 (citation and ellipsis omitted).

So too, in *Kulko* v. *Superior Court*, 436 U.S. 84 (1978), a mother who lived with two children in California brought a child-support action in California against her ex-husband, who still lived in the former marital home of New York. *Id.* at 86-90. This Court first held that the father's ties to California—the celebration of the wedding in California, the father's agreement at the time of separation to allow the children to spend some of the year in California, and the father's later acquiescence in one child's wish to move permanently to California—did not create specific jurisdiction. *Id.* at 92-96. The Court then concluded that California could not make up for that inadequacy by relying on its "unquestionably important" interests in "protecting resident children" and "facilitating child-support actions." *Id.* at 98, 100.

Finally, in *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286 (1980), this Court applied those principles to a tort claim involving a car accident. In that

case, a New York car wholesaler and New York car dealer sold a car in New York. *Id.* at 288-289. The buyers of the car took the car to Oklahoma, where "another car struck their [car] in the rear, causing a fire which severely burned [the occupants]." *Id.* at 288. The Court held that the Oklahoma court lacked specific jurisdiction over the New York wholesaler and dealer on the buyers' claim that the car was defective. The Court relied on the "total absence" of contacts between the New York defendants and Oklahoma. *Id.* at 295. The Court explained that the sale of the car in New York did not itself constitute a contact with Oklahoma—even though "an automobile is mobile by its very design," and even though "travel of automobiles sold by [the defendants] [wa]s facilitated by an extensive chain of Volkswagen service centers throughout the country, including some in Oklahoma." *Id.* at 295, 298-299. The Court found it immaterial that the plaintiffs had chosen to drive the car to Oklahoma and had become involved in an accident in that State. *Id.* at 295-296. The Court explained that, if that factor were decisive, "[e]very seller of chattels would in effect appoint the chattel his agent for service of process," so that "[h]is amenability to suit would travel with the chattel." *Id.* at 296.

c. This Court's focus on the defendant reflects the main function of the doctrine of personal jurisdiction: protecting the liberty of the defendant. *Walden*, 571 U.S. at 284. "An out-of-state defendant summoned by a plaintiff is faced with the full powers of the forum State to render judgment against it." *Phillips Petroleum Co.* v. *Shutts*, 472 U.S. 797, 808 (1985) (emphasis omitted). During the course of the case, the defendant may have to "hire counsel," "travel to the forum," "participate in

extended and often costly discovery," and "defend itself" at trial. *Ibid.* At the end of the case, the court may "decree the ownership of all [the defendant's] worldly goods." *Burnham* v. *Superior Court*, 495 U.S. 604, 623 (1990) (opinion of Scalia, J.). The rules of personal jurisdiction protect the out-of-state defendant from the improper imposition of such burdens. *Shutts*, 472 U.S. at 808. Given that purpose, the test for personal jurisdiction properly focuses on the acts of the defendant, not on the acts of the plaintiff or the interests of the forum State. "[T]he plaintiff's contacts with the forum [cannot be] decisive in determining whether the defendant's due process rights are violated." *Rush*, 444 U.S. at 332.

This Court's focus on the defendant also provides certainty. A test that turns on the acts of the defendant—say, on where the defendant makes or sells a product—enables businesses "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. For example, a business could take more precautions or reduce the volume of sales in States where it fears product-liability litigation. A test that turns on the unilateral acts of plaintiffs and other third parties—say, on where the plaintiff is injured by a product—denies businesses that ability.

This Court's defendant-oriented test is not the only conceivable approach to personal jurisdiction. A provision of the French Civil Code treats the French nationality of the plaintiff as a ground of jurisdiction. *Goodyear*, 564 U.S. at 929 n.5. And the European Union treats the location of the harmful event or injury as the touchstone of jurisdiction in tort cases. *Nicastro*, 564 U.S. at 909 (Ginsburg, J., dissenting). Those tests accord more

weight than does our system to the interests of the plaintiff and of the forum State, and less weight to the rights of the defendant. "There would be nothing irrational about [such] a system," but "it is obviously not the regime that has obtained under our Constitution." *Raines* v. *Byrd*, 521 U.S. 811, 828 (1997).

3. The claims here do not arise out of or relate to the forum-state contacts identified by the state supreme courts

In these cases, Ford designed, made, and sold the cars at issue outside the forum States. See pp. 3-4, *supra*. Ford is not properly subject to specific jurisdiction based on the in-state activities identified by the state supreme courts.

