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 IN OPPOSITION

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QUESTION PRESENTED

Whether the state trial court's interlocutory and unreviewed decision to exercise personal jurisdiction over a defendant pursuant to a statute that conditions registration to do business in that state on consent to the jurisdiction of that state's courts violates the Commerce Clause or the Fourteenth Amendment's Due Process Clause.

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INTRODUCTION

The Pennsylvania state trial court exercised personal jurisdiction over Petitioner Syngenta Crop Protection, LLC ("Syngenta Crop"), which registered to do business in Pennsylvania pursuant to 42 Pa. C.S. § 5301 ("Section 5301" and the "consent-by-registration statute"). Under Section 5301, a foreign company that registers to do business in Pennsylvania thereby consents to the jurisdiction of its courts. In *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122 (2023), this Court held that a Pennsylvania court's exercise of jurisdiction over a foreign company registered to do business in Pennsylvania pursuant to Section 5301 comports with the Fourteenth Amendment's Due Process Clause.

On August 24, 2023, after *Mallory* was decided, the trial court below overruled Syngenta Crop's due process preliminary objection to the trial court's exercise of personal jurisdiction and found it had jurisdiction over that defendant[1] — a Delaware corporation that is registered to do business in Pennsylvania ("Personal Jurisdiction Order").[2] Like Norfolk Southern Railway Co.,

1. The petition also identifies Syngenta AG as a petitioner. However, the trial court sustained Syngenta AG's preliminary objection regarding general jurisdiction. Pet. App. 7. Thus, Syngenta AG has no adverse order against it from which it can appeal. Respondents refer herein to Syngenta Crop Protection LLC as "Syngenta Crop;" whereas references to "Syngenta" should be understood as applying to both Petitioners.

2. The Pennsylvania trial court also exercises general personal jurisdiction over co-defendant Chevron U.S.A. Inc. (incorporated in the Commonwealth of Pennsylvania) and co-defendant FMC Corporation (headquartered in the Commonwealth of Pennsylvania).

Petitioner Syngenta Crop "had registered to do business in Pennsylvania for many years" before Respondents brought their suits. *Mallory*, 600 U.S. at 141 (Gorsuch, J.). Syngenta Crop "established an office for receiving service of process … pursuant to a statute that gave the company the right to do business in-state in return for agreeing to answer any suit against it." *Id*. The question of the dormant Commerce Clause's relationship to Section 5301 was not properly before the trial court at the time it issued the Personal Jurisdiction Order; Syngenta never amended their preliminary objections to assert the dormant Commerce Clause issue raised in the petition, and thus the trial court was not tasked with resolving, and did not resolve, this issue in its Personal Jurisdiction Order.

The trial court also denied Syngenta's request to certify the Personal Jurisdiction Order for interlocutory appeal pursuant to 42 Pa.C.S. § 702(b) and Pa.R.A.P. 1311(a)(1). Pet. App. 5. The Superior and Supreme Courts of Pennsylvania likewise denied Syngenta's request for interlocutory review. Pet. App. 3-4; Pet. App. 1-2.

Absent a final merits ruling (or indeed *any* merits ruling) by an appellate court in this case, this petition runs afoul of 28 U.S.C. § 1257(a) which limits the Court's review of state court decisions to "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had." This statute "establishes a firm final judgment rule" that is jurisdictional and "not one of those technicalities to be easily scorned." *Jefferson v. City of Tarrant*, 522 U.S. 75, 81 (1997). Rather than await a final ruling on the jurisdictional issue by a Pennsylvania appellate court on direct appeal post-trial, Syngenta

jumped the gun and filed this petition. This defect alone warrants the petition's denial.

Moreover, despite the obvious factual similarities between this case and *Mallory*, and the recency of this Court's decision there, Syngenta asks this Court to revisit *Mallory*, basing much of their argument on a manufactured reading of an implied "substantial operations" requirement into Justice Alito's concurrence in determining the constitutional application of the consent-by-registration statute. Not only is *Mallory* barely two years old, it also explicitly did not create new law. Instead, the majority reaffirmed that "*Pennsylvania Fire* controls this case." *Mallory,* 600 U.S. at 134 (citing *Pennsylvania Fire Ins. Co. of Philadelphia v. Gold Issue Min. & Mill. Co.*, 243 U.S. 93, 95 (1917)). More than one hundred years ago, *Pennsylvania Fire* resolved the constitutionality of statutes like Section 5301; *Mallory* merely reaffirmed *Pennsylvania Fire*. Fatally for the petition, *Pennsylvania Fire* contains no discussion of the defendant's forum state operations whatsoever; its rule applies without regard to the nature or scope of the defendant's operations in the forum state, and nothing in *Mallory* changed that.

The trial court's decision below straightforwardly applies *Mallory*, which reaffirmed over a century of precedent holding consent-by-registration statutes constitutional. *See, e.g., Webb-Benjamin, LLC v. Int'l Rug Grp., LLC,* 192 A.3d 1133, 1139 (Pa. Super. Ct. 2018); *Bors v. Johnson & Johnson*, 208 F. Supp. 3d 648, 652 (E.D. Pa. 2016) (citing *Bane v. Netlink, Inc.*, 925 F.2d 637, 641 (3d Cir. 1991)); *Harris v. Am. Ry. Express Co.*, 12 F.2d 487, 487–88 (D.C. Cir. 1926); *Steele v. W. Union Tel. Co.*, 173

S.E. 583, 587 (N.C. 1934) ("[T]his statute in the respect here assailed neither offends against the commerce clause of the Federal Constitution (art. 1, § 8, cl. 3) nor runs counter to the Fourteenth Amendment.").

Now, for the *fourth* time, Syngenta seeks interlocutory review of the Personal Jurisdiction Order issued by the trial court. Just as in the Pennsylvania appellate courts, the petition should be denied.

STATEMENT OF THE CASE

Respondents are individuals, residing throughout Pennsylvania and other states, who have developed Parkinson's disease as a result of their exposure to paraquat — a "restricted use" broad-spectrum herbicide.[3] This petition arises out of coordinated litigation in Pennsylvania bringing claims against manufacturers and distributors of paraquat, including Syngenta Crop, whom Respondents allege are responsible for their Parkinson's disease. Other coordinated paraquat proceedings exist throughout the country.

Paraquat was developed in the late 1950s by Syngenta's predecessor-in-interest, Imperial Chemical Industries. Syngenta has sold paraquat and other pesticides to Pennsylvania residents since the 1960s. Syngenta Crop continues to sell paraquat today throughout the United

3. "Restricted use pesticides" are herbicides and pesticides registered with the Environmental Protection Agency which are not available for use or purchase by the general public. "Restricted use" herbicides and pesticides may only be purchased or used by licensed applicators and individuals working under the supervision of licensed applicators.

