

No. 25-983

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IN THE  
**Supreme Court of the United States**

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SOCIETE GENERALE DE BANQUE AU LIBAN S.A.L.,

*Petitioner,*

v.

ESTER LELCHOOK, *et al.*,

*Respondents.*

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On Petition for a Writ of Certiorari  
to the United States Court of Appeals  
for the Second Circuit

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**BRIEF FOR RESPONDENTS IN OPPOSITION**

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**QUESTION PRESENTED**

Whether a successor may inherit a predecessor's jurisdictional status when the former acquires all the latter's assets and liabilities, including liability for claims and potential claims for which the successor knows New York-based courts have personal jurisdiction over the predecessor.

**TABLE OF CONTENTS**

|   | Page |
|---|------|
| QUESTION PRESENTED.....   | i    |
| TABLE OF AUTHORITIES.....   | iii  |
| INTRODUCTION.....   | 1    |
| STATEMENT .....   | 4    |
| I. Respondents’ Suit Against LCB.....   | 4    |
| II. Proceedings Below.....  | 7    |
| REASONS FOR DENYING THE PETITION .....  | 12   |
| I. All Circuits, Including the Second Circuit,<br>Agree that Liability and Jurisdiction Are<br>Distinct Concepts. ....  | 12   |
| A. The Second Circuit Was Clear that the<br>Acquisition of Liabilities Does Not Itself<br>Establish Jurisdiction. ....  | 13   |
| B. The Second Circuit’s Due Process Analysis<br>Was Premised on Specific Factual Findings<br>Petitioner Ignores.....  | 15   |
| II. Every Circuit Court to Have Considered the<br>Issue Has Found that Successors May Inherit<br>Their Predecessors’ Jurisdictional Status in<br>Certain Circumstances..... | 16   |
| III. The Decision Below Does Not Conflict with<br>Any Precedents from This Court. ....  | 22   |
| CONCLUSION .....  | 24   |

## TABLE OF AUTHORITIES

|   | Page(s) |
|---|---------|
| <b>Cases</b>  |         |
| <i>Asahi Metal Indus. Co. v. Superior Ct. of Cal.</i> ,<br>480 U.S. 102 (1987).....   | 23      |
| <i>AT&amp;T v. Compagnie Bruxelles Lambert</i> ,<br>94 F.3d 586 (9th Cir. 1996) .....   | 21      |
| <i>Boim v. Holy Land Found. for Relief &amp; Dev.</i> ,<br>549 F.3d 685 (7th Cir. 2008) .....                                   | 10      |
| <i>Burger King Corp. v. Rudzewicz</i> ,<br>471 U.S. 462 (1985).....   | 3, 9    |
| <i>Calder v. Jones</i> ,<br>465 U.S. 783 (1984).....  | 15      |
| <i>Carty v. Beech Aircraft Corp.</i> ,<br>679 F.2d 1051 (3d Cir. 1982) .....  | 18      |
| <i>Cent. States, Se. &amp; Sw. Areas Pension Fund v. Reimer<br/>Express World Corp.</i> ,<br>230 F.3d 934 (7th Cir. 2000) ..... | 21      |
| <i>City &amp; Cnty. of S.F. v. Purdue Pharma L.P.</i> ,<br>491 F. Supp. 3d 610 (N.D. Cal. 2020) .....                           | 21      |
| <i>City of Monroe Emples. Ret. Sys. v. Bridgestone Corp.</i> ,<br>399 F.3d 651 (6th Cir. 2005) .....                            | 20      |
| <i>Daimler AG v. Bauman</i> ,<br>571 U.S. 117 (2014).....   | 23      |
| <i>Davis v. Metro Prods., Inc.</i> ,<br>885 F.2d 515 (9th Cir. 1989) .....  | 14      |

|  |                |
|--|----------------|
| <i>Duris v. Erato Shipping, Inc.</i> ,<br>684 F.2d 352 (6th Cir. 1982) .....                                   | 20, 21         |
| <i>Freudensprung v. Offshore Tech. Servs.</i> ,<br>379 F.3d 327 (5th Cir. 2004) .....                          | 20             |
| <i>GCIU-Emp. Ret. Fund v. Goldfarb Corp.</i> ,<br>565 F.3d 1018 (7th Cir. 2009).....                           | 21             |
| <i>Halliburton Energy Servs. v. Ironshore Specialty Ins.<br/>Co.</i> ,<br>921 F.3d 522 (5th Cir. 2019) .....   | 19, 20         |
| <i>Hawkins v. i-TV Digitális Távközlési zrt.</i> ,<br>935 F.3d 211 (4th Cir. 2019) .....                       | 13             |
| <i>In re Nazi Era Cases Against German Defendants<br/>Litigation</i> ,<br>153 F. App'x 819 (3d Cir. 2005)..... | 18             |
| <i>Jeffrey v. Rapid Am. Corp.</i> ,<br>448 Mich. 178 (1995) .....  | 13, 14         |
| <i>Licci v. Lebanese Canadian Bank</i> ,<br>732 F.3d 161 (2d Cir. 2013) .....                                  | 7              |
| <i>Licci v. Lebanese Canadian Bank, SAL</i> ,<br>No. 16-778, 584 U.S. 959 (Feb. 17, 2017).....                 | 6              |
| <i>Minn. Min. &amp; Mfg. Co. v. Eco Chem, Inc.</i> ,<br>757 F.2d 1256 (Fed. Cir. 1985).....                    | 17             |
| <i>Nimmer v. Giga Entm't Media, Inc.</i> ,<br>905 N.W.2d 523 (2018) .....                                      | 22             |
| <i>Pallas Shipping Agency v. Duris</i> ,<br>461 U.S. 529 (1983).....   | 21             |
| <i>Patin v. Thoroughbred Power Boats</i> ,<br>294 F.3d 640 (5th Cir. 2002) .....                               | 14, 18, 19, 23 |

