

IN THE
Supreme Court of the United States

ASTRAZENECA UK LIMITED, ET AL.,
Petitioners,

v.

JOSHUA ATCHLEY, ET AL.,
Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the District of Columbia Circuit**

BRIEF FOR RESPONDENTS IN OPPOSITION

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October 7, 2026

QUESTIONS PRESENTED

Petitioners paid millions of dollars in cash and in-kind bribes to the terrorist group Jaysh al-Mahdi. That group had taken control of Iraq's Ministry of Health, and petitioners secured lucrative medical-supply contracts from the Ministry by paying off the terrorists in charge. Those bribes directly financed Jaysh al-Mahdi's attacks on Americans in Iraq. Respondents were among the victims.

The complaint describes those dealings "in unusual detail," identifying specific contracts, bribe amounts, and quantities of free goods, and explaining how petitioners knew their payments supported terrorist attacks. App.28a-31a, 54a, 81a. Applying this Court's precedents to those allegations, the D.C. Circuit held that respondents adequately pleaded aiding-and-abetting and direct-liability claims under the Anti-terrorism Act. App.37a, 87a; *see* 18 U.S.C. § 2333(a), (d)(2).

The questions presented are:

1. Whether the complaint plausibly alleges that petitioners' years of knowingly bribing Jaysh al-Mahdi constituted "conscious, voluntary, and culpable participation" in the terrorist attacks that injured respondents. *Twitter, Inc. v. Taamneh*, 598 U.S. 471, 493 (2023).

2. Whether the complaint plausibly alleges that petitioners' bribes proximately caused respondents' injuries from those attacks.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF AUTHORITIES	iv
INTRODUCTION	1
STATEMENT.....	3
A. Statutory Background.....	3
B. Factual Background.....	4
1. Jaysh al-Mahdi used Iraq’s Ministry of Health as a vehicle for terrorism	4
2. Petitioners knew their bribes to Jaysh al-Mahdi funded terrorist attacks.....	6
C. Procedural History	8
REASONS FOR DENYING THE PETITION	11
I. THE D.C. CIRCUIT’S AIDING-AND- ABETTING HOLDING DOES NOT WARRANT REVIEW	11
A. The D.C. Circuit Correctly Applied This Court’s Precedents.....	11
1. Respondents alleged conscious, voluntary, and culpable participa- tion	12
2. Respondents adequately alleged a nexus to the attacks that injured them	19
B. The Decision Below Creates No Circuit Conflict	24

1. The decision below creates no split on culpability	24
2. The decision below creates no split on nexus	27
II. THE D.C. CIRCUIT'S PROXIMATE- CAUSE HOLDING DOES NOT WARRANT REVIEW	29
III. PETITIONERS' POLICY ARGUMENTS ARE UNPERSUASIVE.....	34
IV. THE INTERLOCUTORY POSTURE OF THIS CASE CONFIRMS THAT REVIEW IS UNWARRANTED	35
CONCLUSION.....	36

TABLE OF AUTHORITIES

	Page
CASES	
<i>Abbott v. Veasey</i> , 580 U.S. 1104 (2017)	35
<i>American Fam. Mut. Ins. Co. v. Grim</i> , 440 P.2d 621 (Kan. 1968).....	20
<i>Ashley v. Deutsche Bank Aktiengesellschaft</i> , 144 F.4th 420 (2d Cir. 2025)	2, 11, 24-29
<i>Bartlett v. Société Générale de Banque au Liban</i> SAL, No. 19-cv-0007, ECF No. 545 (E.D.N.Y. Sept. 24, 2026)	29
<i>Bernhardt v. Islamic Republic of Iran</i> , 47 F.4th 856 (D.C. Cir. 2022).....	35
<i>Boim v. Holy Land Found. for Relief & Dev.</i> , 549 F.3d 685 (7th Cir. 2008)	18, 31
<i>Camp v. Dema</i> , 948 F.2d 455 (8th Cir. 1991)	16
<i>Cisco Sys., Inc. v. Doe I</i> , 146 S. Ct. 1882 (2026).....	19
<i>Crosby v. Twitter, Inc.</i> , 921 F.3d 617 (6th Cir. 2019).....	32
<i>Direct Sales Co. v. United States</i> , 319 U.S. 703 (1943), ...	14, 18
<i>Failla v. City of Passaic</i> , 146 F.3d 149 (3d Cir. 1998).....	16
<i>Fields v. Twitter, Inc.</i> , 881 F.3d 739 (9th Cir. 2018).....	31-32
<i>Freeman v. HSBC Holdings PLC</i> , 2026 WL 880107 (E.D.N.Y. Mar. 31, 2026).....	29
<i>Fuld v. Palestine Liberation Org.</i> , 606 U.S. 1 (2025)	3

<i>Halberstam v. Welch</i> , 705 F.2d 472 (D.C. Cir. 1983).....	19-20, 24
<i>Holder v. Humanitarian Law Project</i> , 561 U.S. 1 (2010)	21
<i>Holmes v. Securities Inv’r Prot. Corp.</i> , 503 U.S. 258 (1992)	31
<i>Holmes v. Young</i> , 885 P.2d 305 (Colo. App. 1994).....	16
<i>Jesner v. Arab Bank, PLC</i> , 584 U.S. 241 (2018).....	3
<i>Kaplan v. Lebanese Canadian Bank, SAL</i> , 999 F.3d 842 (2d Cir. 2021).....	25-26, 28
<i>Kemper v. Deutsche Bank AG</i> , 911 F.3d 383 (7th Cir. 2018).....	32-33
<i>Keren Kayemeth LeIsrael – Jewish Nat’l Fund v. Education for a Just Peace in the Middle E.</i> , 66 F.4th 1007 (D.C. Cir. 2023)	35
<i>Kilburn v. Socialist People’s Libyan Arab Jamahiriya</i> , 376 F.3d 1123 (D.C. Cir. 2004)	21
<i>Lexmark Int’l, Inc. v. Static Control Components, Inc.</i> , 572 U.S. 118 (2014)	31
<i>Moses v. BNP Paribas, S.A.</i> , 802 F. Supp. 3d 567 (S.D.N.Y. 2025)	29
<i>Mount Soledad Mem’l Ass’n v. Trunk</i> , 567 U.S. 944 (2012)	36
<i>NFL v. Ninth Inning, Inc.</i> , 592 U.S. 1081 (2020)	35
<i>Owens v. Republic of Sudan</i> , 864 F.3d 751 (D.C. Cir. 2017), <i>vacated and remanded sub nom. Opati v. Republic of Sudan</i> , 590 U.S. 418 (2020)	21
<i>Passaic Daily News v. Blair</i> , 308 A.2d 649 (N.J. 1973).....	17

<i>Reno v. Bossier Par. Sch. Bd.</i> , 520 U.S. 471 (1997)	18
<i>Rosemond v. United States</i> , 572 U.S. 65 (2014).....	18
<i>Rothstein v. UBS AG</i> , 708 F.3d 82 (2d Cir. 2013) ...	32-33
<i>Sandoz Inc. v. Amgen Inc.</i> , 582 U.S. 1 (2017)	34
<i>Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos</i> , 605 U.S. 280 (2025)	14, 23-24
<i>Twitter, Inc. v. Taamneh</i> , 598 U.S. 471 (2023)..	1-3, 9-24, 30, 32, 36
<i>United States v. Peoni</i> , 100 F.2d 401 (2d Cir. 1938).....	16-17
<i>United States v. Salamanca</i> , 990 F.2d 629 (D.C. Cir. 1993).....	18
<i>Woods v. Barnett Bank of Ft. Lauderdale</i> , 765 F.2d 1004 (11th Cir. 1985)	16
<i>Zobay v. MTN Grp. Ltd.</i> :	
2026 WL 2883426 (E.D.N.Y. Sept. 25, 2026)	29
2026 WL 2892155 (E.D.N.Y. Sept. 25, 2026) ...	26, 29