States as a "restricted use" herbicide. As part of their lawsuits, Respondents also named Pennsylvania residents Chevron U.S.A., Inc., paraquat's primary American distributor between 1964 and 1986, and FMC Corporation, a national pesticide distributor headquartered in Philadelphia, as co-defendants. Resp. App. 4a-6a.[4]

Respondents allege that paraquat is a highly toxic herbicide that targets and kills neurons in the substantia nigra region of the brain. When sufficient neurons are killed, the substantia nigra loses its ability to produce adequate levels of dopamine, leading to the development of Parkinson's disease. Complications from Parkinson's disease include tremors, decreased motor function, speech inhibition, bradykinesia (slowness of movement), rigid muscles, dementia, and other physical and mental disturbances. Parkinson's disease is a latent disease which can take decades to manifest after paraquat exposure, which is why this litigation is recent despite many Respondents having been exposed decades ago. Animal and human epidemiological studies overwhelmingly demonstrate that paraquat can cause Parkinson's disease. Syngenta has been aware of the neurotoxic potential of paraquat for decades, but has concealed that risk from farmers and regulatory agencies. *See, e.g.*, E. Ray Dorsey & Amit Ray, *Paraquat, Parkinson's Disease, and Agnotology*, 38 Mov. Disord. 949, 950-2 (2023). While still available for sale in the United States, paraquat is banned in dozens of countries, including the European

4. As noted *supra,* n.1, Respondents also named Syngenta AG as a defendant but, as a non-registrant under Section 5301, Syngenta AG's preliminary objection as to general jurisdiction was sustained in the Personal Jurisdiction Order. Pet. App. 7.

Union, China (the headquarters of Syngenta's parent company), and the United Kingdom (where paraquat is manufactured).

On August 6, 2021, Douglas Nemeth, a Pennsylvania resident exposed to paraquat in Pennsylvania, filed the first paraquat lawsuit in the Philadelphia County Court of Common Pleas.[5] Mr. Nemeth alleges various bases for jurisdiction over Syngenta Crop, including the fact that Syngenta Crop consented to jurisdiction by registering as a foreign corporation to conduct business in Pennsylvania. Resp. App. 4a. At the time of Nemeth's filing, the controlling law in Pennsylvania was that Pennsylvania's consent-by-registration statute (Section 5301) is constitutional and confers general jurisdiction over foreign corporations registered to conduct business in Pennsylvania. *Webb-Benjamin, LLC,* 192 A.3d at 1139.

On December 22, 2021, the Supreme Court of Pennsylvania overruled *Webb-Benjamin*. *Mallory v. Norfolk S. Ry. Co.*, 266 A.3d 542, 547 (Pa. 2021) ("*Mallory (PA)*"), *vacated and remanded*, 600 U.S. 122 (2023). Four months later, this Court granted the plaintiff's petition for a writ of certiorari in *Mallory* on the question of "whether the Due Process Clause of the Fourteenth Amendment prohibits a State from requiring an out-of-state corporation to consent to personal jurisdiction to do business there." *Mallory*, 600 U.S. at 127. Notably, this question said nothing about the substantiality of the defendant's operations in Pennsylvania.

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5. Mr. Nemeth's case has recently settled. Mr. Nemeth's wife was also a plaintiff in his lawsuit. For ease of discussion, and because Mr. Nemeth was the party exposed to paraquat and the party who contracted Parkinson's disease, this brief discusses the litigation as if Mr. Nemeth was the only plaintiff.

In May 2022, the Pennsylvania Court of Common Pleas for Philadelphia County created the Paraquat Mass Tort Program to consolidate paraquat claims before a single presiding judge. Pet. App. 121-2. The Respondents submitted a Long-Form Complaint, a general pleading which serves as the basis for individual Respondents' respective short-form complaints, on November 16, 2022. Resp. App. 2a. Respondents allege therein that the court has general jurisdiction over Syngenta Crop because, *inter alia*, "Syngenta [Crop] has been registered to do business in Pennsylvania as a foreign corporation. At the time Syngenta [Crop] began doing business in Pennsylvania, Syngenta [Crop] knew that such registration constituted consent to the general jurisdiction of the Pennsylvania courts over Syngenta [Crop]." Resp. App. 4a.

Syngenta submitted various preliminary objections, including one on the exercise of personal jurisdiction. Notably, Syngenta challenged the constitutionality of Section 5301 solely on the basis of the Due Process Clause. Pet. App. 92-104. Syngenta never challenged the constitutionality of the consent-by-registration statute under the Commerce Clause in their initial jurisdictional preliminary objections. *See id.* Nor did Syngenta ever move to amend their preliminary objections to assert a Commerce Clause challenge.

The trial court separated the issue of personal jurisdiction over Syngenta Crop from the other preliminary objections, issuing a discovery and supplemental briefing schedule on personal jurisdiction. Pet. App. 90-1. On June 27, 2023, a few weeks before the personal jurisdiction discovery period was set to end, this Court issued its decision in *Mallory*, reversing the Supreme Court of Pennsylvania. *Mallory* upheld Section 5301's provision that

expressly treats a foreign business entity's registration to do business in Pennsylvania as knowing and voluntary consent to jurisdiction in Pennsylvania courts, with the Court holding that Section 5301 does not violate the Due Process Clause.

The trial court subsequently ordered supplemental briefing on the applicability of *Mallory* to Syngenta's preliminary objections. *See* Pet. App. 87-9. It was during this phase of supplemental briefing that Syngenta first brought up the issue of the dormant Commerce Clause. But Syngenta neither amended their preliminary objections to assert a Commerce Clause objection, nor did they allege specific facts or proffer any evidence as to how Section 5301 allegedly discriminates against or unduly burdens interstate commerce. Pet. App. 75-80. Syngenta also maintained, as they do here, that the *Mallory* due process analysis is inapplicable because of Syngenta Crop's "minimal operations" in Pennsylvania. Pet. 15.

The trial court overruled Syngenta Crop's preliminary objection on personal jurisdiction and due process, but *granted* Syngenta AG's preliminary objection on personal jurisdiction. Pet. App. 7. Both Syngenta entities then asked the trial court to certify its Personal Jurisdiction Order for interlocutory appeal, but the trial court denied that motion. Pet. App. 5. Upon Syngenta's subsequent Petition for Permission to Appeal the Personal Jurisdiction Order, the Superior Court of Pennsylvania likewise denied immediate appeal. Pet. App. 3. Syngenta then petitioned the Supreme Court of Pennsylvania to allow an appeal of the Personal Jurisdiction Order, but the Supreme Court of Pennsylvania, consistent with the courts below, denied Syngenta's Petition for Allowance of Appeal. Pet. App. 1.

Since the trial court's issuance of the Personal Jurisdiction Order—and Syngenta's failed efforts to obtain appellate review therefrom—the parties to the proceedings below have continued to litigate these cases in the Paraquat Mass Tort Program. The first bellwether case involving a non-Pennsylvania plaintiff has been scheduled for trial in October 2025. Syngenta Crop has moved for summary judgment in that case, asserting the same personal jurisdiction arguments made in the petition. The trial court has set a hearing date for September 3, 2025 to consider Syngenta Crop's motion for summary judgment.

REASONS FOR DENYING CERTIORARI

I. THIS CASE IS A POOR VEHICLE FOR REVISITING THE CONSTITUTIONALITY OF PENNSYLVANIA'S CONSENT-BY-REGISTRATION STATUTE.

Syngenta seeks this Court's review of a state trial court's order on preliminary objections to a Long-Form Complaint. That Personal Jurisdiction Order has been found by three separate courts to not warrant interlocutory appeal. As a result, there is currently no appellate opinion (indeed, not even a trial court opinion) on the merits of Syngenta's challenge for this Court to review.

As an initial matter, this Court has jurisdiction to review only "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had." 28 U.S.C. § 1257(a). Finality under section 1257(a) "typically requires 'an effective determination of the litigation and not of merely interlocutory or intermediate

steps therein.'" *Doe v. Facebook, Inc.*, 142 S. Ct. 1087, 1088–89 (2022) (Thomas, J., respecting the denial of certiorari) (quoting *Market Street R. Co. v. Railroad Comm'n of Cal.*, 324 U.S. 548, 551 (1945)). Because Pennsylvania appellate courts have not yet considered Syngenta's challenge to Section 5301, there is no "final judgment" for this Court's consideration. *Id.* (concurring in denial of certiorari because the state court did "not yet conclusively adjudicate[] a personal-jurisdiction defense that, if successful, would 'effectively moot the federal-law question raised here.'") (quoting *Jefferson v. City of Tarrant*, 522 U.S. 75, 82 (1997)).