|  |        |
|--|--------|
| <i>Perry Drug Stores v. Csk Auto Corp.</i> ,<br>93 F. App'x 677 (6th Cir. 2003) .....            | 13, 20 |
| <i>Purdue Research Found. v. Sanofi-Synthelabo, S.A.</i> ,<br>338 F.3d 773 (7th Cir. 2003) ..... | 18, 21 |
| <i>Rodríguez-Miranda v. Benin</i> ,<br>829 F.3d 29 (1st Cir. 2016) .....                         | 17     |
| <i>Rush v. Savchuk</i> ,<br>444 U.S. 320 (1980).....   | 23     |
| <i>SEC v. Gastauer</i> ,<br>93 F.4th 1 (1st Cir. 2024) .....                                     | 17     |
| <i>Smith v. Halliburton Co.</i> ,<br>879 P.2d 1198 (N.M. Ct. App. 1994) .....                    | 22     |
| <i>Tex. Int'l Magnetics, Inc. v. BASF AG</i> ,<br>31 F. App'x 738 (2d Cir. 2002).....            | 13     |
| <i>Walden v. Fiore</i> ,<br>571 U.S. 277 (2014).....   | 22, 23 |
| <i>Witt v. Scully</i> ,<br>539 F.2d 950 (3d Cir. 1976) .....                                     | 18     |
| <b>Treatises</b>   |        |
| James D. Cox & Thomas Lee Hazen, 4 <i>Treatise on the<br/>Law of Corporations</i> § 22:8.....    | 11     |
| Robert C. Casad et al., 2 <i>Jurisdiction in Civil Actions</i><br>§ 7.03 (2022) .....            | 14     |

## INTRODUCTION

In 2011, the United States designated Lebanese Canadian Bank (“LCB”) as a “primary money laundering concern” for its extensive support for Hezbollah’s terror, narcotics, and blood diamond operations, much of which the bank conducted through its New York correspondent accounts. Consequently, LCB faced collapse, and within months, Petitioner Société Générale de Banque au Liban SAL (“SGBL”) scooped up LCB’s business. Petitioner acquired all of LCB’s assets and liabilities, including its liabilities to Respondents—American victims of Hezbollah terrorist attacks who had sued LCB two years earlier under the Anti-Terrorism Act (“ATA”) in New York. But Petitioner had no intention of answering for those liabilities; instead, it pocketed LCB’s assets and told Respondents to “catch me if you can,” as the New York Court of Appeals put it. Pet.App.55a.

Respondents then brought their ATA claims against SGBL in federal district court in New York. The district court granted SGBL’s motion to dismiss for lack of personal jurisdiction, and Respondents appealed to the Second Circuit. On appeal, Petitioner conceded that due process permits a corporate successor to inherit its predecessor’s jurisdictional status following certain forms of acquisition—statutory merger, de facto merger, and mere continuation. Pet.App.39a. Respondents agreed, but explained that inheritance of a predecessor’s jurisdictional contacts can *also* occur where the successor expressly acquires “all assets and liabilities” of the predecessor, even if not formally merging with it. Pet.App.40a. The Second Circuit certified the question of whether that scenario could support successor jurisdiction under New York law to New York’s high court. Pet.App.98a.

In response, the New York Court of Appeals held that, in such circumstances, a corporate successor may inherit its predecessor's jurisdictional status under New York law. It further explained that "successor jurisdiction" is backed by the "great weight" of authority nationwide, Pet.App.54a, and "accords with nearly all decisions of other state appellate courts and federal circuit courts that have considered the issue." Pet.App.56a n.3. When the case returned to the Second Circuit, that court further observed that courts considering whether there is successor jurisdiction "in similar circumstances . . . have held that [there] is." Pet.App.25a. In fact, Petitioner could "not point to a single federal appellate or state high court decision issued before 2011 or since that rejects this successor-jurisdiction analysis." Pet.App.30a.

Nevertheless, Petitioner argues that the decision "deepens a widespread and intractable conflict among the lower courts" that the courts below somehow missed. Pet.10. Petitioner contends that some courts "hold that successors inherit jurisdictional contacts," while others reject a "liability-based jurisdiction theory." Pet.10, 12 (formatting altered). But there is no such conflict: Every circuit court that has considered successor jurisdiction has recognized it, and every circuit court accepts that liability and jurisdiction are distinct concepts. Indeed, the opinion below starts from the premise that liability and jurisdiction are "distinct legal concepts," Pet.App.23a, and the Second Circuit performed a separate and exhaustive due process analysis premised on *Petitioner's* minimum contacts, expectations, and burdens. Pet.App.24a-42a.

Far from "automatic[ally]" relying on the finding of successor liability as Petitioner suggests, Pet.4, the court carefully examined the facts before it. "Key to

[its] reasoning” were findings that “SGBL reached out to acquire the fruits of LCB’s business transactions in New York, purposefully availing itself of the forum,” and that it was “foreseeable that [SGBL’s] acquisition would render it subject to the exercise of specific personal jurisdiction in New York,” given LCB’s money laundering designation and the ongoing *Licci* litigation. Pet.App.3a-4a, 24a, 29a.

Moreover, the Second Circuit found that Petitioner’s acquisition of LCB *did* “resemble[] a merger in key respects.” Pet.App.40a. SGBL’s acquisition of LCB was “pregnant with the same possibility for abuse” inherent in mergers, Pet.App.95a-96a, as it left LCB “defunct, insolvent, and unable to pay any judgment rendered against it” and “SGBL has not even tried to demonstrate that Plaintiffs would be able to seek, never mind obtain, the relief they request in Lebanon,” where SGBL is based. Pet.App.36a-37a. Petitioner’s urged rule would thus not “further the goal of ‘substantial justice.’” Pet.App.41a (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476 (1985)). The court concluded that “specific jurisdiction over SGBL *in these circumstances* comports with due process because it does not offend traditional notions of fair play and substantial justice.” Pet.App.4a (emphasis added).