STATUTES AND RULES

Antiterrorism Act of 1990, 18 U.S.C. § 2331 <i>et seq.</i>	1-3, 8, 12, 15, 19, 31, 34-35
18 U.S.C. § 2333(a)	3, 16
18 U.S.C. § 2333(d)(2).....	3, 12, 15, 21
Justice Against Sponsors of Terrorism Act, Pub. L. No. 114-222, 130 Stat. 852 (2016) ...	3, 16, 23
§ 2(a)(1), 130 Stat. 852	34

§ 2(a)(4), 130 Stat. 852	4
§ 2(a)(6), 130 Stat. 852	4
§ 2(b), 130 Stat. 853.....	4, 16, 22, 34
18 U.S.C. § 2333 note	4
18 U.S.C. § 2339A	35

LEGISLATIVE MATERIALS

S. Rep. No. 102-342 (1992)	3, 31
----------------------------------	-------

OTHER MATERIALS

Br. for the Fed. Pet'r, <i>Fuld v. Palestine Liberation Org.</i> , 606 U.S. 1 (2025) (Nos. 24-20 & 24-151) (U.S. Jan. 28, 2025).....	3
Br. for the United States as Amicus Curiae, <i>AstraZeneca UK Ltd. v. Atchley</i> , 144 S. Ct. 2675 (2024) (No. 23-9) (U.S. May 21, 2024).....	10, 16, 30
Oral Arg. Tr., <i>Twitter, Inc. v. Taamneh</i> , No. 21-1496 (U.S. Feb. 22, 2023)	18

INTRODUCTION

Respondents' complaint alleges "in unusual detail," App.54a, how petitioners gave "millions of dollars of cash and cash-equivalents" to an Iraqi terrorist group called Jaysh al-Mahdi, App.46a. The reason for petitioners' bribes was simple: Jaysh al-Mahdi had "completely overrun" Iraq's Ministry of Health, and petitioners secured lucrative contracts from that Ministry by "giving corrupt payments" to the terrorists who ran it. App.44a, 46a. Petitioners knew their bribes financed attacks on Americans, yet continued paying for years. App.21a, 37a. Respondents—American service members and civilians who served in Iraq, and their families—were among the victims.

The D.C. Circuit properly held those allegations sufficient to plead aiding-and-abetting claims and proximate cause under the Antiterrorism Act ("ATA"). After this Court remanded in light of *Twitter, Inc. v. Taamneh*, 598 U.S. 471 (2023), the court applied that decision and again sustained the claims. Petitioners now seek plenary review by rewriting the opinion below, portraying it as imposing liability for "merely transacting with the Ministry" (at 30). In fact, the complaint describes years of culpable terrorist financing. Petitioners' criticisms of those allegations are merely premature factual disagreements.

Twitter confirmed that centuries-old common-law principles govern aiding-and-abetting claims under the ATA. Those principles require "conscious, voluntary, and culpable participation" in another's wrongdoing. 598 U.S. at 493. The social-media companies in *Twitter* did not meet that standard because they merely failed to exclude ISIS from their general platforms. Petitioners' alleged conduct was far more culpable. They negotiated cash bribes and supplied

extra, off-the-books pharmaceuticals, deliberately arranging their transactions to facilitate diversion for known terrorist use. App.28a, 32a-35a. The complaint also explains how those resources financed weapons, fighters, and attacks through the same Ministry apparatus from which the terrorists operated. App.21a, 24a. The court of appeals thus upheld the claims under the framework *Twitter* prescribed.

That holding creates no circuit split. Petitioners' asserted conflict rests on *Ashley v. Deutsche Bank Aktiengesellschaft*, 144 F.4th 420 (2d Cir. 2025), which addressed materially different banking and money-laundering allegations. *Ashley* emphasized its inquiry was "highly fact intensive" and "[s]imilar banking services in a different context may lead to a different result." *Id.* at 443. It also reaffirmed circuit precedent sustaining claims involving a bank's tailored financial assistance to customers linked to Hezbollah. *Id.* at 441, 445. Respondents' claims are far stronger. *Ashley*'s own distinctions invite the very claims the D.C. Circuit blessed here.

Applying the ATA to these allegations threatens none of the humanitarian consequences petitioners and their amici imagine. Indeed, their repeated effort to recast terrorist payoffs as legitimate assistance to Iraq confirms the factual nature of their objections. Petitioners will have their chance to contest the allegations and develop their defenses. But nearly nine years after respondents filed suit, discovery is now finally underway. And many respondents already have died waiting for it to start. The Court should not interrupt that process to reconsider petitioners' evidence-free criticisms of allegations that must be credited at this stage. The petition should be denied.

STATEMENT

A. Statutory Background

The Antiterrorism Act authorizes American victims of “an act of international terrorism” to bring a civil action in federal court. 18 U.S.C. § 2333(a). It is “part of a comprehensive statutory and regulatory regime that prohibits terrorism and terrorism financing.” *Jesner v. Arab Bank, PLC*, 584 U.S. 241, 268 (2018) (plurality). Congress intended the ATA’s private right of action not only to “provid[e] victims of terrorism with a remedy” but also to stop “the flow of money” to terrorists. S. Rep. No. 102-342, at 22 (1992). As this Court recently recognized, Congress views ATA litigation as “‘vital’” to “‘furthering the safety of Americans abroad, facilitating compensation for injuries or death, and deterring international terrorism.’” *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 20 (2025) (quoting Br. for the Fed. Pet’r at 29, *Fuld*, 606 U.S. 1 (2025) (Nos. 24-20 & 24-151) (U.S. Jan. 28, 2025)).

As originally enacted, “the ATA did not explicitly impose liability on anyone who only helped the terrorists carry out the attack or conspired with them.” *Twitter*, 598 U.S. at 483. So in 2016, Congress enacted the Justice Against Sponsors of Terrorism Act (“JASTA”) “to provide for a form of secondary civil liability.” *Id.* U.S. terror victims now can sue those secondarily liable for terrorist acts “committed, planned, or authorized by” a designated terrorist organization. 18 U.S.C. § 2333(d)(2). Secondary liability extends to anyone “who aids and abets, by knowingly providing substantial assistance, or who conspires with the person who committed such an act of international terrorism” under § 2333(d)(2).

The statute’s text explains why Congress found it “necessary to recognize the substantive causes of action

for aiding and abetting and conspiracy liability under [the ATA].” JASTA § 2(a)(4), 130 Stat. 852 (*reprinted in* 18 U.S.C. § 2333 note). Secondary liability was needed, Congress found, because companies that “contribute material support or resources . . . to persons or organizations that pose a significant risk of committing acts of terrorism” should “reasonably anticipate being brought to court in the United States.” *Id.* § 2(a)(6). Congress’s “purpose” in recognizing aiding-and-abetting liability was thus “to provide civil litigants with the broadest possible basis . . . to seek relief against” entities that send resources “directly or indirectly” to terrorists. *Id.* § 2(b), 130 Stat. 853.

B. Factual Background

1. Jaysh al-Mahdi used Iraq’s Ministry of Health as a vehicle for terrorism

a. Iraq’s Ministry of Health has a decades-long history of corruption. C.A.App.111-13, 135-38, 150-51 (¶¶ 48-51, 105-111, 137-138); App.47a-48a. Under Saddam Hussein, the Ministry devised schemes to extract kickbacks from medical-goods suppliers—including petitioners—to funnel more than \$1.5 billion to Saddam’s murderous regime. C.A.App.110-12, 114 (¶¶ 46, 49, 53). Those kickbacks aided the regime in funding terrorism. *Id.* One petitioner, Johnson & Johnson, later paid a large criminal fine for using the Ministry to bribe Saddam’s regime. C.A.App.212 (¶ 273).

In late 2004, about 18 months after the United States invaded Iraq and removed Saddam from power, the Shi’ite terrorist group Jaysh al-Mahdi seized control of the Ministry and its lucrative contracting apparatus. C.A.App.98, 114-15, 118-23 (¶¶ 3 n.1, 54, 63-76). Jaysh al-Mahdi was founded and led by anti-

American cleric Muqtada al-Sadr, with guidance and direction from Hezbollah, the Lebanese terrorist group. C.A.App.115-16 (§§ 56-59). From its Ministry perch, Jaysh al-Mahdi became Iraq’s deadliest terrorist group, responsible for more American casualties than even al-Qaeda. C.A.App.116-18 (§§ 58-62).

