No. 25-381

In the Supreme Court of the United States

ADVANFORT COMPANY,
PETITIONER,

v.

ZAMIL OFFSHORE SERVICES COMPANY, ET AL.,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION

JOHN S. WILLIAMS
Counsel of Record
RICHMOND T. MOORE
NICHOLAS A. MARICIC
HALLIE SAUNDERS
WILLIAMS & CONNOLLY LLP
680 Maine Avenue, S.W.
Washington, DC 20024
(202) 434-5000
jwilliams@wc.com

QUESTION PRESENTED

Whether the doctrine of *forum non conveniens* applies when a plaintiff's claims against different defendants may be adjudicated by two courts located in the same country or whether it requires the existence of a single foreign court to hear all claims.

CORPORATE DISCLOSURE STATEMENT

Zamil Offshore Services Company is a Saudi company. Zamil Offshore Services Company is owned by Zamil Group Holding Company and The Public Investment Fund. Zamil Group Holding Company is ultimately owned by Al Jadarah Investment Company. No publicly traded corporation owns 10% or more of Zamil Offshore Services Company's stock.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

Cases:

Page

Cases—continued:

Other Authorities:

In the Supreme Court of the United States

No. 25-381

ADVANFORT COMPANY,
PETITIONER,

v.

ZAMIL OFFSHORE SERVICES COMPANY, ET AL.,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION

INTRODUCTION

As both courts below correctly recognized, this is a textbook case for dismissal based on *forum non conveniens*. This dispute concerns repairs and maintenance of a ship that Petitioner AdvanFort Company brought to a shipyard in Jeddah, Saudi Arabia more than a decade ago. All the relevant events took place in Saudi Arabia. All the key witnesses and documents are in Saudi Arabia. All the evidence—including the ship—is in Saudi Arabia. Both Respondents Zamil Offshore Services Company ("Zamil") and the Saudi Ports

Authority ("Ports Authority"), are in Saudi Arabia. And Saudi law will govern this dispute.

In seeking this Court's review, Petitioner asks the Court to adopt a legal rule that *no court of appeals has ever adopted*: that a *forum non conveniens* dismissal is categorically prohibited because Petitioner may have to bring its claims against Zamil and the Ports Authority in separate courts in Saudi Arabia. Petitioner has not cited a single case (circuit court or otherwise) in which a court has held *forum non conveniens* was unavailable because the plaintiff may have to bring its claims in two tribunals in the same foreign country. Instead, Petitioner cites cases where courts declined to split cases between *two different countries*. That circumstance—in which a plaintiff would confront multiple legal systems and locations—is obviously different from litigating two actions in the same jurisdiction.

In this case, Petitioner, at worst, would have to bring its case in two Saudi courts *located in the same city*. Petitioner's argument therefore boils down to an assertion that it is more convenient to litigate this case in Virginia—where none of the events took place and none of the evidence or witnesses reside—than in two courtrooms located near each other in Jeddah.[1]

Not surprisingly, no court has ever accepted this argument. Rather, the only two circuits that have addressed Plaintiff's argument (the Fourth Circuit and Second Circuit) have unanimously rejected it and agreed that *forum non conveniens* does *not* require a single

[1] The evidence in the record, supplied by Petitioner's expert, is that the two courts are even in the *same building*. Pet.App.16a n.5 (citing C.A. App. 239 n.34).

tribunal in the foreign country. Thus, there is no circuit split, and this Court should deny review.

Nor do any of this Court's *forum non conveniens* precedents require all claims to be brought in a single tribunal in the foreign country. The absence of such a requirement makes sense because "the central focus of the *forum non conveniens* inquiry is convenience." *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 249 (1981). Here, it cannot seriously be disputed that it would be more convenient to try this case in two courtrooms in Jeddah, a few miles from where Petitioner deposited its ship and where the ship remains, in front of Saudi judicial officials applying Saudi law, than in Virginia. As the district court concluded, Petitioner's alternative forum, the Eastern District of Virginia, "frankly" has "no interest … in this litigation" "other than the fact that the plaintiff is a Virginia entity." C.A. App. 362 (Brinkema, J.).