To start, the Montana courts did not acquire jurisdiction because Ford sold Ford Explorers, "the kind of vehicle at issue in this case," in Montana. 19-368 Pet. App. 12a. Nor did the Minnesota courts acquire jurisdiction because "Ford has sold more than 2,000 1994 Crown Victoria vehicles in Minnesota" and "the Crown Victoria is the very type of car that Bandemer alleges was defective." 19-369 Pet. App. 9a-10a, 16a. In *Old Wayne*, the sale of insurance policies in Pennsylvania did not empower Pennsylvania courts to hear claims about an insurance policy sold in Indiana to insure the life of a Pennsylvania citizen. 204 U.S. at 22-23. In *Goodyear*, the sale of tires in North Carolina did not empower North Carolina courts to hear claims about tires sold in France that injured residents of North Carolina. 564 U.S. at 930 n.6. And in *Bristol-Myers*, the sale of drugs in California did not empower California courts to hear claims about the same type of drugs sold in other States. 137 S. Ct. at 1781-1782. So also, the

sale of cars in Montana and Minnesota does not empower those States to hear claims about cars sold outside those States.

The Montana courts also did not acquire jurisdiction because "Ford advertises in Montana, is registered to do business in Montana, and operates subsidiary companies in Montana," "has thirty-six dealerships in Montana," "has employees in Montana," and "provides automotive services in Montana." 19-368 Pet. App. 11a-12a. And the Minnesota courts did not acquire jurisdiction because "Ford collected data" in Minnesota, "sold about 200,000 vehicles of all types in Minnesota," "conducted direct-mail advertising in Minnesota," sponsored "multiple athletic events in Minnesota," and built "a 1966 Ford Mustang" as "a model car for the Minnesota Vikings." 19-369 Pet. App. 4a, 9a-10a. Those activities, which are even farther removed from these claims than Ford's sale of the same type of car involved in the accidents, have no apparent link to the claims at issue here. Those activities demonstrate that Ford has extensive ties to the forum States, but "[f]or specific jurisdiction, a defendant's general connections with the forum are not enough." *Bristol-Myers*, 137 S. Ct. at 1781.

Finally, the Montana and Minnesota courts could not properly exercise jurisdiction on the ground that the case involved injuries in the forum States to residents of those States. See 19-368 Pet. App. 18a; 19-369 Pet. App. 17a. "The issue is personal jurisdiction, not choice of law. It is resolved in th[ese] case[s] by considering the acts of [Ford]." *Hanson*, 357 U.S. at 254. The "unilateral activity of another party or a third person is not an appropriate consideration." *Helicopteros*, 466 U.S. at 417. Ford's contacts with the forum States, as just discussed, did not give rise to or relate to these claims.

Montana and Minnesota cannot make up for that shortcoming "by being the 'center of gravity' of the controversy, or the most convenient location for litigation." *Hanson*, 357 U.S. at 254.

B. No Sound Justification Supports The State Supreme Courts' Contrary Theory Of Jurisdiction

The state supreme courts adopted a different theory of specific jurisdiction, under which the combination of Ford's unrelated activities in the forum States and the occurrence of injury in those States to residents of those States justified the exercise of jurisdiction. That approach is neither supported by this Court's cases, nor justified by the States' or plaintiffs' interests.

1. This Court's cases do not support the state courts' exercise of jurisdiction

a. Under the state supreme courts' decisions, the sufficiency of the connection between the claim and the defendant's ties to the forum appears to depend on some combination of the extensiveness of the defendant's ties to the forum, the defendant's sale of the same type of product in the forum, the occurrence of the car accident in the forum, and the plaintiff's ties to the forum. See 19-368 Pet. App. 15a-20a; 19-369 Pet. App. 15a-18a. That approach conflicts with the principles that guide this Court's doctrine on personal jurisdiction.