In arguing that the decision below is entirely “liability-based,” Pet.10, Petitioner simply ignores this fact-intensive analysis. For example, Petitioner claims it “had no notice it might be haled into the courts of New York,” Pet.7, it only acquired LCB’s “assets and liabilities *in Lebanon*,” not New York, Pet.22, and LCB remains a functional “going concern,” Pet.7. But the decision below found otherwise and ignoring the specific circumstances that informed the court’s analysis cannot create a split where there is none.

This Court should deny certiorari.

## STATEMENT

### I. Respondents' Suit Against LCB

Respondents are U.S. citizens who were harmed in Hezbollah rocket attacks carried out in Israel in 2006, and the estate and family members of a U.S. citizen who was killed in such an attack. By 2009, Respondents and other victims of Hezbollah's rocket attacks had brought claims against LCB under the ATA in the Southern District of New York. *See* First Am. Compl. *Licci, et al. v. Am. Express Bank Ltd., et al.*, No. 08-cv-7253 (GBD), ECF No. 23 (S.D.N.Y. Jan. 22, 2009).

Respondents alleged that LCB provided extensive illegal banking services to Hezbollah in the years leading up to the 2006 attacks. Pet.App.7a. As the U.S. government found, LCB was one of Hezbollah's primary bankers, and "knowingly" assisted Hezbollah schemes involving, "among other things, African diamond smuggling, money laundering, and narcotics trafficking." A237-38.<sup>1</sup> For example, LCB "helped launder up to \$200 million a month" for Hezbollah's drug smuggling operations. A297. *See also* A232-33, A289. And LCB had previously dismissed a U.N. Security Council report on a customer's role in the plundering of the natural resources of the Democratic Republic of the Congo "as part of the propaganda and war launched by the Jewish state against Lebanon," and authorized an *increase* in credit limits for" that customer. A241 (emphasis added). Respondents also alleged that LCB operated correspondent banking accounts in New York to facilitate transactions in U.S. dollars for its Hezbollah-affiliated customers. *See*

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<sup>1</sup> Citations to "A\_\_" are to the joint appendix in the court of appeals.

Pet.App.7a. Using those New York accounts, LCB executed millions of dollars' worth of wire transfers for Hezbollah that enabled it to carry out terrorist attacks. *See* A32.

As a result of this conduct, the Treasury Department designated LCB “a financial institution of primary money laundering concern” in February 2011. A215-16. Just a few months after the designation, with LCB facing collapse, the Central Bank of Lebanon worked with the United States to arrange SGBL’s acquisition of LCB in what was effectively a merger—as the governor of Lebanon’s Central Bank told local media, “the decision to merge had come at the request of the U.S. Treasury as a way to restore confidence in the bank.” A298.

Accordingly, SGBL entered into a “sweeping ‘Sale and Purchase’ agreement with LCB.” Pet.App.8a. In exchange for a \$580 million payment to LCB,<sup>2</sup> Petitioner assumed “all of [LCB’s] Assets and Liabilities.” A52, A61, A140. The Agreement defined these liabilities “without qualification,” Pet.App.23a:

The Assumed Liabilities consist *inter alia* of any and all of [LCB’s] liabilities and/or obligations and/or debts of any kind, character or

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<sup>2</sup> Petitioner has changed its story as to what happened to that payment. It told the Second Circuit that Respondents should have attached the \$580 million when it was “available in the forum to any plaintiff holding claims against LCB,” *Lelchook*, ECF No. 89 at 4-5, which the court noted, Pet.App.18a—but once that fact suggested Petitioner *removed* assets from the forum, it told a district court in a parallel action that “[t]here have never been any assets in New York to satisfy any judgment against LCB,” and that “SGBL’s \$580 million payment” never “touched New York.” *Bartlett v. SGBL*, No. 19-cv-7 (CBA) (TAM), SGBL Opp. to Pls. Mot. for Reconsideration, ECF No. 492 at 8. *See also* Pet.22.

description, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, determined, determinable or otherwise, to the extent they relate to [LCB's] Business, all as at the Completion Date.

A61, ¶ 2.3.

As in a merger, SGBL acquired LCB's total business, leaving LCB an empty shell. SGBL absorbed LCB's reported \$6 billion in assets, A64, raising SGBL's assets to \$11 billion, A295. It announced LCB's branches would be rebranded "under SGBL's signage and will therefore display the brand's colors and corporate identity," *ibid.*, and SGBL "pledged to keep all LCB employees." A298. LCB, for its part, "ceased its banking activities" and entered "liquidation." A140. As it represented to this Court, LCB was rendered "defunct, insolvent, and unable to pay any judgment rendered against it." Pet.App.9a (quoting Brief in Opposition to Petition for Writ of Certiorari at 4, *Licci v. Lebanese Canadian Bank, SAL*, No. 16-778, 584 U.S. 959, at \*4 (Feb. 17, 2017)). *See also* A54.