Moreover, the petition is especially inapt for resolving Syngenta's dormant Commerce Clause argument, as Syngenta waived this issue below by failing to raise it in its preliminary objections to the complaint. Neither did Syngenta ever seek to amend its jurisdictional preliminary objection to include a dormant Commerce Clause challenge, even after this Court's *Mallory* decision. Indeed, Syngenta's Answer and New Matter to Respondents' Long-Form Complaint—filed while its petition was pending in the Superior Court of Pennsylvania—also failed to invoke the dormant Commerce Clause as a basis for objecting to jurisdiction. Resp. App. B. Thus, there isn't even a trial court order for the Court to consider regarding that issue. Syngenta has waived any Commerce Clause challenge to Section 5301.

a. There is No Final Order from Which Syngenta May Appeal.

The jurisdictional limits on this Court imposed by 28 U.S.C. § 1257(a) were designed with an eye towards

comity with state courts to avoid the very federal intrusion into state judicial procedure that Syngenta seeks here. *N. Dakota State Bd. of Pharmacy v. Snyder's Drug Stores, Inc.*, 414 U.S. 156, 159 (1973). This jurisdictional "requirement is not one of those technicalities to be easily scorned. It is an important factor in the smooth working of our federal system." *Radio Station WOW v. Johnson*, 326 U.S. 120, 124 (1945). Because the first trial in the proceedings below is set to begin in October of 2025, with summary judgment motions currently pending, Syngenta Crop is likely to have a final, appealable judgment by the end of 2025.

The cases upon which Syngenta relies in support of their jurisdictional arguments, both of which arose from written intermediate appellate decisions made on the merits, are distinguishable and not availing here. Pet. 5. In *Calder v. Jones*, this Court took up the case under 28 U.S.C. § 2103 after a written state court intermediate appellate decision was made on personal jurisdiction. *Calder v. Jones*, 465 U.S. 783, 788 n. 8 (1984) ("Although there has not yet been a trial on the merits in this case, the judgment of the California appellate court 'is plainly final on the federal issue and is not subject to further review in the state courts.'") (quoting *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 485 (1975)). Similarly, *Clark v. Jeter*, 486 U.S. 456 (1988), involved a judgment entered by the trial court in favor of the appellee on statute of limitations grounds, which was then affirmed with a written decision on the merits by the Superior Court of Pennsylvania, followed by a denial of a petition for allowance of appeal to the Supreme Court of Pennsylvania. *Id.* at 459. Neither of these cases is instructive or persuasive here, where Syngenta seeks review of a state trial court order on

preliminary objections, as to which all state appellate courts denied interlocutory review, and none of those denials contains substantive written opinions for this Court to review. In the proceedings below to date, there is no decision on "an important federal question" made by any Pennsylvania state appellate court, rendering this matter unfit for a grant of certiorari. *See* Rule 10.

b. Syngenta Failed to Preserve Their "Dormant Commerce Clause" Argument.

Syngenta's request for this Court to take up the dormant Commerce Clause question is even more procedurally fraught.

First, Syngenta waived any dormant Commerce Clause argument by failing to raise it in the trial court. Syngenta did not raise a dormant Commerce Clause argument in their preliminary objections to Respondents' Long-Form Complaint, instead only inserting this issue for the first time in supplemental briefing following *Mallory*. Syngenta's preliminary objection as to Section 5301 was limited to challenging its constitutionality under the Due Process Clause. Syngenta made no attempt to amend their preliminary objections to add an objection to the consent-by-registration statute under the dormant Commerce Clause. Even after this Court's *Mallory* decision, Syngenta failed to assert a dormant Commerce Clause challenge in their Answer to Plaintiffs' Long-Form Complaint and New Matter. Resp. App. B. Where federal constitutional issues are "not raised in preliminary objections, or in the answers" they are deemed waived under Pennsylvania law. *Matter of Franklin Twp. Bd. of Sup'rs*, 379 A.2d 874, 883 (Pa. 1977) (citing Pa.R.C.P. 1032).

Despite these procedural deficiencies, Syngenta simply ignores the limitations on this Court's review of state court judgments set forth in 28 U.S.C. §1257(a) and the Rules of this Court, presumably based on their strong desire to avoid having to proceed with bellwether trials in Pennsylvania courts. But a party's desire to avoid trial is no reason to grant certiorari. The law at issue in the petition is clear and was reaffirmed by this Court merely two years ago in *Mallory*. Syngenta has presented no compelling argument for bypassing the established processes of appellate review to justify bringing these issues to the Court now.

This case, at least in its present posture, is not suited to resolve the purported questions of law raised in the petition.

II. THERE IS NO SPLIT OF APPELLATE AUTHORITY ON THE ISSUES PRESENTED.

There is no split among the United States Courts of Appeals or state supreme courts on the constitutionality of consent-by-registration statutes on either Due Process or dormant Commerce Clause grounds. The absence of such a conflict provides this Court with strong grounds to deny a writ of certiorari pursuant to Rule 10. *See* Rule 10; *see also Box v. Planned Parenthood of Indiana & Kentucky, Inc.*, 587 U.S. 490, 493 (2019) (per curiam) (denying certiorari on a question presented because "[o] nly the Seventh Circuit has thus far addressed this kind of law."). Indeed, it is the Court's "ordinary practice" to deny petitions for certiorari "insofar as they raise legal issues that have not been considered by additional Courts of Appeals." *Id.*

In an attempt to create the appearance of conflict related to their consent-by-registration legal questions, Syngenta cites *Genuine Parts Co. v. Cepec*, 137 A.3d 133 (Del. 2016), a pre-*Mallory,* statutory construction decision by the Delaware Supreme Court. *General Parts* overturned, on constitutional avoidance grounds, a prior Delaware Supreme Court decision that had construed Delaware's registration statute to mean that a foreign company's registration in Delaware constituted consent to general personal jurisdiction. Pet. 18. In *Genuine Parts*, the court held, consistent with other states without explicit consent-by-registration statutes, that Delaware's registration statute is to be interpreted only as "providing a means for service of process and not as conferring general jurisdiction." *Id.* at 148.[6] Syngenta simply ignores the fact that *Genuine Parts* is a state statutory construction ruling (a matter that is, and should be, primarily the province of the state courts) and not a constitutional determination. The *Genuine Parts* decision thus has no bearing on whether a different consent-by-registration statutory scheme—such as Section 5301 with its explicit jurisdictional language[7]—violates the Due Process Clause or the Commerce Clause.

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6. Dissenting, Justice Vaughn noted that the nature of the majority's decision was one of constitutional avoidance, writing that "[i]t may be that the United States Supreme Court will go in the same direction as the Majority. But we won't know until it gets there. I would not divest the trial courts of this state of significant jurisdiction unless I was sure I was right…" *Genuine Parts Co.*, 137 A.3d at 149 (J. Vaughn, dissenting).

7. *See, e.g., Mallory (PA)*, 266 A.3d at 547 (referencing Section 5301's provision for "personal jurisdiction over foreign corporations that register to do business in the Commonwealth").