Finally, this case is a particularly poor vehicle to address the (novel) question presented because it is unclear whether a Saudi court would require Petitioner to bring suit in a different court. One of the relevant Saudi courts, the Board of Grievances, has discretion to hear Petitioner's claims against *both* defendants and could choose to consolidate the cases. Nor is Petitioner's question outcome-determinative. Zamil moved in the alternative to dismiss the complaint for lack of personal jurisdiction, and neither court below addressed Zamil's arguments. Were this Court to grant certiorari and reverse, Petitioner's complaint should still be dismissed for lack of personal jurisdiction.

STATEMENT

1. From 2013 to 2023, Zamil operated a shipyard in Jeddah, Saudi Arabia, that offered standard maritime construction and repair services. C.A. App. 7, 14, 22, 320.

Zamil operated the shipyard pursuant to a lease from the Ports Authority, the Saudi governmental entity tasked with overseeing the country's ports. C.A. App. 10, 320.

Petitioner AdvanFort is a "multi-mission maritime security company" based in Fairfax County, Virginia. C.A. App. 9. AdvanFort charters used military ships, arms them, and deploys them to piracy hotspots around the world to provide contract security to clients. C.A. App. 9-13. One such ship was the Seaman Guard Virginia, which Petitioner chartered and deployed to the Red Sea in 2012. C.A. App. 13.

In July 2013, Petitioner arranged for the Seaman Guard Virginia to undergo repairs at Zamil's shipyard in Jeddah. C.A. App. 16, 20. While the ship was docked for repairs, a fire broke out on board and caused damage to the vessel. C.A. App. 23. Local officials investigated and determined the fire was caused by an electrical short circuit in the ship's living room. C.A. App. 25.

2. Petitioner filed suit against Zamil in Saudi Arabia, claiming the fire was caused by Zamil repairmen working on the deck of the ship, rather than in the living room. C.A. App. 28. Zamil filed a countersuit, seeking to recoup its repair costs and outstanding berthing fees. C.A. App. 28, 117. For more than three years, the parties litigated the matter in the Saudi courts, with both sides submitting briefs, presenting witnesses, and providing oral presentations. C.A. App. 31, 99-123.

The Saudi trial court rejected aspects of both Petitioner's and Zamil's cases. As to liability, the court found in Zamil's favor and dismissed Petitioner's complaint. C.A. App. 109. As to damages, however, the court awarded Zamil less than a third of the damages it sought. C.A. App. 119. Petitioner appealed, and a Saudi appellate court affirmed in 2017. C.A. App. 124-135.

3. Petitioner then abandoned its ship. For the next five years, the Seaman Guard Virginia—which Petitioner now claims was worth millions of dollars—floated, unused, in the Jeddah shipyard. Petitioner made no efforts to retrieve the ship. Unsurprisingly, the ship did not fare well given the high temperatures and extreme salinity of the Red Sea. After years of exposure, parts of the ship naturally corroded. C.A. App. 33.

In early 2022, to prevent the Seaman Guard Virginia from sinking and becoming an environmental and navigational hazard, Zamil removed it from the water and placed it in a storage yard. C.A. App. 35. To facilitate the transfer, Zamil removed the engines and other heavy components. C.A. App. 33-37.

In June 2022, with the end of Zamil's ten-year lease approaching, Zamil informed Petitioner that Zamil would dispose of the Seaman Guard Virginia if Petitioner did not retrieve the vessel. C.A. App. 32. In September, nine years after initially docking the ship at the Jeddah port, Petitioner finally sent a representative to inspect the ship. C.A. App. 33. Despite knowing that the ship had needed repairs since 2013, had suffered a severe fire, and had been floating in one of the saltiest bodies of water on earth for nearly a decade, Petitioner was allegedly surprised to find a corroded, inoperable vessel. C.A. App. 33. Again, however, Petitioner did nothing.