The Ministry was key to Jaysh al-Mahdi’s terrorist attacks. C.A.App.118-35 (§§ 63-104). Jaysh al-Mahdi transformed the Ministry’s headquarters into a terrorist base. C.A.App.127 (§§ 89-90). It converted Ministry hospitals into command-and-control centers. C.A.App.125-26 (§§ 86-87). It placed thousands of terrorist fighters on the Ministry’s payroll. C.A.App.125 (§ 85). And it used Ministry ambulances to transport death squads around Baghdad. C.A.App.125-26 (§ 86). One senior Iraqi politician thus observed that a more apt name for the Ministry of Health was the “Ministry of Weapons Transportation.” *Id.*

b. Jaysh al-Mahdi used the Ministry to raise funds for terrorism. C.A.App.135-38 (§§ 105-112). Petitioners knowingly supplied those funds by making “corrupt payments in both cash and goods to Jaysh al-Mahdi.” App.51a-52a; C.A.App.168-69 (§ 176).

First, petitioners used local agents to deliver “cash kickbacks to the terrorists who gave them business.” App.44a-45a; C.A.App.153-63 (§§ 142-164). Petitioners paid these bribes, called “commissions,” through several mechanisms. C.A.App.160 (§ 158). For example, petitioners included commercially unreasonable “service clauses” in their contracts. C.A.App.99-100 (§ 6). Under those clauses, petitioners funded illusory services as cover for passing on the set-aside money as “commissions” to the terrorists who ran the Ministry. *Id.*

Second, petitioners “delivered extra, off-the-books batches of valuable medical goods that Jaysh al-Mahdi monetized on the black market.” App.45a; C.A.App.139-53 (¶¶ 114-141). Petitioners included those “free goods” in the same shipments as the “purchased goods” and packaged them for easy street resale. C.A.App.99, 112-13, 140-42 (¶¶ 5, 50-51, 119-120). Because Ministry officials did not have to account for the extra goods, they were simple to appropriate for terrorist aims. C.A.App.140-42, 147 (¶¶ 117-120, 132).

The “free goods” supplied Jaysh al-Mahdi with an especially potent source of terrorist funding. Jaysh al-Mahdi “finance[d] operations from diverted medicines.” C.A.App.166 (¶ 169). And it often used the free goods “as cash equivalents to pay terrorist fighters.” App.45a; C.A.App.168-69 (¶ 176). Jaysh al-Mahdi was so dependent on the Ministry’s resources that it was known in Iraq as “The Pill Army.” C.A.App.101, 168-69 (¶¶ 9, 176).

2. Petitioners knew their bribes to Jaysh al-Mahdi funded terrorist attacks

Jaysh al-Mahdi’s control of the Ministry was no secret. By late 2004, Jaysh al-Mahdi propaganda festooned Ministry facilities throughout Iraq. C.A.App.121-22 (¶ 73). Pictures of Muqtada al-Sadr decorated the walls alongside terrorist slogans such as “Death to America.” *Id.* Jaysh al-Mahdi’s all-black flag adorned entrances to Ministry buildings, and Jaysh al-Mahdi fighters patrolled the halls. *Id.* (¶¶ 73-75). As the U.S. Embassy concluded in a 2006 report, the Ministry and its infrastructure were “openly under the control” of Jaysh al-Mahdi. C.A.App.123 (¶ 79).

Petitioners understood their corrupt payments to Jaysh al-Mahdi financed terrorist attacks. Petitioners “finalized their contracts at the Ministry headquarters surrounded by terrorist propaganda and other indicia of Jaysh al-Mahdi’s control.” App.52a; C.A.App.142, 170-71 (¶¶ 121, 180-181). Petitioners retained local agents who knew Jaysh al-Mahdi raised funds through the Ministry. C.A.App.171-72 (¶ 182). And each petitioner had a “corporate security” and compliance operation that exposed it to extensive public and nonpublic reporting connecting the Ministry to Jaysh al-Mahdi terrorism. C.A.App.172-76 (¶¶ 183-186). One such article from 2007 reported that “[s]upplies and medicine . . . ha[d] been siphoned off and sold elsewhere for profit because of corruption in the Iraqi Ministry of Health,” which was “in the ‘grip’ of the Mahdi Army, the anti-American militia run by the Shiite cleric Muqtada al-Sadr.” C.A.App.174 (¶ 183) (emphases omitted).

Petitioners are 21 defendants from 5 corporate families: AstraZeneca, C.A.App.105 (¶¶ 17-18); GE Healthcare, *id.* (¶¶ 19-21); Johnson & Johnson, C.A.App.106 (¶¶ 22-29); Pfizer, C.A.App.107 (¶¶ 30-34); and Roche, C.A.App.107-08 (¶¶ 35-37). For each petitioner, respondents specify multiple cash bribes it paid; describe the corrupt local agents it used to pay the bribes; and identify its contract numbers and “free goods” percentages. C.A.App.177-87 (¶¶ 188-209) (AstraZeneca); C.A.App.187-200 (¶¶ 210-244) (GE Healthcare); C.A.App.200-14 (¶¶ 245-280) (Johnson & Johnson); C.A.App.214-27 (¶¶ 281-309) (Pfizer); C.A.App.227-36 (¶¶ 310-332) (Roche).

Petitioners’ payments financed Jaysh al-Mahdi’s terrorist attacks against respondents in Iraq. The U.S. military viewed Jaysh al-Mahdi as a “terrorist

organization” more lethal than al-Qaeda in Iraq, the terrorist group that became ISIS. C.A.App.242-43 (¶¶ 347-348). Jaysh al-Mahdi’s threat reflected its mastery of sophisticated terrorist tactics. C.A.App.238-41 (¶¶ 338-346). Most lethal were explosively formed penetrators, which were devices designed to penetrate American tank armor. C.A.App.239-40 (¶¶ 341-342). Jaysh al-Mahdi used penetrators and other weaponry to kill and injure respondents. C.A.App.103, 239-41 (¶¶ 14, 339-346).

C. Procedural History

1. Respondents are U.S. citizens, and their families, whom Jaysh al-Mahdi killed or injured between 2005 and 2011. C.A.App.274-631 (¶¶ 409-3180). Every respondent brings two direct-liability claims, C.A.App.638-41 (¶¶ 3208-3221), and two aiding-and-abetting claims, C.A.App.632-38 (¶¶ 3181-3207), under the ATA. They also assert state-law claims for the same misconduct. C.A.App.641-46 (¶¶ 3222-3254).

The district court dismissed respondents’ claims. The court recognized that petitioners “knowingly provided medical goods to the Ministry for economic gain and were aware those goods would be used by [Jaysh al-Mahdi] to support terrorist attacks.” App.134a. And it accepted that Jaysh al-Mahdi “‘captured’ the Ministry” and that petitioners “engaged in corrupt transactions with that compromised entity.” App.122a. But it held that the Jaysh al-Mahdi-controlled Ministry’s role in the transactions broke “the causal chain” to Jaysh al-Mahdi, precluding proximate cause and aiding-and-abetting liability. App.125a-126a, 132a. It also held that no designated organization committed, authorized, or planned most of the relevant attacks. App.129a-131a.

2. A unanimous panel of the D.C. Circuit reversed in full. It credited the allegations that “[petitioners], aware of Jaysh al-Mahdi’s command of the Ministry, secured lucrative medical-supply contracts with the Ministry by giving corrupt payments and valuable gifts to Jaysh al-Mahdi.” App.44a. Based on the “unusual[ly] detail[ed]” complaint, App.54a, the court concluded petitioners were “[a]ware of Jaysh al-Mahdi’s ongoing terrorist operations” yet still gave “the organization millions of dollars of cash and cash-equivalents over a period of many years,” App.46a. Those allegations, the court held, sufficed “at the motion-to-dismiss stage” to plead aiding-and-abetting claims and proximate causation. App.45a-46a.