This Court has stressed that jurisdictional rules should be simple. See *Hertz Corp.* v. *Friend*, 559 U.S. 77, 94-95 (2010). Simple rules enable judges and parties to concentrate on the merits rather than on preliminary matters; help businesses predict the jurisdictional consequences of their activities; help plaintiffs decide where they can sue; and reduce the likelihood of gamesmanship, appeals, and reversals. *Ibid.* Clear rules may

sometimes lead to "seeming anomalies," but "[a]ccepting occasionally counterintuitive results is the price the legal system must pay to avoid overly complex jurisdictional administration." *Id.* at 96. The state supreme courts' totality-of-the-circumstances approach may produce what the courts considered fair results in these cases, but only at the expense of "the benefits that accompany a more uniform legal system." *Ibid.*

This Court also has endeavored to maintain the distinction between general jurisdiction (which looks to the intensity of the defendant's contacts with the forum), and specific jurisdiction (which looks to the relatedness of the defendant's contacts with the claim). It has faulted lower courts for "elid[ing] the essential difference between case-specific and all-purpose (general) jurisdiction." *Goodyear*, 564 U.S. at 927. The approaches below, which merge intensity and relatedness onto a single spectrum, conflict with that bifurcated approach.

Finally, this Court has rejected jurisdictional rules that turn on "chance," "fortuitous" circumstances, or "random" occurrences. *Keeton*, 465 U.S. at 774, 779. There is no sound reason for a State's authority to hear a claim about one car turn on the coincidence that some other customers in the forum also bought that "very type of car." 19-369 Pet. App. 16a.

b. The state supreme courts sought to bolster their approach by invoking certain language in *Bristol-Myers* and *World-Wide Volkswagen*. 19-368 Pet. App. 18a; 19-369 Pet. App. 15a. In *Bristol-Myers*, where the defendant had extensive ties to the State, the Court observed that the plaintiffs "were not injured" in the forum States. 137 S. Ct. at 1781. And in *World-Wide Volkswagen*, where the plaintiff suffered injury in the State, the Court observed that the defendants "carr[ied]

on no activity whatsoever" in the forum State, "close[d] no sales and perform[ed] no services there," "avail[ed] themselves of none of the privileges and benefits" of the State's law, and did not "seek to serve" the State's market. 444 U.S. at 295. From those statements, the state supreme courts appear to have inferred that, if a case involves *both* a defendant with significant but unrelated ties to the forum State *and* an injury in that State, the courts of that State may properly exercise jurisdiction.

Bristol-Myers and *World-Wide Volkswagen* do not bear that reading. The statements in those cases served to emphasize, in *Bristol-Myers*, the lack of any relationship between the claims and the forum and, in *World-Wide Volkswagen*, the lack of any relationship between the defendants and the forum. In neither case, however, did the Court adopt a sliding-scale approach under which the fundamental requirements for specific jurisdiction vary with the intensity of the forum contacts and the strength of the forum State's interest in the underlying claim. Quite the contrary, the Court in *Bristol-Myers* explicitly rejected the California Supreme Court's sliding-scale theory—under which "'the more wide ranging the defendant's forum contacts, the more readily is shown a connection between the forum contacts and the claim'"—as a "loose and spurious form of general jurisdiction." 137 S. Ct. at 1778, 1781 (citation omitted). And the Court in *World-Wide Volkswagen* declined to adopt Justice Brennan's view that "the significance of the contacts necessary to support jurisdiction would diminish if some other consideration"—such as "[t]he interests of the State and other parties"—"helped establish that jurisdiction would be fair and reasonable." 444 U.S. at 300 (Brennan, J., dissenting).

The decisions below resurrect those already-rejected theories.

2. The forum States' interests do not justify the state courts' exercise of jurisdiction

This Court has said that, although the principal function of the rules of personal jurisdiction is to protect liberty, those rules also reflect principles of "interstate federalism." *World-Wide Volkswagen*, 444 U.S. at 294. That "federalism concept" does not operate "as an independent restriction" on state courts. *Insurance Corp. of Ireland, Ltd.* v. *Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 n.10 (1982). Rather, the test for specific jurisdiction already incorporates "an element of federalism." *Ibid.* In general, a State and its residents are likely to have a strong interest in claims that arise out of or relate to a defendant's activities in or directed at that State. Conversely, a State and its residents are likely to lack a strong interest in claims that arise out of or relate to a defendant's activities in and directed at other States. That measure may be imperfect. But where a defendant lacks the necessary contacts with a State or where a claim fails to arise out of or relate to those contacts, the plaintiff may not compensate for that inadequacy by showing that the forum State is "the 'center of gravity' of the controversy, or the most convenient location for litigation." *Hanson*, 357 U.S. at 254. A contrary rule would unduly complicate the test for jurisdiction. Cf. *BMW of North America, Inc.* v. *Gore*, 517 U.S. 559, 601 (1996) (Scalia, J., dissenting) (stating that "'interest analysis'" has "laid waste the formerly comprehensible field of conflict of laws").