4. Ten months later, in July 2023 (six years after losing its Saudi court case, and ten years after the 2013 fire), Petitioner filed a second suit in the Eastern District of Virginia against Zamil and the Ports Authority. C.A. App. 7-42. Perhaps recognizing that *res judicata* prohibited it from overtly relitigating the 2013 fire, Petitioner hatched a new theory: that it was "denied use" of the Seaman Guard Virginia *after* the fire because of the deterioration of the ship's condition. C.A. App. 37-41. The

complaint alleged common-law claims for conversion, breach of bailment, negligence, and gross negligence—all premised on the theory that Zamil had a duty to maintain the ship for years while Petitioner did and said nothing about reacquiring the vessel. C.A. App. 37-40. Petitioner claims it suffered "tens of millions of dollars worth [sic] of damage due to the loss of the vessel, including but not limited to the loss of value of the vessel and lost profits from not having the vessel available for service." C.A. App. 37. Notably, the complaint does not attempt to explain how Petitioner could suffer millions of dollars in damages for loss of the value of a vessel it does not own. C.A. App. 13.

Zamil moved to dismiss the complaint based on *forum non conveniens* and lack of personal jurisdiction. C.A. App. 49-84, 293-317. Petitioner opposed Zamil's motion and filed its own motion for limited discovery. C.A. App. 139-78, 337-49. The Ports Authority did not file its own responsive pleading.

The district court dismissed the complaint against both defendants, concluding that Saudi Arabia was available, adequate, and a more convenient forum in light of the public and private interests involved. Pet.App.43a-52a. The district court explained that "an alternate forum must be available to all defendants." Pet.App.43a. The district court rejected Petitioner's argument that the availability element requires its claims to be heard by a single court in Saudi Arabia. First, the district court recognized that Petitioner had not established that it "would have to sue each defendant in a different Saudi tribunal" because the parties' Saudi legal experts had submitted conflicting opinions on that issue. Pet.App.44a. Second, the district court concluded that, regardless, "AdvanFort does not cite any legal authority for the proposition that a foreign country is not a convenient

forum if a party's claims must be heard by different tribunals in that country." *Id.* As the court recognized, cases that "split claims against domestic defendants from foreign defendants, thereby forcing plaintiffs to litigate in two different countries," were "inapposite." *Id.* The district court did not address personal jurisdiction. Pet.App.42a.[2]

5. The Fourth Circuit affirmed. The court recognized that "'the alternate forum must be available as to *all defendants*'—that is, all parties must come under the jurisdiction of the foreign forum." Pet.App.16a (citation omitted). But it explained that none of its precedents "go so far as to demand that a defendant must identify a *single* tribunal in a foreign jurisdiction where all claims brought by a plaintiff may be heard and resolved." Pet.App.17a. Rather, the proper inquiry is whether the defendants had "provide[d] more than generalized evidence to demonstrate that 'the alternative forum is better.'" *Id.* (citation omitted).

The court of appeals held that defendants satisfied that standard. First, the court of appeals stated that "Zamil provided detailed information in its expert's affidavit regarding the availability of the Saudi courts," and the district court did not abuse its discretion in crediting Zamil's expert's opinion that "the Board of Grievances has the discretion to hear claims against both the Ports Authority and Zamil." Pet.App.18a. Second, the court of appeals held that the district court correctly rejected Petitioner's case law because it applied only when plaintiffs were forced "to litigate in two different countries." *Id.* (citation omitted). Thus, the Fourth

---

[2] On the same day, the district court concurrently denied Petitioner's request for discovery, Pet.App.35a n.2, and entered a clerk's default against the Ports Authority, Pet.App.7a-8a.

Circuit found no abuse of discretion in the district court determining that Saudi courts were an available forum because "the Board of Grievances and the Commercial Court have jurisdiction to hear AdvanFort's claims." Pet.App.19a (citations omitted). The Fourth Circuit declined to address Zamil's personal jurisdiction arguments, which were fully briefed on appeal. Pet.App.12a n.4.

REASONS FOR DENYING THE PETITION

I. There is No Circuit Split.

1. As Petitioner (at 10-14) acknowledges, only two circuits have squarely addressed the question presented: whether *forum non conveniens* requires a single foreign tribunal that can hear all claims. Both circuits came to the same conclusion: No.