The D.C. Circuit “remand[ed] the balance of the issues” to the district court. App.45a. On direct liability, the court of appeals reached only causation and told the district court “to consider in the first instance” petitioners’ other arguments. App.79a. More broadly, it recognized that “[petitioners] plan to dispute many of the facts alleged.” App.47a. It invited petitioners to support their factual narrative—about, for example, the “nature and context of any U.S. [government] dealings with the Ministry”—through further “evidentiary development” on remand. App.87a.

Petitioners sought rehearing en banc, which the D.C. Circuit denied without dissent. App.139a.

3. Three months later, this Court decided *Twitter*. There, victims of an ISIS attack sued social-media companies for supposedly aiding it. 598 U.S. at 478-79. The victims alleged that the companies “knew that ISIS was using their platforms but failed to stop it from doing so.” *Id.* at 478. The Court held that was “mere passive nonfeasance.” *Id.* at 500. So

it dismissed the claims, stressing that its holding would not foreclose claims based on “aid that is more direct, active, and substantial.” *Id.* at 502.

Petitioners here then sought certiorari. They asked for a grant-vacate-remand order or, in the alternative, for plenary review. This Court called for the views of the United States, which opposed plenary review but recommended a GVR because the D.C. Circuit had lacked “the benefit of [the Supreme] Court’s guidance” in *Twitter*. Br. for the United States as Amicus Curiae at 10-11, *AstraZeneca UK Ltd. v. Atchley*, No. 23-9 (U.S. May 21, 2024) (“U.S. Br.”).

The Court granted, vacated, and remanded. App.41a.

4. On remand, “[h]aving considered [*Twitter*] and with the aid of supplemental briefing and oral argument,” the D.C. Circuit again reversed. App.4a. For aiding and abetting, the court explained that *Twitter* requires (1) “conscious, voluntary, and culpable participation in another’s tortious activity” plus (2) “a nexus between defendants’ assistance and the acts of international terrorism that injure plaintiffs.” *Id.* “This complaint,” the court concluded, “describes conduct that is far from ‘business as usual’—with allegations sufficient to satisfy both of [*Twitter*’s] requirements.” *Id.*

Because *Twitter* “did not address the standard for direct liability under the ATA,” the court also “re-instate[d] [its] holding . . . that plaintiffs adequately pleaded that defendants’ payments to Jaysh al-Mahdi proximately caused plaintiffs’ injuries.” App.4a-5a.

Petitioners again sought rehearing en banc, which the D.C. Circuit again denied without dissent. App.137a.

REASONS FOR DENYING THE PETITION

I. THE D.C. CIRCUIT’S AIDING-AND-ABETTING HOLDING DOES NOT WARRANT REVIEW

The D.C. Circuit correctly held that respondents plausibly alleged aiding-and-abetting liability. As the court explained, “[i]t is not business as usual for sophisticated transnational companies to provide cash and in-kind bribes to a known terrorist organization over a period of years when that organization is openly maiming and killing U.S. citizens.” App.33a. And the attacks that injured respondents “were a natural and virtually inevitable consequence of defendants’ unusual, corrupt, and plentiful assistance.” App.4a.

That holding neither departs from this Court’s precedents nor creates a circuit conflict. The court faithfully applied *Twitter, Inc. v. Taamneh*, 598 U.S. 471 (2023), to allegations about bribes to terrorists that the court had to credit at the pleading stage. Petitioners’ factbound disagreement with that application does not warrant certiorari. And petitioners’ asserted split rests on a single decision, *Ashley v. Deutsche Bank Aktiengesellschaft*, 144 F.4th 420 (2d Cir. 2025), which applied the same framework to routine banking services and money laundering for customers many steps removed from terrorists, not bribes to terrorists themselves. Its rejection of those materially different allegations creates no conflict with the decision below.

A. The D.C. Circuit Correctly Applied This Court’s Precedents

Petitioners’ contention (at 22-26) that the court of appeals misapplied *Twitter* is a request for ordinary error correction. *Twitter* supplies the governing framework, but its application depends on the allegations

in each case. As Justice Jackson explained, “[o]ther cases presenting different allegations and different records may lead to different conclusions.” 598 U.S. at 507 (concurring). Here, the court of appeals applied that framework to detailed allegations of deliberate terrorist financing. Petitioners’ disagreement with that assessment supplies no basis for certiorari.

1. Respondents alleged conscious, voluntary, and culpable participation

a. *Twitter* reaffirmed the “deep-rooted common-law basis” for aiding-and-abetting liability. 598 U.S. at 493. It instructed courts considering ATA claims to look for the same conduct “that has animated aiding-and-abetting liability for centuries”: “conscious, voluntary, and culpable participation in another’s wrongdoing.” *Id.* The statute captures that conduct by requiring defendants to have “knowingly provid[ed] substantial assistance.” 18 U.S.C. § 2333(d)(2). Knowledge and substantiality operate together, “with a lesser showing of one demanding a greater showing of the other.” *Twitter*, 598 U.S. at 491-92. Courts accordingly balance “the nature and amount of assistance” with “the defendant’s scienter.” *Id.* at 492-93.

The allegations in *Twitter* fell short. The social-media companies “failed to stop ISIS” from misusing their “generally available virtual platforms.” *Id.* at 505. Their relationship with ISIS was “arm’s length, passive, and largely indifferent.” *Id.* at 500. Those allegations implicated the common law’s longstanding reluctance to impose liability for “mere passive nonfeasance,” lest ordinary service providers become responsible for their customers’ wrongdoing. *Id.* at 491, 500.

The D.C. Circuit applied *Twitter*’s common-law rule to different allegations. Petitioners negotiated and

delivered cash kickbacks and off-the-books batches of valuable medical goods to Jaysh al-Mahdi, knowing those resources supported terrorist attacks on Americans. App.28a, 32a-35a. Their relationship with the terrorists was “active, direct, and particularized.” App.35a. Indeed, *Twitter* contemplated liability where a provider of routine services acts “in an unusual way,” explaining that more direct, active, and substantial assistance may support liability “with a lesser showing of scienter.” 598 U.S. at 502. Respondents’ detailed allegations fit that framework.

First, the allegations of knowledge are robust. As the court of appeals explained, respondents plausibly alleged that petitioners knew their dealings with the Ministry “materially supported terrorist attacks against Americans.” App.28a. Petitioners’ agents hand-delivered and executed contracts at Ministry facilities overrun by terrorists and festooned with terrorist propaganda. App.28a-29a. Contemporaneous investigative and governmental reports connected the Ministry’s diverted resources to attacks on Americans. App.29a-30a. And petitioners’ corporate security groups monitored open-source and subscription reporting, strengthening the inference that they knew how those resources were being used. App.30a.

Yet petitioners kept paying. Their repeated transactions followed “close on the heels of publicized attacks” and supplied resources for further attacks. App.30a-31a. AstraZeneca, for example, executed at least five contracts between 2006 and 2008 and continued contracting even after the Deputy Minister—a Jaysh al-Mahdi commander—was arrested on corruption charges. App.31a. Respondents made similar allegations against each of the other petitioners. *Id.* The complaint thus describes sustained dealings

informed by firsthand information, contemporaneous reporting, and the repeated occurrence of the very violence petitioners' payments financed.

Second, petitioners deliberately structured unusual assistance for terrorist use. They supplied off-the-books batches of drugs and medical devices, packaged for ready diversion and resale, and accepted commercially unreasonable terms requiring them to replace expired pharmaceuticals for free. App.8a, 11a, 32a. As the D.C. Circuit emphasized, petitioners "knowingly structured their transactions to facilitate Jaysh al-Mahdi's diversion of funds, drugs, and medical devices" and knew those resources supported terrorist operations against Americans. App.28a.