Soon thereafter, the United States filed a forfeiture action against LCB in the Southern District of New York. *See* A211-286. Petitioner, although not named in the case, filed a "sworn claim asserting interest in seized property" in that New York action. *See* A132-137. SGBL, LCB's liquidator, and the United States ultimately entered into a settlement agreement

relating to those funds, which was entered as an order by the district judge. *See* A138-155.<sup>3</sup>

In 2013, the Second Circuit held that LCB was subject to personal jurisdiction in New York as to Respondents' claims in *Licci*. The court explained that "LCB deliberately chose to process the many [Hezbollah-related] wire transfers through AmEx in New York" and that those transfers "numbered in the dozens and totaled several million dollars." *Licci v. Lebanese Canadian Bank*, 732 F.3d 161, 171 (2d Cir. 2013). The court specifically noted the possibility that "cost savings or other conveniences associated with [LCB's choice to use] the AmEx account in New York enabled LCB to retain Shahid [a major Hezbollah front] as a customer," *ibid.*—a benefit SGBL would later "deliberately" acquire from LCB. Pet.App.3a, 5a.

## II. Proceedings Below

Faced with a "defunct, insolvent" defendant, Respondents brought this case against Petitioner in 2019, also under the ATA. The district court held that New York law limited successor jurisdiction to cases of merger, Pet.App.104a, and dismissed the case for lack of personal jurisdiction.

On appeal, the Second Circuit found that decision unsupported. Petitioner had effectively agreed that successor jurisdiction applied as to all but one of the bases for successor liability—the express assumption of liabilities, which occurred here. Pet.App.70a. The court worried that adopting Petitioner's urged limitation could "allow LCB effectively to decouple its assets from its enforceable liabilities, for value, and SGBL to

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<sup>3</sup> Petitioner points out the United States "disclaimed" successor liability claims against Petitioner as part of that settlement agreement, Pet.23, but Respondents were not parties to it.

acquire ‘all assets and liabilities’ but escape jurisdiction for claims asserting LCB’s liabilities,” which was “anomalous” and raised the “possibility for abuse.” Pet.App.95a-96a. The court sought to understand how New York law would treat the relatively rare situation “where the two entities do not formally *merge*, but the one acquires the other’s assets *and, expressly, all of its liabilities*,” and certified the question to the New York high court. Pet.App.83a (emphasis in original).

The New York Court of Appeals engaged in a fact-heavy analysis. It reviewed a range of “[r]elevant factors” to successor jurisdiction and found: (1) a sophisticated party like SGBL would “presumably negotiate a purchase price that is discounted by” potential liabilities; (2) the “history of this case” showed that SGBL was on notice “of LCB’s potential exposure in New York in connection with the terrorist attacks” at issue, given the “materially identical” *Licci* suit (which was still pending before the Second Circuit in 2011, and then restored) and LCB’s February 2011 designation; and (3) the “terms of the deal,” which left LCB insolvent but provided SGBL benefits LCB had extracted from New York. Pet.App.53a-66a. The court concluded that where a predecessor’s wrongdoing “subject[ed] it to jurisdiction in New York,” and the predecessor “then agreed to an acquisition of all of its assets and liabilities by a successor, who in turn reaps the benefits of the predecessor’s business in New York while evading jurisdiction here,” the successor “inherits the acquired entity’s status for purposes of specific personal jurisdiction.” Pet.App.55a-56a.

The case returned to the Second Circuit. With the statutory element of personal jurisdiction resolved, the court turned to whether “exercising specific personal jurisdiction over SGBL on Plaintiffs’ claims here

would comport with due process.” Pet.App.14a. The court explained that it must find that (1) “a corporate defendant’s [i.e., SGBL’s] in-state acts reflect its ‘purposeful availment’ of opportunities within the State,” from which the asserted claims arose, (2) the defendant’s in-state acts “make it reasonably foreseeable that it would be subject to suit in courts sitting in that State,” and (3) the exercise of jurisdiction is “reasonable,” meaning “consistent with ‘traditional notions of fair play and substantial justice.’” Pet.App.20a-21a (internal citation omitted).

The court found these elements met as to Petitioner specifically, given certain “[k]ey” factual findings. Pet.App.5a-6a. First, the court found that SGBL purposefully availed itself of the forum: “Under the Agreement, SGBL obtained the fruits of *all* of LCB’s business, including its transactions in New York.” Pet.App.25a (emphasis in original). As Petitioner understood, because these transactions (from which Respondents’ claims arose) were processed in New York, they “conferred ‘financial and other benefits’ that allowed LCB to retain those customers who sought the alleged monetary transfers.” *Ibid.* (internal citation omitted). Petitioner acquired those benefits “purposefully”: “Entering into the Agreement represented SGBL’s choice to obtain LCB’s assets and to answer for LCB’s activities,” and “that choice properly forms the basis for a court to impute LCB’s contacts to SGBL.” Pet.App.26a (citing *Burger King*, 471 U.S. at 479-80).

Second, the court found that SGBL “had fair warning that LCB’s contacts in New York might subject it to suit there for ATA claims related to LCB’s alleged support for and facilitation of H[e]zbollah’s terrorist acts” given LCB’s designation and the then-pending

*Licci* litigation. Pet.App.31a-32a. The court rejected Petitioner’s challenges to foreseeability premised on the fact that its acquisition of LCB predated the filing of *this* suit, the 2016 amendment to the ATA, and the New York Court of Appeals’ successor jurisdiction decision, *ibid.*—challenges Petitioner repeats here as if the court had not already addressed them below and incorporated its conclusions into its jurisdictional analysis.