In *Aenergy, S.A. v. Republic of Angola*, the plaintiff brought claims against the Angolan government and General Electric. 31 F.4th 119 (2d Cir. 2022). In Angola, claims against the government must be brought in the Supreme Court of Angola and claims against General Electric in a provincial court. *Id.* at 131. The plaintiff argued *forum non conveniens* was unavailable because it could not bring all its claims in the same Angolan tribunal. *Id.* The Second Circuit rejected that argument, explaining that while the movant must show that the "litigation may be conducted elsewhere against all defendants," that "does not require a single foreign court." *Id.* (internal quotations and citation omitted). The plaintiff did not raise the issue in its subsequent petition for certiorari. Br. of Pet., *Aenergy, S.A. v. Republic of Angola*, No. 22-463 (Nov. 14, 2022), *cert. denied*, 143 S. Ct. 576 (2023).

The only other circuit to address this issue is the Fourth Circuit in this case, and it reached the same

conclusion. There accordingly is no disagreement among the courts of appeals on the question presented here. The situation appears to arise infrequently. To the extent cases have arisen recently presenting these facts (*Aenergy* in 2022 and the decision under review), that would counsel in favor of allowing further development in the courts of appeal to see if any court would adopt Petitioner's proposed rule. As things stand, the question presented occurs very rarely, and no court has adopted the position Petitioner asserts.

2. Petitioner attempts to conjure up a circuit split by invoking an entirely separate line of cases that do not address this issue. Petitioner (at 11-13) cites cases in which the question was whether the litigation could be split between *two foreign countries*—not two tribunals in the same foreign country. In *DIRTT Environmental Solutions, Inc. v. Falkbuilt, Ltd.*, the three domestic defendants "refused to join" the Canadian defendants' motion to dismiss under *forum non conveniens* because they did not want to leave their home country to defend the suit in Canada. 65 F.4th 547, 551 (10th Cir. 2023). The Tenth Circuit held it would be improper to use *forum non conveniens* to "split" the case—sending half the defendants to litigate in Canada while keeping the domestic defendants in Utah—because it would result in "piecemeal" litigation in two different countries that would be inconvenient for all involved. *Id.* at 554-55.

The Ninth Circuit in *Dole Food Company v. Watts* applied the same principle. 303 F.3d 1104, 1118 (9th Cir. 2002). In *Dole*, only one defendant agreed to submit to personal jurisdiction in the Netherlands, and the Ninth Circuit declined to force the plaintiff to litigate the case simultaneously in North America and Europe. *Id.* Here, Petitioner argues that Saudi courts are unavailable because its claims may be split between two courts *in the*

same city in Saudi Arabia. Petitioner's country-splitting cases are not instructive.

Petitioner's reliance on dicta from the First, Third, Fifth, Sixth, Seventh, and Eleventh Circuits is equally misguided. Pet. at 10-11. Those cases are not conflicting at all because none of them addressed the issue here: whether *forum non conveniens* applies if foreign defendants must be sued in different tribunals in the same foreign country. In the First Circuit case, for example, the parties conceded that Greece was an available forum; the court addressed only the balancing of the private and public interest factors. *Curtis v. Galakatos*, 19 F.4th 41, 49 (1st Cir. 2021). The Third, Fifth, and Seventh Circuits each ruled on the availability of courts in a country, never specifying a single court. *See Lacey v. Cessna Aircraft Co.*, 932 F.2d 170, 177, 180 n.7 (3d Cir. 1991) (holding that "British Columbia" was "a suitable alternative forum"); *Baumgart v. Fairchild Aircraft Corp.*, 981 F.2d 824, 835 (5th Cir. 1993) ("the courts of Germany could provide an adequate, available forum"); *Fischer v. Magyar Allamvasutak Zrt.*, 777 F.3d 847, 867 (7th Cir. 2015) ("With all parties subject to jurisdiction in Hungary, it counts as an available forum."). The Sixth Circuit case addressed what evidence could be used to show consent to jurisdiction in Brazil, not whether jurisdiction must lie in a single court—in fact, the court used "court" and "courts" interchangeably. *Associação Brasileira de Medicina de Grupo v. Stryker Corp.*, 891 F.3d 615, 620 (6th Cir. 2018). And the Eleventh Circuit remanded because "the district court's order did *not* address this threshold issue of 'availability'" at all. *Tyco Fire & Sec., LLC v. Alcocer*, 218 F. App'x 860, 865 (11th Cir. 2007).