Such unusual commercial dealings can support aiding-and-abetting liability. 598 U.S. at 502. *Twitter* cited *Direct Sales Co. v. United States*, 319 U.S. 703 (1943), where a pharmaceutical supplier encouraged a doctor's extraordinary narcotics purchases through special discounts and continued despite law-enforcement warnings. 598 U.S. at 502; see *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 292-93 (2025) (also discussing *Direct Sales*). The court of appeals applied the same reasoning here. Petitioners tailored their transactions to facilitate Jaysh al-Mahdi's acquisition of resources and continued supplying those resources knowing they supported terrorist attacks. App.28a, 31a-32a.

Third, petitioners' assistance was substantial in amount and duration. They negotiated transactions specifying the cash bribes and quantities of extra goods they would supply to secure the terrorists' business. App.35a. The complaint describes the many millions of dollars in cash and cash equivalents petitioners funneled to terrorist operations for nearly a

decade. App.36a. The court of appeals considered the relationship, the amount and kind of assistance, and its duration together in assessing petitioners' culpable participation. App.35a-36a. In short, it found "a particularly strong showing" of substantial assistance and "a strong showing" that petitioners knew how their aid was being used. App.36a. That is just the "conscious, voluntary, and culpable participation" *Twitter* requires. 598 U.S. at 493.

b. Petitioners' contrary arguments distort both *Twitter* and the decision below. *First*, they contend (at 24-25) that respondents must allege a specific intent to help Jaysh al-Mahdi's attacks succeed. But the ATA contains no such specific-intent requirement. Congress instead prescribed liability for "*knowingly* providing substantial assistance." 18 U.S.C. § 2333(d)(2) (emphasis added).

Consider *Twitter* itself. The platforms' lack of intent mattered there because the other allegations provided so little basis for finding culpable assistance. When the Court observed that the platforms had not participated in the attack as something they "wished to bring about," it immediately explained that they had given ISIS no "special treatment or words of encouragement." 598 U.S. at 498 (cleaned up). The claim rested principally on their failure to prevent ISIS from using services available to everyone. Such "mere passive nonfeasance" required a "strong showing of assistance and scienter." *Id.* at 500. Conversely, the Court explained that "more direct, active, and substantial" assistance might establish liability "with a lesser showing of scienter." *Id.* at 502. If specific intent were indispensable, the platforms' "undisputed lack of intent to support ISIS" would have ended the case without any of that analysis. *Id.* at 504.

Congress’s stated purpose reinforces that reading. JASTA sought to provide “the broadest possible basis” for relief against those furnishing material support to terrorists, directly or indirectly. JASTA § 2(b), 130 Stat. 853. Below, a bipartisan group of eight Senators explained that requiring terrorist financiers to share the perpetrators’ objectives would cripple Congress’s efforts “to address terrorist financing anywhere in the causal chain.” Senators C.A. Br. 1, 8-9. That is also why the government long has disclaimed any shared-intent requirement, explaining that “liability can be imposed under Section 2333(a) if common law tort standards are met even in the absence of a specific intent.” U.S. Br. 2. Here, petitioners’ intent—to obtain corrupt contracts by giving material support directly to terrorists—was culpable enough.

Petitioners also suggest (at 25) that the D.C. Circuit erred in treating specific intent as a criminal-law requirement. But it is. *Twitter* itself described criminal aiding and abetting as requiring an affirmative act “with the intent of facilitating the offense’s commission,” while expressly recognizing that civil and criminal standards are “not identical.” 598 U.S. at 490, 493. And the civil authorities *Twitter* discussed assessed culpability without invariably requiring specific intent. *See id.* at 491-92 (discussing *Camp v. Dema*, 948 F.2d 455, 459-60 (8th Cir. 1991), and *Woods v. Barnett Bank of Fort Lauderdale*, 765 F.2d 1004, 1010 (11th Cir. 1985)).* Even *Peoni*, the source of the “wishes to bring about” formulation petitioners invoke, explained that “the rule of criminal liability is

* *See also Failla v. City of Passaic*, 146 F.3d 149, 157-58 (3d Cir. 1998) (rejecting shared-intent requirement); *Holmes v. Young*, 885 P.2d 305, 309 (Colo. App. 1994) (“wrongful intent is not necessary” for aiding-and-abetting liability).

not the same” as the rule governing civil recovery. *United States v. Peoni*, 100 F.2d 401, 402 (2d Cir. 1938). And *Passaic*, another case *Twitter* cited, deemed it “entirely inappropriate” to import criminal definitions into a statute that was “basically a remedial, not a criminal one.” *Passaic Daily News v. Blair*, 308 A.2d 649, 656 (N.J. 1973); see App.28a (quoting this passage from *Passaic*); *Twitter*, 598 U.S. at 502 (citing *Passaic* to explain why more active assistance could support liability with less scienter).

Second, petitioners misstate how the D.C. Circuit applied the governing standard. They say (at 25) the court relied on general knowledge and refused to demand intentional assistance. But the court required “intentional aid that substantially furthered” the terrorist acts. App.25a. General knowledge that assistance was going to a terrorist organization was “insufficient”; respondents had to allege that petitioners knew their assistance would support further terrorism or materially increase its likelihood. App.26a.

The court found that stronger showing in petitioners’ deliberate arrangements for known terrorist use. Petitioners “knowingly structured their transactions to facilitate Jaysh al-Mahdi’s diversion of funds, drugs, and medical devices” while knowing that the diverted resources supported attacks on Americans. App.28a. Their departures from ordinary commerce were the means of facilitating that diversion. The court thus assessed what the unusual transactions accomplished, contrary to petitioners’ contention (at 26) that it gave unusualness “talismanic significance.”

Calling the procurement terms “standard” (at 26 & n.4) does not explain the extra drugs supplied for diversion or the off-book transfers untied to any contract. App.32a. Indeed, at the *Twitter* argument,

the United States identified this case as involving companies that “ben[t] the rules” and departed from “their usual course of business.” App.33a (quoting Oral Arg. Tr. 82:24-83:4, *Twitter, Inc. v. Taamneh*, No. 21-1496 (U.S. Feb. 22, 2023)).

Third, even if petitioners were right that criminal intent is required, respondents plausibly alleged it. Petitioners’ desire to obtain profitable contracts (at 26) does not foreclose an intent to assist terrorism. In *Direct Sales*, the supplier’s anticipated profits from encouraging unlawful sales supported the finding of criminal cooperation. 319 U.S. at 713. And this Court separately explained that an accomplice has “the same culpability” as the principal whether he participates “with a happy heart or a sense of foreboding,” because he has “knowingly elected to aid” the offense. *Rosemond v. United States*, 572 U.S. 65, 79-80 (2014); see *Twitter*, 598 U.S. at 490 (citing *Rosemond*).

The complaint alleges that petitioners repeatedly made that informed choice. They negotiated cash bribes and specified the quantities of free drugs they would supply, knowing those arrangements facilitated diversion for terrorist operations. App.28a, 35a. They renewed those arrangements after widely reported attacks. App.31a. Their dealings formed “a set of enduring, carefully cultivated relationships consisting of scores of transactions over a period of years.” App.76a.

Those allegations permit an inference of intent because “people usually intend the natural consequences of their actions.” *Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 487 (1997); accord *United States v. Salamanca*, 990 F.2d 629, 636 n.2 (D.C. Cir. 1993); *Boim v. Holy Land Found. for Relief & Dev.*, 549 F.3d 685, 693-94 (7th Cir. 2008). Petitioners knew what

their payments financed and kept negotiating and making them. Respondents thus plausibly alleged that petitioners intended to help finance further attacks on Americans as the price of retaining lucrative contracts.