The court explained that the differences between the original and later lawsuits were sufficiently minor that *Lelchook* is “materially identical” to *Licci* for jurisdictional purposes. Pet.App.17a. The ATA’s 2016 amendment (made as part of the Justice Against Sponsors of Terrorism Act, or “JASTA”) did not meaningfully change the statute in an unforeseeable way. *See* Pet.App.32a-33a.<sup>4</sup> Petitioner could thus still “reasonably anticipate being subjected to ATA-related liability in New York based on LCB’s alleged in-forum conduct and affiliation with H[e]zbollah.” Pet.App.33a (emphasis added). And although the New York Court of Appeals had not previously ruled on successor jurisdiction, the doctrine was backed by the “great weight’ of authority” nationally by 2011, and Petitioner had found no federal circuit or state high court that “reject[ed]” it before or after 2011. Pet.App.30a. As the court explained, “[c]ertainty of result is not necessary to establish the reasonable foreseeability that due process requires to support specific personal jurisdiction,”

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<sup>4</sup> JASTA (an explicitly retroactive statute) added secondary liability language to the ATA, but that simply made explicit what was true in the 1992 Act: that “[p]rimary liability in the form of material support to terrorism has the character of secondary liability,” and thus “Congress has expressly imposed liability on a class of aiders and abettors.” *Boim v. Holy Land Found. for Relief & Dev.*, 549 F.3d 685, 691-92 (7th Cir. 2008) (*en banc*).

“only ‘fair warning’ that it may be subject to the state’s authority.” *Ibid.* (internal citation omitted).

Third, the court found that jurisdiction over Petitioner would “not offend traditional notions of fair play and substantial justice.” Pet.App.42a. The court observed that (1) Petitioner’s burden in litigating in New York “is a manageable one” and not “even undue”; (2) New York had an “exceptionally strong interest” in “monitoring banks” to prevent “support of terrorism”; (3) Respondents would have no real recourse against LCB in New York or SGBL in Lebanon; (4) comity concerns are limited for “specific personal jurisdiction on claims that are among voluntarily acquired liabilities”; and (5) from a policy perspective, “allowing specific personal jurisdiction in this setting helps to prevent abuse of the corporate form by wrongdoers and helps maintain legitimate avenues of recourse for plaintiffs.” Pet.App.34a-42a.

Finally, the court noted that Petitioner’s urged rule limiting successor jurisdiction to mergers and alter egos “would require the Court to close its eyes to the reality of the relationship between these two banks.” Pet.App.39a. As the court observed, “SGBL’s acquisition resembles a merger in key respects,” because in mergers “the merged entity ‘is subject to all the liabilities of the acquired companies.’” Pet.App.40a (subquoting James D. Cox & Thomas Lee Hazen, 4 *Treatise on the Law of Corporations* § 22:8). The court thus “reject[ed] any formal distinction between cases involving statutory and de facto mergers, or corporate alter egos and reorganizations, on the one hand, and cases involving the wholesale assumption of assets and liabilities in a way that would needlessly redound to the benefit of wrongdoers, on the other.” Pet.App.41a.

Petitioner petitioned for rehearing *en banc*, which the Second Circuit unanimously denied. *See* Pet.App.109a. Petitioner then moved to stay the mandate, which the Second Circuit also denied. Pet.App.110a-111a.

### **REASONS FOR DENYING THE PETITION**

Petitioner’s claim that the circuits are divided as to the jurisdictional implications of successor liability is incorrect. The Second Circuit’s application of successor jurisdiction below was not impermissibly “liability-based,” as Petitioner contends. Pet.12. Instead, the court’s conclusion was premised on numerous defendant-focused factual findings that Petitioner simply ignores. And, contrary to Petitioner’s arguments, all circuits to have addressed successor jurisdiction have acknowledged its soundness. Thus, just as below, Petitioner “does not point to a single federal appellate or state high court decision issued before 2011 or since that rejects this successor-jurisdiction analysis.” Pet.App.30a.

#### **I. All Circuits, Including the Second Circuit, Agree that Liability and Jurisdiction Are Distinct Concepts.**

No circuit holds that a successor “automatic[ally]” becomes subject to a court’s personal jurisdiction by acquiring liabilities from its predecessor. Pet.4. Indeed, the Second Circuit and the New York Court of Appeals “recognized that ‘liability and jurisdiction are distinct legal concepts.’” Pet.App.23a (quoting Pet.App.50a). The Second Circuit performed a thorough due process analysis premised on facts beyond the acquisition of liability itself.

Courts that Petitioner claims impermissibly endorse successor jurisdiction recognize that distinction

as well. *See, e.g., Hawkins v. i-TV Digitális Távközlési zrt.*, 935 F.3d 211, 231 (4th Cir. 2019) (“a violation of the forum’s law, standing alone, is not enough to establish personal jurisdiction—if that were true, then personal jurisdiction would always follow the merits, which of course is not correct.”); *Jeffrey v. Rapid Am. Corp.*, 448 Mich. 178, 197, 198 (1995), *relied on in Perry Drug Stores v. Csk Auto Corp.*, 93 F. App’x 677, 681 (6th Cir. 2003) (stating that “[w]e agree that liability is not the equivalent of jurisdiction,” but finding that the express assumption of liabilities “could support successor jurisdiction.”); *Tex. Int’l Magnetics, Inc. v. BASF AG*, 31 F. App’x 738, 739 (2d Cir. 2002) (stating that “questions of personal jurisdiction and liability are conceptually distinct,” although naturally successor jurisdiction “draw[s] upon facts and circumstances that would also be relevant to the question of successor liability”).

**A. The Second Circuit Was Clear that the Acquisition of Liabilities Does Not Itself Establish Jurisdiction.**

Petitioner’s attack on successor jurisdiction relies in large part on the Second Circuit’s observation that “if forum law could also hold the successor liable for its predecessor’s actions, its related jurisdictional actions should also attach to the successor.” Pet.i, 9, 11, 20 (quoting Pet.App.22a). The weight Petitioner places on that single line is more than it can bear. The court was clear that while successor liability can be a basis for imputing “jurisdictional contacts,” it does not by itself decide federal court *jurisdiction*. Thus, the successor liability finding below was only the basis for “imput[ing] LCB’s forum contacts to SGBL for purposes of our personal jurisdiction analysis,” to which the court

then turned and examined extensively. Pet.App.23a.<sup>5</sup> Indeed, the court below analyzed Petitioner’s *own* minimum contacts with and purposeful availment of the forum, including by deliberately and knowingly acquiring the benefits LCB extracted from New York and the liabilities it generated there.