All Petitioner can muster are snippets in which those courts use the words "court" and "forum." A circuit split requires more. The issue presented here was never raised

or addressed in those cases. Even when considering language in this Court's prior decisions, "dicta in a prior case in which the point now at issue was not fully debated" is not binding and not indicative of how a court would decide the issue if presented. *Cent. Va. Cmty. Coll. v. Katz*, 546 U.S. 356, 363 (2006).

II. The Decision Below Is Correct.

Forum non conveniens is a flexible doctrine that eschews bright lines. Its application in "each case turns on its facts." *Am. Dredging Co. v. Miller*, 510 U.S. 443, 455 (1994) (quoting *Piper Aircraft*, 454 U.S. at 249) (cleaned up). And "[t]he *forum non conveniens* determination is committed to the sound discretion of the trial court." *Piper Aircraft*, 454 U.S. at 257.

The lower courts correctly held that this case easily met all the requirements of *forum non conveniens*, including availability, adequacy of the alternative forum, and the weighing of the private and public interest factors. It is beyond dispute that this case is centered in Saudi Arabia, and that the private and public interest factors weigh heavily in favor of adjudication in the Saudi courts. Petitioner accordingly does not contest most of the lower courts' convenience analysis. Instead, Petitioner argues the court of appeals erred in its availability analysis, but Petitioner's arguments have no merit.

1. Petitioner (at 14, 16-19) argues that the Fourth Circuit "misconstrued" *Piper Aircraft* as "making a defendant's amenability to process the final word on whether an alternative forum is available." But *Piper Aircraft* fully supports the Fourth Circuit's determination that nothing is "required ... beyond a showing that all parties are amenable to process *in the other jurisdiction*"—and "jurisdiction" in this context means courts of a particular country. Pet.App.17a (cleaned up

and emphasis added). *Piper Aircraft* explicitly states that the *forum non conveniens* inquiry requires identifying "an alternative forum," which is ordinarily satisfied "when the defendant is 'amenable to process' *in the other jurisdiction*." 454 U.S. at 254 n.22 (citation omitted; emphasis added). The Court then went on to explain that only in "rare circumstances" will the amenability-of-process inquiry be insufficient, like when "the remedy offered by the other forum is clearly unsatisfactory." *Id.* The Court provided as an example when the "alternative *forum is Ecuador*," but there was "no generally codified Ecuadorean legal remedy" available. *Id.* (emphasis added; citing *Phoenix Canada Oil Co. Ltd. v. Texaco, Inc.*, 78 F.R.D. 445 (Del. 1978)). Thus, when discussing the availability of the foreign "forum" in that context, *this Court was referring to the courts of a country, not one particular court within that jurisdiction*.

2. The same flexibility in language exists in the lower court decisions to which Petitioner cites. Petitioner (at 15) argues that because some *forum non conveniens* cases refer to a "forum" or "court" (singular), "there must be a single court in the foreign country in which the entire case may be brought against all defendants." But *none* of the cases cited by Petitioner (apart from *Aenergy*) considered whether *forum non conveniens* is precluded because the claims may need to be brought in more than one foreign court in the same country. *Supra* pp. 8-11. Because those cases involved only a single tribunal, the courts naturally referred to "forum" or "court" in the singular. *Id.* There is no basis to read these cases as deciding whether more than one court is permissible when they never purported to reach that question.