2. Respondents adequately alleged a nexus to the attacks that injured them

The complaint also alleges “a plainly discernable nexus between [petitioners’] corrupt payments and Jaysh al-Mahdi’s attacks on U.S. nationals in Iraq.” App.20a. Petitioners supplied resources that financed the attacks, paying terrorists through the same Ministry apparatus that facilitated their execution. As the D.C. Circuit explained, the complaint “tells a localized story that ties [petitioners’] alleged knowing provision of substantial aid to a defined subset of Jaysh al-Mahdi’s tortious attacks.” App.24a.

a. *Twitter* clarified that the ATA requires a defendant to have “aided and abetted the act of international terrorism that injured the plaintiffs.” 598 U.S. at 497. But that requirement “does not always demand a strict nexus between the alleged assistance and the terrorist act.” *Id.* Aiding and abetting does not require knowledge of “all particulars of the primary actor’s plan,” and liability extends to other torts that were a foreseeable risk of the wrongdoing the defendant assisted. *Id.* at 495-96. As the Court recently reiterated, aiding-and-abetting liability “encompasses many forms of assistance provided by those who are one (or more) steps removed from the [primary actor].” *Cisco Sys., Inc. v. Doe I*, 146 S. Ct. 1882, 1893 (2026) (describing *Twitter*, 598 U.S. at 497, as “disclaiming a ‘strict nexus’ requirement”).

Thus, in *Halberstam*, Linda Hamilton was liable for a murder she never directly assisted because her work

supported the burglary during which it occurred, and the killing was a foreseeable consequence of that burglary. *See Twitter*, 598 U.S. at 495; *Halberstam v. Welch*, 705 F.2d 472, 488 (D.C. Cir. 1983). Another aider-and-abettor was liable for a fire accidentally started during the nighttime break-in he helped commit, even though he did not know his confederates would light the torches that caused it. *See Twitter*, 598 U.S. at 495-96 (discussing *American Fam. Mut. Ins. Co. v. Grim*, 440 P.2d 621, 625-26 (Kan. 1968)).

Here, petitioners' cash and free pharmaceuticals enabled Jaysh al-Mahdi to buy arms and ammunition, compensate fighters, and plan attacks that killed or injured respondents. App.21a. Petitioners continued making those payments despite "a steady drumbeat of reporting on Jaysh al-Mahdi's use of these funds to plan and execute attacks on Americans." *Id.*

Petitioners also arranged their transactions at the headquarters from which the terrorists operated. They signed their contracts at the Ministry, which Jaysh al-Mahdi used "as a front and headquarters for its campaign of terrorist violence." App.6a, 24a. Jaysh al-Mahdi fighters serving as Ministry security guards attacked an American convoy just outside the Ministry's front gate. App.24a. The group also used Ministry ambulances to transport death squads around Baghdad. App.6a-7a. In one attack, it rigged a Ministry ambulance with explosives and used it to attack respondents Staff Sergeant John Kirby, C.A.App.295-96 (¶¶ 559-563); Corporal Anthony Donald Pellecchia, C.A.App.303-04 (¶¶ 621-626); and Private First Class Andrew Fukuzawa, C.A.App.358-59 (¶¶ 1075-1077).

Those allegations fit *Twitter's* recognition that unusual assistance to a known terrorist group may

support liability for a “definable subset of terrorist acts.” 598 U.S. at 502. As the court of appeals explained, petitioners “provided tailored, local assistance to Jaysh al-Mahdi at the time and in the immediate vicinity of a defined set of Jaysh al-Mahdi’s attacks.” App.25a.

b. Petitioners’ nexus arguments misread *Twitter* and distort the allegations. *First*, on the law, petitioners (at 22-23) “overstate” “the nexus that § 2333(d)(2) requires between the alleged assistance and the wrongful act.” 598 U.S. at 495. *Twitter* requires assistance to the attacks, but explained that this requirement “does not always demand a strict nexus between the alleged assistance and the terrorist act.” *Id.* at 497. A plaintiff need not trace dollars to bombs. Indeed, “even more remote support can still constitute aiding and abetting in the right case.” *Id.* at 496.

An overly rigid nexus requirement is especially misplaced in terror-finance cases. “Money is fungible,” *Holder v. Humanitarian Law Project*, 561 U.S. 1, 31 (2010), and contributions from several sources can finance an attack without any record identifying which contribution paid for each expense. The D.C. Circuit long has recognized that practical problem in terrorism-financing cases: A “direct traceability” requirement would make relief ineffectual because “‘terrorist organizations can hardly be counted on to keep careful bookkeeping records.’” *Owens v. Republic of Sudan*, 864 F.3d 751, 799 (D.C. Cir. 2017) (quoting *Kilburn v. Socialist People’s Libyan Arab Jamahiriya*, 376 F.3d 1123, 1130 (D.C. Cir. 2004)), *vacated and remanded on other grounds sub nom. Opati v. Republic of Sudan*, 590 U.S. 418 (2020). Requiring that accounting here likewise would frustrate Congress’s purpose to provide “the broadest possible

basis” for relief against those who provide material support to terrorists “directly or indirectly.” JASTA § 2(b), 130 Stat. 853.

Petitioners’ objection (at 23) to the D.C. Circuit’s foreseeability analysis fares no better. *Twitter* explained that an aiding-and-abetting defendant may be liable for the foreseeable consequences of their aid, even though they may not know “all particulars of the primary actor’s plan.” 598 U.S. at 495-96. The court of appeals applied that principle to the financing alleged here, crediting allegations that petitioners’ payments financed the attacks before describing respondents’ injuries as their “predictable, virtually inevitable fallout.” App.21a, 25a.

Second, on the facts, petitioners recast (at 22-23) their alleged financing of the attacks on respondents as assistance to Jaysh al-Mahdi’s “activities in general.” But the allegations here involve a “distinct tie” between petitioners’ “cash bribes and free pharmaceuticals” and Jaysh al-Mahdi’s “acts of terrorism against U.S. personnel in Iraq.” App.21a. The complaint explains how those resources enabled Jaysh al-Mahdi to buy weapons, compensate fighters, and plan attacks that killed or injured respondents. *Id.* Petitioners paid terrorists through the Ministry apparatus that supported those operations, and they kept paying despite reports that their resources were financing attacks on Americans. App.21a, 24a.

Petitioners obscure that financing mechanism by describing (at 22) their assistance as sales of medical goods to a government agency. The complaint distinguishes the supplies the Ministry purchased from the extra goods petitioners provided as kickbacks. Those extra goods accompanied the purchased supplies but were kept off the books, leaving them readily available

for diversion and resale. App.7a-8a. They served no “legitimate charitable or medicinal purpose.” C.A.App.150-51 (¶¶ 137-138). Jaysh al-Mahdi could sell them to finance its operations or use the drugs themselves to compensate fighters. App.8a, 21a. Indeed, Jaysh al-Mahdi became so dependent on petitioners’ drugs that it came to be known as “The Pill Army.” App.9a.

Petitioners’ comparison (at 22) of their payments with the Ministry’s entire budget does not make that assistance insubstantial. The complaint alleges substantial transfers over years, and the D.C. Circuit assessed their amounts, duration, and circumstances. App.31a-36a. Petitioners’ comparison says little about the significance of those deliberate transfers to the terrorist operations they supported. As the court explained in its original decision, JASTA does not confine liability to “the top funder of a terrorist action.” App.72a.

Third, petitioners contend (at 23-24) that claims arising from attacks over several years throughout Iraq require allegations of pervasive and systemic assistance amounting to a near-common enterprise. But as the court of appeals explained, “[t]hat argument rests on a mistaken premise.” App.24a. Respondents do not seek liability for Jaysh al-Mahdi’s terrorist activities “without regard to where or when they occurred.” App.25a. Their theory follows the particular assistance alleged: payments to terrorists operating through the Ministry, used to finance attacks supported by that same apparatus.

Neither *Twitter* nor *Smith & Wesson* involved comparable allegations. In *Twitter*, the plaintiffs did not allege that ISIS used the platforms to plan or coordinate the Reina attack, or that the attacker ever used

them. 598 U.S. at 498. Without a concrete connection to that attack, their theory would equally have imposed liability for every ISIS attack worldwide. *Id.* at 501. Similarly, *Smith & Wesson* involved generalized allegations that manufacturers assisted unidentified dealers in unspecified unlawful transactions through independent distributors. 605 U.S. at 294-96. That theory required correspondingly pervasive assistance. *Id.* at 292, 294. Here, respondents identify the corrupt transactions, the terrorist recipients, and the financing and operational connections to the attacks. App.21a-25a. Petitioners cannot erase those allegations about their years of payments to terrorists operating across Iraq by observing that the attacks occurred over several years and across the country.