Since *Mallory* was decided, the only appellate court to actually address the constitutional issues Syngenta seeks to raise is the Minnesota Court of Appeals in *Lynn v. BNSF Ry. Co.*, 2025 WL 1860488 (Minn. Ct. App. July 7, 2025), but that decision is of no help to Syngenta. Lynn, a BNSF employee and Iowa resident, sued BNSF, a Delaware corporation with its principal place of business in Texas, in Minnesota state court for injuries incurred in a workplace accident in South Dakota. BNSF moved to dismiss for lack of personal jurisdiction, given its limited presence in Minnesota, arguing that the exercise of personal jurisdiction would violate both constitutional provisions Syngenta invokes here. *Id.* at *1. Lynn opposed the motion on the grounds, *inter alia,* that BNSF had been registered as a non-resident business corporation under Minn. Stat. §303.06 for the past 55 years (apart from one two-month gap).

The district court denied BNSF's personal jurisdiction challenge and the court of appeals affirmed, finding the issue controlled by prior rulings of the Minnesota Supreme Court. *Id.* at *2 (citing *Rykoff-Sexton, Inc. v. American Appraisal Associates, Inc.*, 469 N.W.2d 88 (Minn. 1991) (Due Process Clause); *Erving v. Chicago & Northwestern Ry. Co.*, 214 N.W. 12 (Minn. 1927) (dormant Commerce Clause)). The appellate court rejected the argument that *Mallory* had overruled or narrowed the due process holding in *Rykoff-Sexton,* noting that the Missouri registration statute at issue in *Pennsylvania Fire* was "substantially similar" to Minn. Stat. §303.06. *Lynn,* 2025 WL 1860488, at *3-4. The court also rejected BNSF's dormant Commerce Clause argument, based on Justice Alito's *Mallory* concurrence (which, in turn, had relied upon this Court's century-old decision in *Davis v. Farmers Co-op. Equity Co.*, 262 U.S. 312 (1923)), because

the Minnesota Supreme Court had already rejected such an extension of *Davis* nearly a century ago in *Erving.* The *Erving* court, like many other courts of that era, *see infra* p. 17, recognized a dispositive distinction between statutes (such as that at issue in *Davis*) that subject foreign corporations that conduct *no* business in the state to personal jurisdiction based solely on the fact that they maintain a "soliciting agent" for out-of-state business in the state, and state statutes that require registering out-of-state corporations that *do* do business in the state to consent to general personal jurisdiction and service of process as a condition of conducting such in-state business.[8] Because *Erving* was distinguishable from *Davis* (and had distinguished it), it remained controlling Minnesota precedent and the court of appeals therefore denied BNSF's Commerce Clause challenge as well. *Id.* at *5-6.

Thus, there is no conflict in appellate authority among the lower courts on either the Due Process question or the dormant Commerce Clause question of the sort that might normally warrant this Court's intervention. This

8. This Court recognized and adopted precisely this same distinction in *Denver & R.G.W.R. Co. v. Terte,* 284 U.S. 284 (1932). That plaintiff sued two separate out-of-state railroad companies, the Rio Grande and the Santa Fe, in Missouri state court for injuries resulting from an accident in Colorado. Both defendants challenged jurisdiction on dormant Commerce Clause grounds. This Court held that the Rio Grande, which was not registered in Missouri and conducted no business there (but which did maintain solicitation agents in the state) could not be subjected to suit in the state, but that the Santa Fe, an out-of-state corporation that was licensed to and did do business in Missouri, was properly subject to jurisdiction and suit there for the out-of-state accident. *Id.* at 286-87 (citing *Davis*).

is hardly surprising, given that most of the precedent concerning the constitutionality of consent-by-registration statutes was initially developed, and a consensus reached that such statutes violate neither provision, roughly a century ago. Early twentieth century cases rejecting Due Process challenges to such statutes include, *inter alia*, *Pennsylvania Fire,* 243 U.S. 93; *Steele v. W. Union Tel. Co.*, 173 S.E. 583, 587 (N.C. 1934) (due process and commerce clause (collecting cases)); *Louisville & N.R. Co. v. Chatters*, 279 U.S. 320, 329 (1929); *Neirbo Co. v. Bethlehem Shipbuilding Corp.*, 308 U.S. 165, 175 (1939); and *Smolik v. Philadelphia & Reading Coal & Iron Co.*, 222 F. 148, 151 (S.D.N.Y. 1915) (Learned Hand, J.).

Decisions from the same time period rejecting dormant Commerce Clause challenges to consent-by-registration statutes include, *inter alia*, *Terte,* 284 U.S. 284; *Erving*, 214 N.W. 12; *Harris*, 12 F.2d at 487–88 (distinguishing *Davis*); *Busch v. Louisville & N. R. Co.*, 17 S.W.2d 337 (Mo. 1929) (same); and *Atchison, T. & S. F. Ry. Co. v. Ortiz*, 361 S.W.2d 113, 127 (Tenn. App. 1962) (same).[9] And most modern precedent in this area continues to acknowledge and abide by these hoary precedents. *See, e.g., Mallory,* 600 U.S. 122 (reaffirming *Pennsylvania Fire*); *Lynn,* 2025 WL 1860488 (adhering to *Erving*); *Knowlton v. Allied Van Lines, Inc.*, 900 F.2d 1196, 1200 (8th Cir. 1990) (adhering to *Erving*); *Ally Bank v. Lenox Fin. Mortg. Corp.*, 2017

9. Courts have long recognized that *Davis* did not address a consent-by-registration statute and was not "an authoritative decision on the subject" of whether consent-by-registration statutes (such as Pennsylvania's statute here) are constitutional. *Steele*, 173 S.E. at 587. *Davis* "was confined narrowly within the bounds of its own facts…" *Int'l Milling Co. v. Columbia Transp. Co.*, 292 U.S. 511, 517 (1934).

WL 830391, at *3 (D. Minn. Mar. 2, 2017). There is simply no need to revisit this long-standing body of authority, especially so soon after *Mallory*.

III. THIS CASE DOES NOT PRESENT A QUESTION WARRANTING THIS COURT'S IMMEDIATE REVIEW.

Having failed to identify any relevant conflict among the lower courts to justify review, Syngenta is essentially left to plead that this Court should grant certiorari in order to address "the important questions that *Mallory* left unanswered." Pet. 16. But this argument for granting the writ also fails, for multiple reasons.

First, and perhaps most importantly, these are not open questions. Rule 10(c) of the Rules of this Court states, in relevant part, that this Court will consider granting certiorari where "a state court … has decided an important question of federal law that has not been, but should be, settled by this Court." But that description simply does not apply here. This Court has answered both of the questions presented in the petition multiple times over the past 100 years. *See, e.g., Pennsylvania Fire*, 243 U.S. at 96*; Terte,* 284 U.S. at 287*; see also Mallory*, 600 U.S. at 146 (Gorsuch, J.). As Justice Gorsuch cogently described the situation in *Mallory*: "Not every case poses a new question. This case poses a very old question indeed—one this Court resolved more than a century ago in *Pennsylvania Fire*." 600 U.S. at 146 (Gorsuch, J.). Consent-by-registration statutes have been repeatedly held to not violate either due process or the dormant Commerce Clause when applied to out-of-state corporations that both conduct business in

the state and have knowingly and voluntarily consented to jurisdiction by registering to do business in the state. They are simply not open questions.