Indeed, courts have indicated that the availability of an alternative forum is based on the jurisdiction of a foreign country's courts (plural), not a single court within

the country. *E.g.*, *Fischer*, 777 F.3d at 867 ("With all parties subject to jurisdiction in Hungary, it counts as an available forum."); *Baumgart*, 981 F.2d at 835 ("the courts of Germany could provide an adequate, available forum"); *R. Maganlal & Co. v. M.G. Chem. Co.*, 942 F.2d 164, 167 (2d Cir. 1991) ("Since [defendant] has agreed to submit to the jurisdiction of the [alternative forum's] courts … the district court did not err in concluding that the [alternative forum] was an adequate forum."). Other cases that have spoken of individual courts have not held that their choice of language was indicating some requirement of the doctrine, rather than a convenience in expression. *See, e.g.*, *Kontoulas v. A.H. Robins Co.*, 745 F.2d 312, 316 (4th Cir. 1984); *Millennium Inorganic Chems. Ltd. v. Nat'l Union Fire Ins. Co.*, 686 F. Supp. 2d 558, 562 (D. Md. 2010); *Gallagher v. Marriott Int'l, Inc.*, 2020 WL 6263188, at *2-3 (D. Md. Oct. 23, 2020).

Not surprisingly, then, even Black's Law Dictionary does not exclusively refer to a "forum" as a specific "court or other judicial body." *Forum*, Black's Law Dictionary (12th ed. 2024). It also uses the term to refer more broadly to "a place of jurisdiction." *Id.* In short, there is little authority for circumscribing the term "forum" to refer to a specific court, rather than a jurisdiction, even outside of flexible, fact-driven areas of law like *forum non conveniens*. *See, e.g.*, *Am. Dredging*, 510 U.S. at 455; *Piper Aircraft*, 454 U.S. at 249, 257.

3. Petitioner's argument (at 15-16) that the lower courts did not adequately consider convenience is also misguided. Petitioner in effect asks this Court to review *de novo* the lower courts' convenience analysis. But "[t]he *forum non conveniens* determination is committed to the sound discretion of the trial court" and "may be reversed only when there has been a clear abuse of discretion." *Piper Aircraft*, 454 U.S. at 257. No such abuse of

discretion occurred here. The district court conducted a detailed analysis of the convenience factors and concluded that Saudi Arabia is the most convenient forum. Pet.App. 24a-27a. Petitioner does not contest any specific part of that analysis, it argues instead (at 19) that having two proceedings is categorically inconvenient, "whether those multiple courts are in the same or different countries." This Court has "repeatedly rejected the use of *per se* rules in applying the doctrine" of *forum non conveniens*. *Am. Dredging*, 510 U.S. at 455. And such a rule would remove the district court's discretion to make a convenience determination.

Further, Petitioner's argument is entirely divorced from the facts of this case. Petitioner cites *DIRTT* for the general proposition that "[s]plitting cases" is inconvenient, Pet. 15-16 (quoting *DIRTT*, 65 F.4th at 555), but that case involved splitting a case between two different countries—Utah and Canada. This case could not be more different.

As an initial matter, there may not even be two proceedings. As the courts below recognized, Zamil has "provided detailed information in its expert's affidavit" explaining that the "Board of Grievances has the discretion to hear claims against both the Ports Authority and Zamil." Pet.App.18a.

And even if there were two cases, the inconvenience is *de minimis* when compared to the inconvenience of trying this case in Virginia. Petitioner is complaining of having to litigate in two courts applying the same laws, in the same jurisdiction, in the same city. The evidence in the record is that the two tribunals in Saudi Arabia are located in the same building. Pet.App.16a n.5; C.A. App. 239 n.34. The inconvenience of such parallel proceedings is far outweighed by the cost of transporting all the evidence and witnesses to the United States and the

burden on U.S. courts. Indeed, it is unlikely that *any* witnesses from the United States will testify because the claims at issue are based on corrosion and alleged damage that occurred in Saudi Arabia long after Petitioner's crew left. *See* Resp. C.A. Br. 31-32. In more than two years of litigation, Petitioner has yet to explain what evidence from the United States it would be required to transport to Jeddah. Thus, the lower courts correctly recognized that in circumstances like this, two concurrent cases in the same foreign city *can* be more convenient than a single case in a jurisdiction where none of the evidence, documents, or witnesses are located.