As a leading treatise explained—citing the decision below—while “the basic test” mandates that where a successor “is liable for the predecessor’s obligations, . . . it will be subject to personal jurisdiction in a suit to enforce the obligation if the predecessor would have been subject to such jurisdiction,” that test “does not of course automatically address whether due process requirements are thereby satisfied.” Robert C. Casad et al., 2 *Jurisdiction in Civil Actions* § 7.03 & n42.1 (2022). *See also Jeffrey*, 448 Mich. at 198 (“Even where a corporation is theoretically liable for the acts of a predecessor, the exercise of personal jurisdiction over that defendant must comport with due process.”).

Of course, issues of liability and jurisdiction can *overlap*, *see* Pet.App.23a, just as they do in cases like *Patin v. Thoroughbred Power Boats*, 294 F.3d 640 (5th Cir. 2002), cited by Petitioner, where liability and jurisdiction are both premised on merger, mere continuation, or alter ego status. The factual basis for liability is frequently the basis for specific personal jurisdiction. *See, e.g., Davis v. Metro Prods., Inc.*, 885 F.2d 515, 520 (9th Cir. 1989) (“Because the corporate form serves as a shield . . . for purposes of liability as well as jurisdiction, many courts search for reasons to

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<sup>5</sup> Petitioner’s analogy fails for other reasons too—for example, successor liability can never create jurisdiction over a successor where it is lacking over the predecessor, and successor liability does not refer to the underlying *merits* of the case, such as the ATA claim at issue here.

‘pierce the corporate veil’ in jurisdictional contexts parallel to those used in liability contexts.”); *Calder v. Jones*, 465 U.S. 783, 789 (1984) (finding personal jurisdiction where “intentional, and allegedly tortious, actions were expressly aimed at California”). Petitioner’s contrary suggestion, *see* Pet.21, would render many jurisdictional determinations impossible.

**B. The Second Circuit’s Due Process Analysis Was Premised on Specific Factual Findings Petitioner Ignores.**

To give the impression that the court below made successor liability “dispositive” or an “automatic” trigger of federal jurisdiction, Pet.4, 13, Petitioner simply ignores the numerous findings the Second Circuit relied on to reach its conclusions. Pet.App.3a, 4a. For example, Petitioner asserts that “SGBL had no notice that it might be haled into the courts of New York,” providing precisely the same reasons (including the state of ATA and personal jurisdiction law in 2011) the court below reviewed and rejected. Pet.7-8.

Petitioner also argues that when it “obtained the fruits’ of LCB’s business, all it acquired were assets and liabilities *in Lebanon*,” and it “directed no activities to New York” nor took “any assets out of New York,” Pet.22. But Petitioner made this very assertion below, and the court found that it “both mischaracterizes the nature of SGBL’s acquisition of LCB’s liabilities and ignores that SGBL benefited from LCB’s activities in New York when it acquired LCB’s assets.” Pet.App.24a.

Finally, to dispel the suggestion that its acquisition of LCB “resembles a merger,” Pet.App.40a, Petitioner claims that LCB is not defunct, but rather “continues to exist ‘as a going concern.’” Pet.7. Again, the court

below rejected this assertion, relying on LCB’s *own statements to this Court*, Pet.App.9a, and declined Petitioner’s invitation to “close its eyes to the reality of the relationship between these two banks.” Pet.App.39a.

Thus, as the Second Circuit explained, its specific findings disarm “the alarming specters that SGBL invoke[d]” below, Pet.App.38a, and repeats to this Court, Pet.24-25. Petitioner ostensibly seeks to relitigate these findings now—despite asserting that there are “no factual disputes to sort out,” Pet.26—but this Court is not the proper forum for presenting such challenges. In keeping with the *actual* record analyzed by the Second Circuit, the court clearly did not premise jurisdiction solely on its finding of successor liability.

**II. Every Circuit Court to Have Considered the Issue Has Found that Successors May Inherit Their Predecessors’ Jurisdictional Status in Certain Circumstances.**

Successor jurisdiction is essentially universally recognized. Contrary to Petitioner’s contention that only a handful of courts “hold that successors inherit jurisdictional contacts,” Pet.10, the Second Circuit correctly found that “[s]tate and federal courts alike have consistently” applied the principle, Pet.App.22a. And the New York Court of Appeals found its analysis “accords with nearly all decisions of other state appellate courts and federal circuit courts that have considered the issue of successor jurisdiction.” Pet.App.56a n.3.<sup>6</sup>

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<sup>6</sup> “The few cases reaching a contrary holding”—a federal district court case and a state intermediate court case—“offer no persuasive counterpoints.” Pet.App.56a n.3. They certainly do not show a conflict among federal courts of appeals or state courts of last resort.

Most of the cases on which Petitioner relies to construct a conflict do not relate to successor jurisdiction at all. And what these cases—or more relevant ones from the same circuits—do say about successor jurisdiction aligns with the decision below.