Nor, contrary to Syngenta's arguments, did this Court's decision in *Mallory* reopen these questions. As discussed above, nothing in *Mallory* suggests that the constitutionality of consent by registration turns on the substantiality of the defendant's business in the state. *Mallory* simply adhered to this Court's prior ruling in *Pennsylvania Fire*. *Id.* at 135-36 (Norfolk Southern "concedes that it registered to do business in Pennsylvania, that it established an office there to receive service of process, and that in doing so it understood it would be amenable to suit on any claim. … *Pennsylvania Fire* held that suits premised on these grounds do not deny a defendant due process of law."); *see also id.* at 149, 152 (Alito, J., concurring in part and concurring in the judgment) (Norfolk Southern "made the choice to register and do business in Pennsylvania despite the jurisdictional consequences." … "The parallels between *Pennsylvania Fire* and the case before us are undeniable. … [T]hat holding … is binding here.").

Likewise, even if this Court were to conclude that the dormant Commerce Clause argument is properly presented in this petition, *Mallory* did not reopen that issue, which had long ago been decided. The Commerce Clause issue was not before the Court in *Mallory,* and only one Justice even discussed the possibility that it might be a basis for overturning Pennsylvania's jurisdiction. A sole concurrence cannot overcome a century of precedent holding that the dormant Commerce Clause does not invalidate consent-by-registration statutes as applied to

registering defendants engaged in business in the state. Here again, there is no "important question of federal law that has not been … settled by this Court," *see* Rule 10; rather, there is only a question that this Court has already repeatedly decided.

Unable to point to any important question that has not already been settled, Syngenta finally resorts to "sky-is-falling" hypotheticals in an attempt to convince this Court of the importance of the questions in their petition. Syngenta argues that *Mallory* "opens the door to subjecting *every company* that does even a modicum of business across the 50 States to *general* personal jurisdiction in *all 50 States*…" Pet. 18 (emphasis in original).

That argument flies in the face of history. Under the early twentieth century consensus that consent-by-registration statutes are constitutional, there was no increase in the number of states legislating consent-by-registration statutes. And, as the petition itself acknowledges, at most four of the fifty states (Georgia, Iowa, and Minnesota, along with Pennsylvania) have construed their consent-by-registration statutes to include general personal jurisdiction over out-of-state corporations doing business in the state. *See* Pet. 29 (citing, *inter alia, Cooper Tire & Rubber Co. v. McCall,* 863 S.E.2d 81, 92 (Ga. 2021); *Spanier v. Am. Pop Corn Co.,* 2016 WL 1465400, at *4 (N.D. Iowa Apr. 14, 2016); *Kelchner v. CRST Expedited, Inc.,* 2025 WL 991095, at *7 (N.D. Iowa Apr. 2, 2025) (certifying question to Iowa Supreme Court); *ResCap Liquidating Tr. v. LendingTree, LLC,* 2020 WL 1317719, at *5 (D. Minn. Mar. 20, 2020)). The vast majority of states that have considered the issue

have construed their consent-by-registration statutes more narrowly, applying only to in-state conduct or suits brought by state residents. State courts before and after *Mallory* have consistently found that, "[w]hether consent jurisdiction is created by registration depends entirely on whether it is provided for by state law," thus reserving application of jurisdiction via registration to instances where state law clearly provides for such a regime. *See, e.g.*, *K&C Logistics, LLC v. Old Dominion Freight Line, Inc.*, 374 So. 3d 515, 526 (Miss. 2023); *Fidrych v. Marriott Intl., Inc.*, 952 F.3d 124, 137-138 (4th Cir. 2020) (holding that "obtaining the necessary certification to conduct business in a given state amounts to consent to general jurisdiction in that state only if that condition is explicit in the statute or the state courts have interpreted the statute as imposing that condition," but "South Carolina law does not make consent to general jurisdiction a consequence of obtaining a certificate of authority to transact business") (emphasis omitted); *Waite v. All Acquisition Corp.*, 901 F.3d 1307, 1321 (11th Cir. 2018) (Florida law neither "expressly or by local construction" provides for consent to general jurisdiction by registering to do business); *In re Abbott Lab'ys, et al., Preterm Infant Nutrition Prods. Liab. Litig.*, 2023 WL 8527415, at *5 (N.D. Ill. Dec. 8, 2023) (finding that because Missouri's corporate registration statute is less broad than Pennsylvania's, *Mallory* had no effect on the Missouri Supreme Court's prior holding that Missouri's statute does not confer general jurisdiction on foreign corporations); *cf. Cooper Tire*, 863 S.E.2d at 89 (noting that states which have ruled against jurisdiction via a foreign company's registration have done so because the state "did not have a corporate domestication or registration statute, or any authoritative case law interpreting such a statute, that provided notice

to out-of-state corporations that they consented to general jurisdiction in the state by domesticating or registering to do business there.").

If anything, *Mallory* allows the majority of states to clarify that their respective corporate registration statutes *do not* confer general personal jurisdiction over out-of-state corporations who register to do business in the respective state. *See, e.g.*, *Chaganti v. Fifth Third Bank*, 2024 WL 2859259, at *9 (Cal. Ct. App. June 6, 2024) (finding no general jurisdiction over out-of-state corporation because "California does not have the same type of law that was at issue in *Mallory*."). Similarly, six months after the *Mallory* decision, the Governor of New York vetoed a proposed consent-by-registration law. S.B. 7476, 2023-2024 Reg. Sess. (N.Y. 2023) (vetoed by Governor Hochul on December 22, 2023).

Nor, contrary to Syngenta's dire predictions, has *Mallory* resulted in a rush by out-of-state plaintiffs to file cases involving out-of-state conduct against out-of-state defendants in Pennsylvania. More than a year after the *Mallory* decision, the Pennsylvania Court of Common Pleas for Philadelphia County's mass tort caseload was reported to be the smallest it "has been in over a decade." *See, e.g.*, Aleeza Furman, *Meet the Judge Heading Philadelphia's Mass Tort Program*, LAW.COM (September 12, 2024).

Syngenta's petition thus utterly fails to present an important, unsettled question of federal law meriting this court's intervention.

CONCLUSION

For all of the foregoing reasons, the petition for writ of certiorari should be denied.

Respectfully submitted,

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August 4, 2025

APPENDIX

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APPENDIX A — EXCERPTS FROM LONG-FORM COMPLAINT, FIRST JUDICIAL DISTRICT OF PENNSYLVANIA, PHILADELPHIA COURT OF COMMON PLEAS, FILED NOVEMBER 16, 2022

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS
TRIAL DIVISION - CIVIL

May Term 2022
No. 559

IN RE: PARAQUAT PRODUCTS LIABILITY LITIGATION

This Document Relates to All Actions

Filed November 16, 2022

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* * *

[2]PLAINTIFFS' MASTER LONG-FORM COMPLAINT AND DEMAND FOR JURY TRIAL

Pursuant to Case Management Order 2, Plaintiffs in cases consolidated and filed into this Mass Tort Program (collectively, Plaintiffs) hereby submit this Long-Form Complaint ("Complaint") against the below-named Defendants. Plaintiffs seek equitable relief, monetary restitution, and/or compensatory and punitive damages. Plaintiffs make the following allegations based upon

personal knowledge and information and belief, as well as the investigation carried out by Plaintiffs' Lead Counsel, Plaintiffs' Executive Committee, and Plaintiffs' Liaison Counsel.

SUMMARY

1. This is a products liability action against the designers, manufacturers, formulators, registrants, packagers, labelers, marketers, promoters, distributors, and sellers of Paraquat.