B. The Decision Below Creates No Circuit Conflict

Petitioners’ asserted split rests on just one decision: *Ashley v. Deutsche Bank Aktiengesellschaft*. That case applied settled aiding-and-abetting principles to claims about banking services to fertilizer producers and about customers engaged in money laundering. It emphasized that the inquiry is “highly fact intensive” and that “[s]imilar banking services in a different context may lead to a different result.” 144 F.4th at 443. Its treatment of substantially weaker allegations establishes no disagreement with the D.C. Circuit over either culpability or nexus.

1. The decision below creates no split on culpability

Petitioners contend (at 17) that *Ashley* requires specific intent to support terrorism in every case. But *Ashley* prescribed a contextual inquiry, explaining that *Halberstam* and *Twitter* require “balancing scienter with the degree of assistance.” 144 F.4th at

438-39 & n.13. The D.C. Circuit likewise assessed knowledge and assistance together, demanding “intentional aid that substantially furthered” the attacks. App.25a-26a.

Nor did *Ashley* impose petitioners’ specific-intent requirement. Instead, it reaffirmed that “‘absence of proof of intent is not fatal.’” 144 F.4th at 439 n.13 (quoting *Kaplan v. Lebanese Canadian Bank, SAL*, 999 F.3d 842, 860 (2d Cir. 2021)). And although the court found the plaintiffs’ culpability allegations lacking, that was in the context of peripheral assistance that had no concrete connection to the attacks. *Id.* at 440-41, 444-45.

Petitioners emphasize (at 17-18) that money laundering, like bribery, is affirmative, unusual, and illegal. But *Ashley* did not hold that unlawful financial transactions never could establish culpable assistance to terrorism. On the contrary, the court was clear that it was not holding that “money laundering can never form the basis of a JASTA claim.” 144 F.4th at 445. Instead, the court reaffirmed *Kaplan*, which approved a complaint alleging that a bank gave Hezbollah-affiliated customers special accommodations that concealed deposits and circumvented sanctions intended to hinder terrorist activity. *See Ashley*, 144 F.4th at 441, 445-46; *Kaplan*, 999 F.3d at 865-66.

The problem in *Ashley* was that the plaintiffs “barely offer[ed] any information about the Banks’ transactions in the money laundering operations,” and so required “a high degree of speculation” “to establish a connection” between the unlawful transactions and “terrorist activities.” 144 F.4th at 444-46. Here, by contrast, petitioners’ misconduct served a known terrorist use: they “knowingly structured their transactions to facilitate Jaysh al-Mahdi’s diversion”

of resources while knowing those resources supported terrorist operations against Americans. App.28a. The D.C. Circuit’s original decision relied extensively on *Kaplan* in sustaining those claims. App.70a-71a. By any measure, the claims here are far stronger than those in *Kaplan*. Indeed, *Kaplan* sustained claims based on facilitating the movement of funds supplied by others, without allegations that the bank itself contributed cash or goods to any terrorists at all, much less the ones who attacked the plaintiffs. 999 F.3d at 865-66. *Ashley*’s adherence to that precedent undermines petitioners’ asserted split. See *Zobay v. MTN Grp. Ltd.*, 2026 WL 2892155, at *6 (E.D.N.Y. Sept. 25, 2026) (considering *Atchley* and *Ashley* and finding no “conflicting authority on the question of culpable participation”).

Petitioners’ comparison of the defendants’ knowledge likewise overlooks the assistance each provided. They contend (at 18) that the military warning in *Ashley* demonstrated greater culpability than the reporting and other sources credited here. But the transactions were different in kind. In *Ashley*, military officials allegedly warned the bank that one of its customers was producing fertilizer that was being used downstream for bombs. But all the *bank* was doing was providing ordinary commercial banking services to that customer, among thousands of others. So while the warning established general awareness, it did not convert the provision of routine banking services into knowing-and-substantial assistance. 144 F.4th at 441. In short, the bank’s “peripheral assistance” required stronger scienter. *Id.*

Here, petitioners negotiated cash bribes and quantities of free goods for the terrorists themselves, arranging their transactions to facilitate diversion for

known terrorist use. App.28a, 35a. These transactions were not routine; they were inherently corrupt and dangerous.

Nor can petitioners establish that their asserted intent distinction determined the outcome by claiming (at 18) that respondents “never contended” they alleged terrorist intent. Respondents have made clear all along that “petitioners’ knowing payments to Jaysh al-Mahdi support an inference of terrorist intent.” Br. in Opp. 21-22, No. 23-9.

2. The decision below creates no split on nexus

Petitioners contend (at 14-16) that *Ashley* required a connection to the attacks while the D.C. Circuit allowed money’s fungibility to substitute for one. But the two courts addressed different allegations about where the money went and what it supported. In *Ashley*, the complaint “barely offer[ed] any information about the Banks’ transactions,” and the court could only speculate whether funds from their customers’ money-laundering operations reached the terrorists and financed the attacks. 144 F.4th at 444-45. The “fungibility” theory the court rejected was the notion that, “because Defendants engaged in widespread money laundering for individuals and entities with an apparent or possible connection to terrorists, some of the money must have gone to the terrorists’ violent activities.” *Id.* at 444. The court deemed such speculation insufficient to establish that the attacks were “foreseeable consequences of the defendant’s actions.” *Id.*

This complaint requires no such speculation. It identifies payments to known terrorists and explains how the cash and free pharmaceuticals allowed them to purchase weapons, compensate fighters, and plan

attacks that injured respondents. App.21a. The court of appeals’ brief invocation of fungibility explained why those allegations need not trace each contribution to a particular bomb or the individual terrorist who detonated it. App.22a-23a. It did not replace the pleaded account of how petitioners financed the attacks.

Petitioners also contend (at 16-17) that both cases concerned attacks across a country over six years, yet only *Ashley* required pervasive and systemic assistance. But *Ashley* considered pervasive assistance as an alternative basis for liability after finding no discernable nexus between the banks’ transactions and the attacks. 144 F.4th at 444-45. Here, petitioners paid terrorists through the Ministry apparatus that supported their operations, signing contracts at the headquarters from which the terrorists operated. App.24a. Ministry security guards themselves attacked an American convoy just outside the Ministry’s front gate. *Id.* The complaint thus tied petitioners’ assistance to a “defined subset” of attacks through the recipients, uses, and circumstances of the payments. App.24a-25a. That financing and operational connection explains why the D.C. Circuit did not require respondents to allege a near-common enterprise.

Kaplan also defeats petitioners’ effort to extract a rigid nexus rule from *Ashley*. It sustained claims arising from Hezbollah’s rocket attacks in Israel in 2006 based on a Lebanese bank’s services to Hezbollah-associated customers (including a customer that subsidized suicide bombings, not rockets) beginning at least in 2003. 999 F.3d at 845, 865-66. *Ashley* distinguished those allegations, and later decisions have continued to apply both cases in sustaining claims against banks for serving terrorist-linked customers.

See, e.g., *Moses v. BNP Paribas, S.A.*, 802 F. Supp. 3d 567 (S.D.N.Y. 2025). Petitioners emphasize (at 17) that the court did not cite *Ashley*. But its application of principles shared by *Ashley* creates no conflict merely because the different allegations warranted different results.