In any event, to the extent a case-by-case inquiry into state interests is a relevant consideration, that inquiry does not support jurisdiction here. Most States

have abandoned the traditional choice-of-law rule that a tort is governed by the law of the place of injury; only around ten States still appear to adhere to that bright-line rule. Symeon C. Symeonides, *The Choice-of-Law Revolution Fifty Years After Currie: An End and a Beginning*, 2015 U. Ill. L. Rev. 1847, 1868-1875. Modern approaches to choice of law accord significant weight not only to the interests of the place of injury, but also to those of "the place [of] the conduct causing the injury." Restatement (Second) of Conflict of Laws § 145(2)(b) (1971). For example, in product-liability cases, the place of design or manufacture has an interest both in regulating that conduct and in protecting manufacturers from undue product-liability litigation, and the place of sale probably has a greater interest both in protecting buyers from harmful products and in protecting sellers from such litigation. Michael W. McConnell, *A Choice-of-Law Approach to Products-Liability Reform*, 37 Proc. Acad. Pol. Sci. 90, 98 (1988).

As relevant here, Montana and Minnesota have themselves rejected the theory that, for purposes of choice of law, States have an overriding interest in regulating car accidents occurring within their borders. Montana has concluded that "the place of the accident * * * may be fortuitous" and that the "place of purchase [also] has an interest in regulating the safety of products sold within its borders." *Phillips* v. *General Motors Corp.*, 995 P.2d 1002, 1009, 1014 (Mont. 2000). Minnesota, for its part, has criticized choice-of-law rules that focus on the place of a car accident as "'mechanical,'" "'out-moded,'" and lacking in "rational[ity]." *Milkovich* v. *Saari*, 203 N.W.2d 408, 412 (Minn. 1973) (citation omitted); see *Hague*, 449 U.S. at 305-307 (plurality opinion). The argument for personal jurisdiction thus "is

undercut by the failure of the [forum States] to assert the state interest" that respondents find "so compelling." *Shaffer*, 433 U.S. at 214.

3. The plaintiffs' interests do not justify the state courts' exercise of jurisdiction

This Court has explained that "limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs." *Walden*, 571 U.S. at 284. In fashioning the rules of personal jurisdiction, however, the Court has accorded some weight to the plaintiff's interest in a "convenient forum." *Burger King*, 471 U.S. at 473. Indeed, the Court has already gone a long way toward accommodating that interest. A corporation was once amenable to suit only in its State of incorporation, see *Bank of Augusta* v. *Earle*, 38 U.S. (13 Pet.) 519, 589 (1839); later, in any State where it had a substantial and continuing presence, see *International Harvester Co. of America* v. *Kentucky*, 234 U.S. 579, 589 (1914); later still, in any State where it exercised the privilege of conducting activities, see *International Shoe*, 326 U.S. at 319; and now, in any State at which it directs even a single act, if that act creates a substantial connection with the State, see *McGee*, 355 U.S. at 223.

The main limit on specific jurisdiction today is the requirement that the claim arise out of or relate to the corporation's contacts with the forum. That limit still allows a plaintiff to bring a product-liability claim in the State where the defendant (or, in certain circumstances, a distributor) sold the product. See pp. 9-10, *supra*. The place of sale usually will provide a convenient forum for the litigation of product-liability claims. See generally Daniel Klerman, *Personal Jurisdiction and Product Liability*, 85 S. Cal. L. Rev. 1551 (2012). Plaintiffs

commonly buy and use products in their home States; in those cases, assuming purposeful availment by the manufacturer, the plaintiffs could sue the manufacturer in those States. When a manufacturer in one State ships a product to a plaintiff in another State, the plaintiff could similarly bring the suit in the State to which the goods are delivered. See *Quill Corp.* v. *North Dakota*, 504 U.S. 298, 306-308 (1992). And when plaintiffs go to other States to buy products, it ordinarily is fair to ask them to go back to those States to bring claims about those products. Moreover, "it will be feasible to determine the place of sale of most products involved in products-liability cases. The place of sale of drugs can be determined through prescription records; the place of sale of machine tools and automobiles is recorded on documents of sale; mail orders leave a paper trail." McConnell, 37 Proc. Acad. Pol. Sci. at 98.