2. Paraquat dichloride ("Paraquat") is a synthetic chemical compound that has been used as an active ingredient in herbicide products sold in the United States since the mid-1960s. Paraquat is used to kill broadleaf weeds and grasses in fruit and vegetable fields, to control weeds in orchards, and to dry plants before harvest. It is typically applied via knapsack sprayers, handheld sprayers, crop dusters (aerial sprayers), trucks with pressurized tanks, and tractor-drawn pressurized tanks. It is one of those most widely used herbicides in the United States.

3. The United States Environmental Protection Agency ("EPA") has designated Paraquat as a "Restricted-Use Product."

4. Low-dose exposure to Paraquat causes neurological injuries. Paraquat can enter the body through absorption, inhalation and/or ingestion, and, once there, can enter the brain. Once in the brain, Paraquat

can cause damage to dopamine-producing neurons, producing neurological injuries, including, but not limited to Parkinson's disease.

* * *

[7] h. At all relevant times, Syngenta—in tandem with as well as separately from Chevron and FMC—maintained active control of Paraquat production and sale to distributors and end-users in Pennsylvania.

19. At all relevant times, Syngenta has been registered to do business in Pennsylvania as a foreign corporation. At the time Syngenta began doing business in Pennsylvania, Syngenta knew that such registration constituted consent to the general jurisdiction of the Pennsylvania courts over Syngenta.

20. At all times relevant to Plaintiffs' causes of action, Syngenta consented to the general jurisdiction of the Pennsylvania courts. Syngenta was essentially at home in Pennsylvania. This Court has general jurisdiction over Syngenta by virtue of Syngenta's consent and knowing waiver of any right, to the extent such right exists, to avoid the general jurisdiction of the Pennsylvania courts.

21. Further, Syngenta's myriad contacts with Pennsylvania are more than random, isolated, or fortuitous; they are purposeful, continuous, and sufficiently related to Plaintiffs' allegations that Paraquat causes neurological damage, including Parkinson's disease such

that it would not offend traditional notions of fair play and substantial justice to maintain this suit against Syngenta in Pennsylvania.

22. Syngenta has consented to this Court's personal jurisdiction in cases consolidated into this Mass Tort Program. *See Lutz*, Civil Action No. 2108-01388, Control No.: 21103272; *Strawser*, Civil Action No. 2108-02512, Control No.: 21103256.

[8]*Chevron*

23. Syngenta entered an agreement to partner with the California Chemical Company, Ortho Division, to formulate, market, promote, and distribute Paraquat in the United States. Through a series of mergers and acquisitions, California Chemical Company and its successors' and affiliates' (including Chevron Chemical Company) ultimate successor is Defendant Chevron U.S.A., Inc. This Complaint therefore ascribes California Chemical Company's actions, as well as the actions of its affiliates and other companies to which Chevron is a successor, to Chevron. Chevron also manufactured other products recommended for use with Paraquat.

24. Chevron is incorporated in Pennsylvania and its principal place of business is in San Ramon, California. Chevron is essentially at home in Pennsylvania; this Court has general jurisdiction over Chevron.

25. Chevron, including through its subsidiaries and divisions, regularly, habitually, and continuously conducts business in Philadelphia County, including:

a. Chevron sold over $1 million worth of its products in Philadelphia County in 2019 alone. Chevron sells a number of petroleum-based and synthetic engine lubricant products, including the brands Havoline™, Delo™, Techron™, and Isoclean™ in Philadelphia County.

b. According to Chevron's website, Pep Boys is the exclusive retailer for Havoline™ products. There are 13 different Pep Boys locations in Philadelphia County.

c. According to Chevron's website, Techron™ and Delo™ products can be found at 25 retail locations in Philadelphia County including Pep Boys, Walmart, Advanced Autoparts, and Autozone.

[9]d. Chevron's subsidiary and distributor, Chevron Marine Products, delivers Chevron's engine lubricants to cargo ships at the Port of Philadelphia. A cargo ship need only contact a Chevron Marine customer service representative to get its engine fluids refilled in the Port of Philadelphia, where the minimum bulk fluid order is 6,000 liters and Chevron regularly delivers its engine fluid to the Port of Philadelphia in 24,600-liter trucks.

e. Chevron contracted with a company called to Stuzo to create and run its mobile application, which is used to make online payments at Chevron and Texaco (another Chevron company) gas stations nationwide. Stuzo is based in Philadelphia County.

Appendix A

FMC

26. Defendant FMC is one of the original and largest distributors of Paraquat in the United States. On information and belief, FMC also participated in the formulation, packaging and labeling, marketing and promotion of Paraquat and manufactured other products recommended for use with Paraquat. FMC is a successor to various other corporate entities involved in the formulation, distribution, promotion, and sale of Paraquat. This Complaint therefore ascribes the actions of entities to which FMC is the ultimate successor to FMC.

27. FMC is incorporated in Delaware and its principal place of business is in Philadelphia. FMC is essentially at home in Pennsylvania; this Court has general jurisdiction over FMC.

28. FMC has consented to venue in Philadelphia County in each of the cases consolidated into this Mass Tort Program in which it filed responsive pleadings. *See, e.g.*, *Lutz*, Civil Action No. 2108-01388, Control No.: 21102336; *Strawser*, Civil Action No. 2108-02512, Control No.: 21102337.

[10]ALLEGATIONS

Discovery and Design of Paraquat

29. "Paraquat" as used in this Complaint, refers to all formulations of products containing the active ingredient Paraquat, including, but not limited to, Gramoxone, or any other formulation containing Paraquat.

30. Paraquat is a synthetic chemical herbicide formulation produced for agricultural use. Paraquat is far less effective without a surfactant. A surfactant is a chemical added to Paraquat, usually by an end-user, prior to using Paraquat. Surfactants help Paraquat stick to the surface of plants, accelerate the movement of Paraquat through the epidermis of plants into the inside of plants where it cannot wash off and where it comes into contact with plant cells. With the use of a surfactant, Paraquat penetrates into the plant's cells where redox cycling could cause oxidative stress and disrupt photosynthesis. Syngenta scientists would test the many surfactants available on the market to determine their compatibility with Paraquat. Both Chevron and FMC manufactured surfactants that could be used with Paraquat. Generally, these surfactants were readily available in the United States.

31. In or about 1955, scientists at Syngenta discovered that exposure to the chemical formulation that would become Paraquat caused redox cycling and oxidative stress, a process that can damage and interrupt the normal operation of human and animal cells by corrupting their DNA. The redox cycling of Paraquat in living cells interferes with cellular functions that are necessary to sustain life—with photosynthesis in plant cells and with cellular respiration in animal cells. The redox cycling of Paraquat in living cells creates a "reactive oxygen species" known as superoxide radical, an extremely reactive molecule that can initiate a cascading series of chemical reactions that creates other reactive oxygen species that damage lipids, proteins, and nucleic acids,

* * * *

APPENDIX B — EXCERPTS FROM SYNGENTA DEFENDANTS' ANSWER AND NEW MATTER TO PLAINTIFFS' LONG-FORM COMPLAINT, FILED MARCH 5, 2024

MAY TERM, 2022
NO. 559

IN RE: PARAQUAT PRODUCTS LIABILITY LITIGATION

This Document Relates to All Actions

Plaintiffs,

vs.

SYNGENTA CROP PROTECTION, LLC
SYNGENTA AG
CHEVRON U.S.A. INC.
FMC CORPORATION

Defendants.