In *SEC v. Gastauer*, cited by Petitioner, the First Circuit noted that it had previously recognized successor jurisdiction. 93 F.4th 1, 10 (1st Cir. 2024). There, the SEC alleged that the so-called “relief defendant” had *unknowingly* received his son’s ill-gotten gains. 93 F.4th at 5. The court held that “the mere receipt of money from another person”—that is, the “receipt of a unilateral transfer of money from a third party”—does not “bring[] with it the personal jurisdictional attributes of that person.” *Id.* at 11. The court contrasted the SEC’s jurisdictional theory with successor jurisdiction, which it explained was necessary to prevent the transfer of “assets from one shell corporation to another in a different jurisdiction, putting a party whose initial suit satisfied the jurisdictional requirements to the immense burden of chasing the involved assets from courtroom to courtroom.” *Id.* (quoting *Rodríguez-Miranda v. Benin*, 829 F.3d 29, 45 (1st Cir. 2016) (quoting *Minn. Min. & Mfg. Co. v. Eco Chem, Inc.*, 757 F.2d 1256, 1263 (Fed. Cir. 1985))).

Likewise, here, the Second Circuit worried about a rule that required Respondents to chase Petitioner in “catch me if you can’ gamesmanship.” Pet.App.41a (quoting Pet.App.55a). And in contrast to the defendant in *Gastauer*, Petitioner *did* knowingly receive assets from its predecessor—indeed, it took on all LCB’s assets and liabilities, knowing that could include liabilities to Hezbollah victims for claims predicated on illicit funds transfers made through New York.

*In re Nazi Era Cases Against German Defendants Litigation*, cited by Petitioner, also endorses successor jurisdiction. The opinion’s due process analysis starts from the premise that “[s]everal courts have recognized that the jurisdictional contacts of a predecessor corporation may be imputed to its successor corporation without offending due process,” including by the “express . . . assumption of liabilities.” 153 F. App’x 819, 825 (3d Cir. 2005) (quoting *Purdue Research Found. v. Sanofi-Synthelabo, S.A.*, 338 F.3d 773, 783 (7th Cir. 2003)). The court found that, like the case here, “[Buyer] is [Seller’s] jurisdictional successor with regard to the claims involving [Seller’s officer’s] alleged fraud” because Buyer “acquired [Seller’s] assets and liabilities in 1960.” *Id.* at 824. The court only found due process not satisfied because “multiple degrees of separation” between the original fraud and the ultimate acquisition meant the Buyer could not “expect to be haled into court” in New York. *Id.* at 825.

The other Third Circuit cases cited by Petitioner do not relate to successor jurisdiction at all; Petitioner only cites them for the proposition that liability and jurisdiction are distinct concepts. *See* Pet.13 (citing *Carty v. Beech Aircraft Corp.*, 679 F.2d 1051, 1060-61 (3d Cir. 1982), *Witt v. Scully*, 539 F.2d 950, 952 (3d Cir. 1976)). As shown above, this is also the express position of the court below, and all other circuit courts.

Petitioner’s primary Fifth Circuit case, *Patin*, also explicitly recognizes successor jurisdiction. The opinion states:

[F]ederal courts have consistently acknowledged that it is compatible with due process for a court to exercise personal jurisdiction over an individual or a corporation that would not ordinarily be subject to personal jurisdiction in that

court when the individual or corporation is an alter ego *or successor* of a corporation that would be subject to personal jurisdiction in that court.

294 F.3d at 653 (emphasis added). The court further observed that the relevant law, Florida’s, “recognizes all four of the traditionally-accepted exceptions” to the rule that successors do not generally assume the liabilities of their predecessors, including where “the successor expressly or impliedly assumes obligations of the predecessor.” *Id.* at 649.

Petitioner raises the case to suggest that it holds that the mere continuation exception, where the two corporations are in effect “the same entity,” is the “only” one that can result in successor jurisdiction. Pet.14. To the contrary—analyzing the mere continuation exception was only necessary because the defendant denied acquiring the corporation that allegedly injured the plaintiffs. The court’s point was that because the two corporations were the same entity it did not matter that the successor *denied acquiring the predecessor’s assets and liabilities*.<sup>7</sup>

Nor does *Halliburton Energy Servs. v. Ironshore Specialty Ins. Co.*, 921 F.3d 522 (5th Cir. 2019), “underscor[e]” mere continuations as an “analytical limit,” as Petitioner suggests. Pet.14. *Halliburton* cited *Patin* for the proposition that “courts can impute forum contacts of a predecessor company to the successor corporation, but only because the successor corporation is a ‘mere continuation’ of the predecessor.” 921 F.3d at

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<sup>7</sup> In any event, the Second Circuit found that the specific acquisition at issue here “resembles a merger in key respects,” and that distinguishing it from a merger “would needlessly redound to the benefit of wrongdoers.” Pet.App.40a, 41a.

543 n.21. The decision was distinguishing *Patin* from the facts at hand, where the defendant was a third party's insurer and there was no "close relationship, like successor-predecessor companies," between them. *Id.* *Halliburton* does not suggest that other bases of successor liability—express assumption, statutory merger, de facto merger, and fraud—cannot support successor jurisdiction. Even Petitioner does not argue that. *See* Pet.App.39a.

Petitioner's final Fifth Circuit case, *Freudensprung v. Offshore Tech. Servs.*, does not relate to either successor liability or jurisdiction. It only held that the court did not have general personal jurisdiction over a foreign corporation simply because its parent company had contacts in the state. 379 F.3d 327, 345 (5th Cir. 2004).

While Petitioner identifies the Sixth Circuit as supporting its view, the case that it cites does not mention successor jurisdiction. *See City of Monroe Empls. Ret. Sys. v. Bridgestone Corp.*, 399 F.3d 651, 667 (6th Cir. 2005). In other cases, however, that court has *endorsed* successor jurisdiction, including in situations more analogous to the one here: "A court may impute the jurisdiction of a corporate predecessor to its successor where the successor *expressly assumed the liability* of the predecessor corporation." *Perry Drug Stores*, 93 F. App'x at 681 (emphasis added). The Sixth Circuit also found no due process defect where a successor corporation "is liable for all claims against the constituent corporation" and the plaintiff can "establish [in-forum] contacts sufficient to gain jurisdiction over" the predecessor. *Duris v. Erato Shipping, Inc.*, 684 F.2d 352, 356 (6th Cir. 1982). Like the decision below, *Duris* explained that "[a]ny other ruling would allow corporations to immunize themselves by

formalistically changing their titles.” 684 F.2d at 356. This Court affirmed, noting the court of appeals’ “conclu[sion] that personal jurisdiction could properly be asserted over petitioner based on the acts of its predecessor corporation” without further comment. *Pallas Shipping Agency v. Duris*, 461 U.S. 529, 532 (1983).