To be sure, the place of original sale will not always provide a convenient forum for cases about used cars. But a plaintiff may be able to argue that a State could also exercise jurisdiction over a car manufacturer on the basis of the resale of a used car in the State. This Court has distinguished between "the movement of goods from manufacturers through distributors to consumers" (the "stream of commerce"), *Nicastro*, 564 U.S. at 881, and the movement of goods through the unilateral acts of "purchasers," *World-Wide Volkswagen*, 444 U.S. at 298. In the former context, the manufacturer may be subject to jurisdiction even if the distributor that sold the product did not act as its "sales agent," at least where the manufacturer also engaged in some other conduct indicating an "intent or purpose to serve the market in the forum." *Asahi*, 480 U.S. at 112 (opinion of O'Connor, J.). In that circumstance, the

manufacturer's initial placement of the product into the stream of commerce qualifies as an act directed at the forum, and a claim about a product sold in the forum arises out of or relates to that conduct. The "contours of that principle" depend on "the economic realities of the market the defendant seeks to serve." *Nicastro*, 564 U.S. at 885 (plurality opinion). Thus, a plaintiff may be able to argue that, where a car manufacturer "deliberately targets [the forum State] as a market for * * * used cars" or "actively fosters the secondary market" for such cars, 19-369 Br. in Opp. 1, 19, the manufacturer is subject to jurisdiction even with respect to used cars resold in the State. But the state courts did not rely on such theories, and the question presented does not fairly encompass them. These cases thus provide no occasion for the Court to consider the contours of the stream-of-commerce approach, an issue that has previously fractured the Court.

Personal jurisdiction in cases such as these would not, moreover, be limited to the place of sale. The plaintiff could invoke specific jurisdiction in the place of design or place of manufacture. See Pet. Br. 41. Further, general jurisdiction in the corporation's place of incorporation or principal place of business operates as a "safety valve that sometimes allows plaintiffs access to a reasonable forum in cases when specific jurisdiction would deny it." *Daimler AG* v. *Bauman*, 571 U.S. 117, 132 n.9 (2014) (citation omitted). Given that the main purpose of the rules of jurisdiction is to protect the defendant, and given that those rules already give plaintiffs access to a range of forums, plaintiffs' interests in suing in an even wider range of forums cannot justify the theory of jurisdiction adopted by the courts below.

That is particularly so because it is not obvious that allowing suit in the place of injury would produce a meaningful improvement for plaintiffs. The State through which a plaintiff is traveling when his car happens to suffer an accident would not necessarily constitute a convenient forum. The only way to guarantee convenience is to authorize the plaintiff to sue in his home State. But that is the very theory this Court rejected in *Goodyear*, when it held that the sale of tires in North Carolina did not relate to the sale of tires in France, even though the tires in France injured residents of North Carolina. See p. 11, *supra*.

C. This Court Should Not Adopt Ford's Proximate-Cause Test For Specific Jurisdiction

For the reasons just discussed, this Court's settled rules of jurisdiction warrant reversing the judgments below. Ford, however, asks the Court to go further (Pet. Br. 43), and to adopt a "proximate-cause requirement." On Ford's theory (Pet. Br. 2, 42-45), a state court may exercise specific jurisdiction only if the plaintiff can show that the defendant's contacts with the forum proximately caused the plaintiff's injury. That theory is unsound.

First, the inquiry into personal jurisdiction under this Court's cases turns on an analysis of a defendant's course of conduct taken as a whole, not on individual acts considered in isolation. "The question is whether a defendant has followed *a course of conduct* directed at the society or economy existing within the jurisdiction of a given sovereign, so that the sovereign has the power to subject the defendant to judgment concerning that conduct." *Nicastro*, 564 U.S. at 884 (plurality opinion) (emphasis added). That is why, in the context of contract claims, the Court has "emphasized the need for a

'highly realistic' approach that recognizes that a 'contract' is 'ordinarily but an intermediate step serving to tie up prior business negotiations with future consequences which themselves are the real object of the business transaction.'" *Burger King*, 471 U.S. at 478-479 (citation omitted). Contrary to those precedents, Ford's approach (Br. 47-48) seemingly would require courts to view each of the defendant's acts in turn and to ask whether that act, on its own, proximately caused the plaintiff's injury.