Filed March 5, 2024

* * *

NEW MATTER DIRECTED TO PLAINTIFFS

Subject to its general and specific denials, and without waiving the same, Syngenta asserts the following new matter. By asserting this new matter, Syngenta does not assume any burden of proof not otherwise legally assigned

to it. Syngenta reserves the right to rely on any other applicable defenses that may become apparent during fact or expert discovery, rely on any other applicable defenses set forth in any answer or list of new matter filed or submitted by any other defendant in this action, and to amend this Answer and New Matter to assert any such applicable defenses. Syngenta demands strict proof of all claims and allegations contained in Plaintiffs' Long-Form Complaint that Syngenta has not expressly admitted. Further answering and by way of additional defenses, Syngenta states as follows:

1. Plaintiffs' Long-Form Complaint, in whole or in part, fails to state a claim or cause of action upon which relief can be granted.

2. Plaintiffs' claims are barred because Plaintiffs cannot proffer any scientifically reliable evidence that the paraquat product at issue was defective or unreasonably dangerous.

3. Plaintiffs' design-defect claims are barred because paraquat is the characteristic ingredient of the product, not a design choice.

4. Plaintiffs' alleged injuries and/or medical expense resulted from pre-existing or unrelated medical, psychiatric, genetic, or environmental conditions, diseases, or illnesses.

5. Plaintiffs' claims are preempted, in whole or in part, by the Federal Insecticide, Fungicide, and

Rodenticide Act ("FIFRA") relating to the design, testing, producing, manufacturing, labeling, distributing, modeling, processing, and supply of paraquat. 7 U.S.C. § 136 *et seq.* (1996). Article VI, Clause 2 of the United States Constitution provides that "the laws of the United States . . . shall be the supreme law of the land." Under the Supremacy Clause, state laws that conflict with federal law are preempted and are thus without effect. FIFRA instructs that States may not "impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this subchapter." § 136; *see also Bates v. Dowates Agrosciences LLC*, 544 U.S. 431 (2005) (holding that a requirement for labeling or packaging in addition to or different to those under FIFRA within the meaning of the statute includes common-law duties). Plaintiffs' claims for failure to warn would, in essence, impose a common law duty to warn in addition to or different than that required under FIFRA. This is unconstitutional under the Supremacy Clause. *See Bates*, 544 U.S. at 443.

6. Plaintiffs' claims are preempted, in whole or in part, because of EPA-approved product labeling.

7. Plaintiffs' claims are preempted, in whole or in part, because the EPA has taken the position that paraquat does not cause Parkinson's disease.

8. Plaintiffs' claims are preempted, in whole or in part, because the EPA would not permit Syngenta to alter paraquat's labeling to reflect a Parkinson's disease or neurotoxicity warning.

9. Plaintiffs' claims are barred, in whole or in part, by the doctrine of primary jurisdiction, including by the authority delegated by Congress to the U.S. EPA.

10. Plaintiffs' claims are barred or reduced under the principles of assumption of the [125]risk or informed consent (or both).

11. Syngenta denies this Court has personal jurisdiction over it and hereby alleges lack of personal jurisdiction as a separate affirmative defense.

12. Plaintiffs' recovery, if any, from Syngenta should be reduced, offset, or barred by the contributory or comparative negligence, fault, responsibility, or causation attributable to Plaintiffs or to some third party or non-party (or both) other than Syngenta.

13. Plaintiffs' injuries and damages, if any, were caused in whole or in part by an alteration, change, unintended use, or misuse of the paraquat product at issue.

14. The doctrine of spoliation and the failure to properly preserve evidence necessary to the determination of the alleged claims may bar claims against Syngenta in whole or in part.

15. The claims asserted against Syngenta and other Defendants do not arise out of the same transactions or occurrences as required for joinder of parties.

16. Plaintiffs' claims are barred, in whole or in part, for failure to join indispensable parties.

17. Plaintiffs' alleged injuries were caused or contributed to be caused by the intervening acts, superseding negligence, a sole proximate cause and/or subsequent conduct or fault on the part of a person, entity, third party, or non-party over whom Syngenta neither had control nor right of control and therefore Plaintiffs' claims are barred and/or Syngenta is entitled to an apportionment of damages accordingly, pursuant to the applicable law of Pennsylvania.

18. Plaintiffs' alleged damages were not proximately caused by any act or omission of Syngenta and/or were caused or proximately caused by some person, third party, and or non-party other than Syngenta for whom Syngenta is not legally responsible.

19. One or more of the claims set forth in Plaintiffs' Long-Form Complaint are barred [126]in whole or in part by the applicable statutes of limitation or statutes of repose (or both).

20. Syngenta specifically pleads collateral estoppel, res judicata, waiver, laches, and failure to mitigate or minimize damages, if any.

21. Plaintiffs' claims are subject to the limitations set forth in the Restatement (Second) of Torts, section 402A, comment k, or the Restatement (Third) of Torts (or both).

22. All of Syngenta's activities and conduct conformed to all state and federal statutes, regulations, and industry standards based upon the state of knowledge existing at the relevant time.

23. Any acts performed by Syngenta in the labeling and marketing of the paraquat product at issue were in conformity with the "state of the art" existing at the time of such labeling and marketing, and public policy should hold that liability not be imposed on paraquat for risks not known at the time of labeling and marketing of the product at issue.

24. The injuries and damages claimed by Plaintiffs were the result of unavoidable circumstances that Syngenta could not have prevented.

25. At the time the paraquat product at issue left the custody and control of Syngenta, was no defect in said product that either caused or contributed to any injuries or damages that Plaintiffs may have suffered, if any.

26. At the time the paraquat product left Syngenta's control, there was not a practical and technically feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product.

27. The injuries and damages claimed by Plaintiffs were the result of a pre-existing condition unrelated to any conduct of, or products placed in the stream of commerce by, Syngenta.

28. Plaintiffs' claims are barred, in whole or in part, to the extent Plaintiffs are not in privity of contract with Syngenta.

[127]29. The alleged negligent or culpable conduct of Syngenta, none being admitted, was so insubstantial or *de minimus* (or both) as to be insufficient to be a proximate or substantial contributing cause of Plaintiffs' alleged injuries.

30. The injuries and damages claimed by Plaintiffs can be attributed to several causes and, accordingly, should be apportioned among the various causes according to the respective contribution of each such cause to the harm sustained.

31. The public interest, benefit, and availability of the product at issue outweigh the risks, if any, resulting from such activities, which were unavoidable given the state of knowledge at the time those activities were undertaken.

32. Any verdict or judgment rendered against Syngenta must be reduced by those amounts that have or will, with reasonable certainty, replace or indemnify Plaintiffs, in whole or in part, for any past or future claimed economic loss, from any collateral source such as insurance, Social Security, worker's compensation, or employee benefit programs.

33. No act or omission of Syngenta was malicious, willful, wanton, reckless, grossly negligent, or intentional, and therefore any award of punitive damages is barred.

34. Plaintiffs' claims for punitive damages are in violation of Syngenta's rights under the Due Process Clause of the Fifth and Fourteenth Amendments of the

United States Constitution and similar provisions in any applicable state constitutions and/or applicable state common law and public polices, and/or applicable statutes and court rules, in the circumstances of the litigation. *See, e.g.*, *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003).

35. Because of the lack of clear standards, the imposition of punitive damages against Syngenta is unconstitutionally vague and/or overbroad.

36. Plaintiffs' claims are barred, in whole or in part, because there was no deceptive act [128]or practice.

37. None of Syngenta's acts, conduct, omissions, or statements alleged in the Long-Form Complaint was likely to mislead.

38. Plaintiffs are not entitled to relief under the statutes and legal theories invoked in their Long-Form Complaint because Plaintiffs lack standing.