The Seventh Circuit cases cited by Petitioner likewise do not mention successor jurisdiction. *See Cent. States, Se. & Sw. Areas Pension Fund v. Reimer Express World Corp.*, 230 F.3d 934 (7th Cir. 2000); *GCIU-Emp. Ret. Fund v. Goldfarb Corp.*, 565 F.3d 1018 (7th Cir. 2009). Both hold that statutory liability cannot itself confer jurisdiction, a proposition that was not before the court below. The Seventh Circuit, however, relying on “the Supreme Court’s emphasis on the need for an individual assessment of a particular defendant’s contacts with the forum state,” has explained that where “the successor corporation has chosen to stand in the shoes of its predecessor and has chosen to accept the business expectations of those who have dealt previously with that predecessor . . . it can be expected to be haled into the same courts as its predecessor.” *Purdue Research*, 338 F.3d at 784. So, too, below.

The Ninth Circuit case cited by Petitioner, *AT&T v. Compagnie Bruxelles Lambert*, 94 F.3d 586 (9th Cir. 1996), likewise only rejects statutory liability as a basis for personal jurisdiction. And while no Ninth Circuit case is on point, district courts in the Ninth Circuit appear to endorse “the successor jurisdiction theory,” including where “the successor expressly or impliedly agrees to assume the subject liabilities.” *City & Cnty. of S.F. v. Purdue Pharma L.P.*, 491 F. Supp. 3d 610, 644 (N.D. Cal. 2020).

Petitioner also cites two state court decisions. In *Nimmer v. Giga Entm’t Media, Inc.*, 905 N.W.2d 523,

538 (Neb. 2018), the Supreme Court of Nebraska rejected an argument that the court should find *general* personal jurisdiction based on the alter ego of a predecessor company—a position that Petitioner does not advance here. *See* Pet.20. The other is the intermediate appellate court decision in *Smith v. Halliburton Co.*, 879 P.2d 1198, 1206 (N.M. Ct. App. 1994), which is the only case that appears to support Petitioner’s view. In sum, Petitioner has presented no evidence of disagreement among the circuits or state courts of last resort, and thus review is unwarranted.

### III. The Decision Below Does Not Conflict with Any Precedents from This Court.

To show a conflict between the decision below and those of this Court, Petitioner cites cases holding that jurisdiction cannot depend solely on “contacts between the plaintiff (or third parties) and the forum State.” Pet.18 (quoting *Walden v. Fiore*, 571 U.S. 277, 284 (2014)). As the Second Circuit explained, however, Petitioner “misunderstands these cases,” which hold “that a plaintiff or a third party’s ‘*unilateral*’ activity may not form the sole basis for a forum state’s exercise of specific personal jurisdiction over a defendant.” Pet.App.27a (quoting *Walden*, 571 U.S. at 286) (emphasis added in *Lelchook*). The court explained that Petitioner’s cases were “different from the circumstances before us,” Pet.App.28a, and carefully distinguished each one, *see* Pet.App.27a n.13.

The key difference is that Petitioner’s involvement in this case “is attributable neither to serendipity nor to Plaintiffs’ will.” Pet.App.28a. Rather, “[u]nlike the defendants in” this Court’s cases cited by Petitioner, “SGBL was able to assess its transaction with LCB *before* assuming LCB’s liabilities, and it was able to assess ‘where jurisdiction over such liabilities may lie.’”

*Ibid.* (quoting Pet.App.53a); compare *Rush v. Savchuk*, 444 U.S. 320, 328 (1980) (finding no jurisdiction because the out-of-state defendant would not have expected that “by buying insurance in Indiana he had subjected himself to suit in any State to which a potential future plaintiff might decide to move.”). See also *Patin*, 294 F.3d at 653 (explaining that *Rush* “does not preclude us from imputing the jurisdictional contacts of a predecessor corporation to its successor corporation”). Thus, “SGBL cannot now reasonably urge that due process bars subjecting it to specific personal jurisdiction based on LCB’s conduct, which generated the very assets and liabilities that it purchased.” Pet.App.29a. As even Petitioner concedes, “a defendant’s contacts with the forum State may be intertwined with his transactions or interactions with . . . other parties.” Pet.18 (quoting *Walden*, 571 U.S. at 286).

Finally, Petitioner argues that a “strict successor liability test” would raise international comity concerns. Pet.4, 18, 25 (citing *Asahi Metal Indus. Co. v. Superior Ct. of Cal.*, 480 U.S. 102 (1987), *Daimler AG v. Bauman*, 571 U.S. 117 (2014)). As explained above, the Second Circuit did not impose such a test. But the court also explained that Petitioner exaggerated this Court’s comity concerns, which “are most salient when a court attempts to subject a foreign entity to the *general* jurisdiction of a state,” not “specific personal jurisdiction on claims that are among voluntarily acquired liabilities.” Pet.App.38a (emphasis in original). International comity is certainly not a basis for subjecting Americans to “catch me if you can’ gamesmanship.” Pet.App.41a (quoting Pet.App.55a).

**CONCLUSION**

The petition for a writ of certiorari should be denied.

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