4. Accepting Petitioner's argument also would create a significant risk of gamesmanship. Any purported inconvenience was entirely and needlessly manufactured by Petitioner. Petitioner chose to file suit against two defendants who could not be sued in the same Saudi tribunal (unless the Board of Grievances exercises its discretion to consolidate the cases). But Petitioner has never offered any coherent explanation of why the Ports Authority was a necessary party to this case. Petitioner alleges that the Ports Authority owned the port that Zamil leased at the time of the events at issue, but does not allege that it engaged in any conduct that would make it liable. If this Court were to accept Petitioner's argument, future plaintiffs seeking to avoid dismissal based on *forum non conveniens* could name a defendant who could not be sued in the same foreign tribunal as the other foreign defendants. They could do so even where, as here, that defendant is tenuously connected, secondary, or uninvolved. Thus, Petitioner's position would invite procedural manipulation.

5. Finally, this Court should reject Petitioner's last-ditch hypothetical (at 19-20) that the case would have been split between two countries *if* the district court had not

dismissed the Ports Authority. Petitioner challenged the dismissal of the Ports Authority in the Fourth Circuit, and the court (including the dissent) resoundingly rejected it as "absurd" and "unreasonable." Pet.App.13a-15a, 29a. That is why Petitioner has not included this issue as a question presented on appeal.

Thus, Petitioner has not identified any error in the lower courts' analysis, let alone one that is worthy of review by this Court.

III. This Case Is a Poor Vehicle to Resolve the Question Presented.

This case is a poor vehicle to address the question presented for several reasons.

1. The question presented in this case may not actually occur and, were it to occur, the inconvenience for Petitioner would be minimal. The Board of Grievances has discretion to hear claims against *both* the Ports Authority and Zamil. *See* Pet.App.18a. Petitioner can ask the Board of Grievances to hear its claims against Zamil and the Ports Authority, and the Board of Grievances may agree to do so for purposes of judicial efficiency. Petitioner's question presented is based on a possibility that may never materialize.

Further, if Petitioner were required to litigate in both the Board of Grievances and the Commercial Court, any inconvenience would be immaterial *in this case*, given that the two courts are both located in Jeddah, and may even be in the same building. Pet.App.16a n.5; C.A. App. 239 n.34. Accordingly, whether or not there could *ever* be a case in which the burden of litigating in two tribunals in the same foreign country would create a material inconvenience that would thwart the application of the *forum non conveniens* doctrine, it is not this case.

2. Recognizing that its question presented will have little impact on this case, and on the law of *forum non conveniens* in general, Petitioner (at 20-22) seeks to transform this petition into a referendum on the doctrine itself. But *forum non conveniens* is a well-established doctrine that this Court has recognized many times. *See Am. Dredging*, 510 U.S. at 449-50 (collecting sources describing origins and application of the *forum non conveniens* doctrine). There is no reason to revisit it in this case.

3. The question presented is not outcome-determinative. Zamil moved in the alternative to dismiss the complaint for lack of personal jurisdiction, but both courts below declined to address personal jurisdiction because this Court's precedents allow *forum non conveniens* to be resolved first. Pet.App.12a n.4.; *Sinochem Int'l Co. Ltd. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 432 (2007). If this Court were to grant certiorari and reverse, the lower courts still would be required to address Zamil's personal jurisdiction arguments. Zamil's personal jurisdiction arguments are also compelling, as Petitioner has no answer to two Fourth Circuit authorities that inescapably require dismissal in this case for lack of personal jurisdiction. *See* Resp. C.A. Br. 55-56; C.A. App. 301-07 (citing *Consulting Eng'rs Corp. v. Geometric Ltd.*, 561 F.3d 273 (4th Cir. 2009) and *Ellicott Mach. Corp. v. John Holland Party Ltd.*, 995 F.2d 474 (4th Cir. 1993)). No matter how this Court were to decide the question presented, it would not change the ultimate outcome of this case.

CONCLUSION

For the foregoing reasons, the Court should deny the petition.

Respectfully submitted,

JOHN S. WILLIAMS
Counsel of Record
RICHMOND T. MOORE
NICHOLAS A. MARICIC
HALLIE SAUNDERS
WILLIAMS & CONNOLLY LLP
680 Maine Avenue, S.W.
Washington, DC 20024
(202) 434-5000
jwilliams@wc.com

Counsel for Respondents

DECEMBER 1, 2025