39. Syngenta has fully performed any and all contractual, statutory, and other duties, and Plaintiffs are therefore estopped from asserting any cause of action against Syngenta.

40. Any award to Plaintiffs in this action would constitute unjust enrichment.

41. The Long-Form Complaint and each cause of action therein presented are vague, ambiguous, and

uncertain. Syngenta reserves the right to add additional defenses as the factual bases for each of Plaintiffs claims and allegations become known.

42. The paraquat product labeling was not false or misleading in any particular, and the product accordingly was not misbranded.

43. The contributory fault of the respective Plaintiffs is greater than 50% of the proximate cause of the injury or damages for which recovery is sought, and therefore, the Plaintiffs are barred from recovery. If Plaintiffs' contributory faults are found to be less than 50%, Plaintiffs' respective recoveries should be reduced in the proportion attributed to Plaintiffs.

44. Plaintiffs' claims are barred or limited by the economic loss doctrine.

45. Plaintiffs' claims are barred because the utility and benefits of the paraquat product outweigh the risk of danger or harm, if any, of the product.

46. Venue in this court may be improper, and therefore this matter may be dismissed on *forum non conveniens* grounds.

47. Plaintiffs' claims are barred or limited to the extent Plaintiffs' claims are governed [129]by the laws of a state that does not recognize, or limits, such claims.

48. Plaintiffs' alleged injuries or damages, if any, were the result of pre-existing or subsequent conditions unrelated to paraquat or Syngenta.

49. The damages and injuries allegedly sustained by Plaintiffs, if any, were not legally caused by paraquat, but instead were legally caused by intervening and superseding causes or circumstances.

50. Syngenta states that if Plaintiffs have any product liability claims against it, which are denied, the same are barred or limited under applicable state law.

51. Plaintiffs' claims are barred because the paraquat product may have been substantially modified and/or altered.

52. Plaintiffs' claims are barred because the Plaintiffs' alleged injuries were actually or proximately caused, in whole or in part, by misuse or unintended use of the paraquat product.

53. The paraquat product in question provided and/or contained adequate warnings and/or instructions to its intended users.

54. Plaintiffs' failure to read or follow instructions bar Plaintiffs' claims.

55. Plaintiffs' claims are barred because they would not have read and heeded an alternative warning.

56. Plaintiffs' failure-to-warn claims are barred because Plaintiffs have not pleaded an alternative warning that would have prevented their harm.

57. Plaintiffs' warranty claims are barred because Plaintiffs failed to provide the proper pre-suit notice to Syngenta before bringing suit.

58. Plaintiffs' warranty claims are barred because they fall outside the scope of state warranty law.

[130]59. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs lack vertical privity with Syngenta in that Plaintiffs did not purchase any products directly from Syngenta.

60. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs lack horizontal privity in that Plaintiffs are not in the family or household of the individual who purchased the product at issue.

61. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs are not among the persons whom Syngenta might reasonably have expected to use, consume, or be affected by the products at issue.

62. Plaintiffs' common-law claims are subsumed by state statutory law.

63. Plaintiffs' strict liability claims are barred because certain states' laws that apply do not recognize strict liability.

64. Plaintiffs' claims are barred, in whole or in part, because paraquat was designed, manufactured, marketed, and labeled with proper warnings, information, cautions and instructions, in accordance with the state of the art and the state of scientific and technological knowledge at the time.

65. Plaintiffs' claims are barred by the inherently unsafe and unavoidably unsafe defenses.

66. Plaintiffs' damages, if any, were legally caused or contributed to by their unforeseeable idiosyncratic conditions, unusual susceptibility or hypersensitive reactions for which Syngenta is not liable.

67. The sophisticated user (and knowledgeable user) and sophisticated intermediary doctrines, *see* Restatement (Second) of Torts § 388 cmts. n & k, bar Plaintiffs' claims against Syngenta in whole or in part, because Plaintiffs should have known about the alleged dangers of [131]paraquat and it was reasonable to rely on intermediaries to warn about the alleged dangers of paraquat.

68. Plaintiffs' claims against Syngenta are barred under the sophisticated user (and knowledgeable user) doctrine, because at the time of the injury, Plaintiffs based on their particular position, training, experience, knowledge, or skill, knew or should have known of the products' risks, harms, or dangers, if any.

69. The open-and-obvious danger defense bars Plaintiffs' claims against Syngenta in whole or in part

because Plaintiffs should have known about the alleged dangers of paraquat.

70. The learned intermediary and/or responsible intermediary doctrines bar Plaintiffs' claims against Syngenta in whole or in part, because it was reasonable to rely on intermediaries to warn about the alleged dangers of paraquat.

71. If Syngenta supplied any products as alleged in the Long-Form Complaint or otherwise, Syngenta provided such products to distributors or other intermediaries, including Plaintiffs' employer(s), who were knowledgeable, informed, and sophisticated concerning the use of the products and the alleged risks to the health of users of such products, and reasonably relied on said intermediaries to convey appropriate warnings to downstream users.

72. The bulk seller doctrine bars Plaintiffs' claims against Syngenta in whole or in part, because it was reasonable to rely on intermediaries to warn about the alleged danger of paraquat.

73. Plaintiffs' employers' lack of reasonable care or other wrongful conduct was the sole cause of, or contributed to, Plaintiffs' injuries and damages, if any. Plaintiffs' recovery, if any, from Syngenta must be appropriately reduced by the amount of any workers' compensation benefits paid by or on behalf of such employers.

74. Plaintiffs' claims are unconstitutional under the Freedom of Speech Clause of the [132]First Amendment

of the U.S. Constitution. Any construction or application of state law that seeks to impose a disclosure requirement that is not purely factual and uncontroversial is unconstitutional. *See American Beverage Association v. City and County of San Francisco*, 871 F.3d 884 (9th Cir. 2017) (holding that regulations that impose a disclosure requirement on commercial speech must be *purely factual* and *uncontroversial* and not be unduly burdensome so as to chill protected commercial speech). The Court in *American Beverage* held that if a compelled disclosure is true but nonetheless misleading, then it is not "purely factual." At the very least, Plaintiffs' desired warning that paraquat causes Parkinson's disease is misleading because it is not *known* that paraquat causes Parkinson's disease. *See also Brown v. Entm't Merchants Ass'n*, 564 U.S. 786 (2011) (holding that a state's "labeling requirement is unconstitutionally compelled speech under the First Amendment because it does not require the disclosure of purely factual information; but compels the carrying of the State's controversial opinion.").

75. The imposition of joint and several liability violates the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the applicable state constitution because it imposes on an alleged tortfeasor a liability in excess of the responsibility of that alleged tortfeasor as found by the jury. This excess is effectively a fine, bearing no relation to the conduct or state of mind of the alleged tortfeasor, and instead, only upon the ability of that alleged tortfeasor to pay the judgment.

76. Parkinson's Disease is not an expected health outcome of pesticidal use of paraquat.

77. Syngenta relies upon all defenses contained in any applicable state statute or law.

78. All defenses that have been or will be asserted by other Defendants in this action are hereby adopted by Syngenta and incorporated by reference as if fully set forth at length herein as defenses to the Long-Form Complaint. In addition, Syngenta will rely upon any and all other [133]further defenses that become available or appear during discovery proceedings in this action, and hereby specifically reserves the right to amend its Answer and New Matter for the purposes of asserting any such additional affirmative defenses.

WHEREFORE Answering Defendants respectfully request judgment in their favor and against Plaintiffs, along with such further relief as the Court deems appropriate.