For example, suppose a manufacturer supplies goods to a distributor while also "advertising in the forum State" and "establishing channels for providing regular advice to customers in the forum State." *Asahi*, 480 U.S. at 112 (opinion of O'Connor, J.). Under this Court's cases and under the government's approach, the manufacturer's course of conduct would amount to purposeful direction, and a claim about a product sold by the manufacturer's distributor in the State would arise out of or relate to that course of conduct. The plaintiff need not make a further showing that a particular advertisement or particular advice proximately caused the claim. Ford, however, would require (Br. 48) the court to focus on the advertising alone, and to ask whether the "advertising influenced" the customer's decision to make the particular purchase. And it presumably would also require the court to focus on the channels of advice alone and to ask whether particular advice caused the particular injury. Nothing in this Court's cases supports that blinkered and inflexible approach to personal jurisdiction.

Second, this Court has concluded that "all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe*." *Shaffer*, 433 U.S. at 212. That means the same set of general

standards governs cases about torts, see *Keeton*, 465 U.S. at 774; contracts, see *McGee*, 355 U.S. at 223; property, see *Shaffer*, 433 U.S. at 212; trusts, see *Hanson*, 357 U.S. at 251; and families, see *Kulko*, 436 U.S. at 88. Ford fails to explain how its standard would operate in those disparate contexts. For instance, Ford does not explain how a court would determine the proximate cause of an action for divorce, see *Burnham*, 495 U.S. at 607-609 (opinion of Scalia, J.), an action for child support, see *Kulko*, 436 U.S. at 92-96, or an action to enjoin an activity that has not yet happened, see *Travelers Health Ass'n*, 339 U.S. at 648.

Third, Ford's proximate-cause rule would unduly complicate the test for personal jurisdiction. Inquiries into causation can raise complex factual questions that typically go to the merits, which is why "what is the proximate cause" often is "a question for the jury." *Milwaukee & Saint Paul Railway Co.* v. *Kellogg*, 94 U.S. 469, 474 (1877). Importing a proximate-cause test into the threshold context of personal jurisdiction "would hardly promote the efficient disposition of an issue that should be resolved expeditiously at the outset of litigation." *Daimler*, 571 U.S. at 139 n.20.

Finally, this Court has explained that a state court may exercise specific jurisdiction if the defendant's contacts give rise or relate to "the *suit*." *Bristol-Myers*, 137 S. Ct. at 1780 (citation omitted). Ford, however, would require plaintiffs to show that the defendant's acts "caused their *injuries*." Pet. Br. 2 (emphasis added). Ford fails to identify any basis in this Court's cases for such a requirement. Indeed, in some areas of law, plaintiffs may obtain relief even without showing proximate or but-for causation of their injuries. *E.g.*, *CSX Transportation, Inc.* v. *McBride*, 564 U.S. 685, 699-701 (2011).

No sound basis exists to hold a plaintiff to a higher standard of causation at the jurisdictional stage than at the merits stage.

D. These Cases Raise No Issues Concerning Constitutional Limits On The Personal Jurisdiction Of Federal Courts

These cases concern only the Fourteenth Amendment's limits on the personal jurisdiction of state courts, not the Fifth Amendment's limits on the personal jurisdiction of the federal courts. In general, federal law makes the personal jurisdiction of a federal district court coextensive with the personal jurisdiction of a state court sitting in the same State. See Fed. R. Civ. P. 4(k)(1)(A). In some cases, however, Congress has empowered federal district courts to exercise broader personal jurisdiction—for example, in provisions authorizing nationwide service of process on certain claims. See, *e.g.*, 9 U.S.C. 9; 15 U.S.C. 22, 53(b); 16 U.S.C. 1437(*l*); 28 U.S.C. 1694, 1695, 1697, 2361, 4104(b); 42 U.S.C. 9613(e).

"Because the United States is a distinct sovereign, a defendant may in principle be subject to the jurisdiction of the courts of the United States but not of any particular state." *Nicastro*, 564 U.S. at 884 (plurality opinion). In addition, the United States' constitutional powers and special competence in matters of foreign affairs and international commerce, in contrast to the limited and geographically cabined sovereignty of each of the several States, would permit the exercise of federal judicial power in ways that have no analogue at the state level. This Court has consistently reserved the question whether restrictions on personal jurisdiction imposed under the Fourteenth Amendment would also apply in a case governed by the Fifth Amendment. See, *e.g.*,

Bristol-Myers, 137 S. Ct. at 1784. The same course would be appropriate here.

CONCLUSION

The judgments of the Supreme Courts of Montana and Minnesota should be reversed.

Respectfully submitted.

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