Recent decisions within the Second Circuit reinforce that conclusion. In *Zobay*, the district court rejected an effort to overturn its earlier aiding-and-abetting rulings under *Ashley*, explaining that *Ashley* “did not change the law” and distinguishing the defendant’s tailored technological and operational assistance to terrorists. 2026 WL 2883426, at *3, *5-6 (E.D.N.Y. Sept. 25, 2026). In a companion order denying an interlocutory appeal, the court considered the D.C. Circuit’s renewed decision here and explained that these proceedings supplied no “substantial ground for difference of opinion.” 2026 WL 2892155, at *6; see also *Freeman v. HSBC Holdings PLC*, 2026 WL 880107, at *14 (E.D.N.Y. Mar. 31, 2026) (relying on both *Atchley II* and *Ashley*); Mem. & Order at 9, *Bartlett v. Société Générale de Banque au Liban SAL*, No. 19-cv-0007, ECF No. 545 (E.D.N.Y. Sept. 24, 2026) (same). So the district courts actually tasked with applying the two circuits’ precedents perceive no conflict between the two. There is none.

II. THE D.C. CIRCUIT’S PROXIMATE-CAUSE HOLDING DOES NOT WARRANT REVIEW

Petitioners renew a request for plenary review that they made in their previous petition. Pressing the same core causation arguments and citing the same cases, they again ask whether respondents plausibly alleged that petitioners’ payments proximately caused respondents’ injuries. The United States previously

opposed plenary review of that issue, explaining that “[n]o further review . . . is warranted.” U.S. Br. 21.

The court of appeals properly held that respondents “adequately alleged proximate causation” and remanded for consideration of the remaining direct-liability questions. App.79a; *see* App.38a (reaffirming that disposition). That holding implicates no circuit split. Petitioners’ interlocutory, factbound challenge (at 27-31) does not merit review.

As the United States explained, the original decision “articulates generally accepted legal principles governing causation in the context of the particular and unusual allegations in this case.” U.S. Br. 22. The “detailed allegations” supported an inference that petitioners’ corrupt payments were “a substantial factor in plaintiffs’ injuries.” App.81a. It was also “reasonably foreseeable that financially fortifying Jaysh al-Mahdi would lead to the attacks that plaintiffs suffered.” App.82a.

Twitter did not disturb those direct-liability rulings. No such claim was before this Court, *see* 598 U.S. at 482 n.4, and *Twitter* “did not address the standard for direct liability under the ATA,” App.38a. The court of appeals’ “fact-specific determination does not create a division with other courts of appeals,” U.S. Br. 22, and provides no basis for review.

A. The D.C. Circuit’s proximate-causation holding is correct. Petitioners “gave both cash and cash equivalents” to Jaysh al-Mahdi, “a known terrorist group.” App.81a-82a. “Providing fungible resources to a terrorist organization allows it to grow, recruit and pay members, and obtain weapons and other equipment.” App.82a. The D.C. Circuit recognized the obvious when it held that it was “reasonably foreseeable that financially fortifying Jaysh al-Mahdi would lead to the

attacks” at issue. *Id.* Respondents’ “nonconclusory, detailed allegations” about petitioners’ payments to Jaysh al-Mahdi thus supported causation. App.81a.

Reaching any other conclusion on causation would disserve the ATA’s purposes. As this Court has held, “[p]roximate-cause analysis is controlled by the nature of the statutory cause of action.” *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 133 (2014). With the ATA, Congress aimed to “interrupt, or at least imperil, the flow of money” “at any point along the causal chain of terrorism.” S. Rep. No. 102-342, at 22. If the statute is to fulfill Congress’s objective of “cut[ting] the terrorists’ lifeline,” the causation standard must encompass at least the “financiers” bankrolling terrorism. *Boim*, 549 F.3d at 691. That includes petitioners.

B. No circuit has rejected comparable causation allegations. Indeed, the D.C. Circuit considered the cases on which petitioners base their asserted split and distinguished them at length. App.83a, 86a.

First, no conflict exists over the requirement petitioners invoke (at 30) of “some direct relation between the injury asserted and the injurious conduct alleged.” *Holmes v. Securities Inv’r Prot. Corp.*, 503 U.S. 258, 268 (1992). Petitioners’ argument misreads the D.C. Circuit’s decision. The court held that petitioners’ dealings with the Ministry amounted “to dealing with the terrorist organization directly.” App.46a. On the facts alleged, those direct dealings proximately caused respondents’ deaths and injuries.

The decisions addressing that requirement involved markedly different allegations. In *Fields v. Twitter, Inc.*, the plaintiffs failed to “articulate any connection” between the generally available social-media platform and the terrorist attack, 881 F.3d 739, 750 (9th Cir.

2018)—the same flaw present in *Twitter*. In *Crosby v. Twitter, Inc.*, the self-radicalized shooter never had been in contact with ISIS, and the complaint failed to connect the platforms to his attack. 921 F.3d 617, 626-27 & n.6 (6th Cir. 2019). In *Rothstein v. UBS AG*, 708 F.3d 82 (2d Cir. 2013), the plaintiffs “simply assumed that aid to . . . Iran was aid to the terrorists [it] supported.” App.86a. And in *Kemper v. Deutsche Bank AG*, there were no allegations “plausibly suggesting that it was foreseeable that [the defendant’s] actions would fund terrorism.” 911 F.3d 383, 394 (7th Cir. 2018); see App.83a (distinguishing *Kemper*).

The D.C. Circuit also distinguished *Rothstein* and *Kemper* because the complaints did not plausibly connect the banks’ assistance to the terrorist groups responsible for the attacks. App.82a-83a; see *Kemper*, 911 F.3d at 394; *Rothstein*, 708 F.3d at 97. Here, respondents spelled out that connection with detailed allegations about how petitioners’ “bribes and free goods” to Jaysh al-Mahdi “supported its terrorist acts.” App.85a-86a. Petitioners identify no decision rejecting comparable allegations of knowing payments to the terrorist organization responsible for the attacks.

Second, the D.C. Circuit correctly rejected petitioners’ argument that the Ministry was an intermediary that broke the chain of causation. The complaint, the court noted, “extensively details Jaysh al-Mahdi’s control over the Ministry.” App.83a. Given that control, petitioners’ “bribes and free goods were aid to Jaysh al-Mahdi” that “supported its terrorist acts.” App.85a-86a. Put differently, petitioners’ “dealings with the Ministry were equivalent to dealing with the terrorist organization directly.” App.46a.

The Ministry “is markedly different from” Iran, the intermediary in petitioners’ cases. App.83a. Iran is

“an autonomous nation with many functions and priorities.” *Id.*; see *Kemper*, 911 F.3d at 393-94; *Rothstein*, 708 F.3d at 97. Petitioners emphasize (at 28) Iran’s status as “a U.S.-designated sponsor of terrorism.” But that designation does not erase its independence: Iran decided for itself whether to transfer resources to terrorists with whom the defendants did not deal. See *Kemper*, 911 F.3d at 393 (“[A] sovereign’s affirmative choice to engage in a wrongful act will usually supersede a third party’s choice to do business with that sovereign.”). Accordingly, “[t]he United States has regularly differentiated between providing support to state sponsors of terror,” such as Iran, “and providing support to terrorist organizations” themselves. *Id.* at 394. Petitioners allegedly did the latter. See App.83a. Neither case holds that such direct support fails to establish proximate cause.

C. Petitioners’ factbound disagreement with the D.C. Circuit’s decision does not warrant further review. Petitioners portray the holding (at 30) as permitting liability for “merely transacting with the Ministry.” But respondents alleged more. As the court recognized, the Ministry allegedly “was thoroughly dominated by Jaysh al-Mahdi and functioned more as a terrorist apparatus than a health organization.” App.83a (internal quotation marks omitted). Petitioners’ renewed request for this Court “to infer that Jaysh al-Mahdi actually did not control the Ministry” reflects “an untenably skeptical reading of the complaint.” App.84a. Petitioners presented those factual arguments—based on selective complaint citations and disputed materials—to the D.C. Circuit. The court’s refusal to draw inferences against respondents at the pleading stage created no circuit split and does not warrant review.

III. PETITIONERS' POLICY ARGUMENTS ARE UNPERSUASIVE

The decision below threatens none of the foreign-policy consequences petitioners invent (at 20-21, 29-30). Congress provided “the broadest possible basis” for secondary liability under the ATA, JASTA § 2(b), 130 Stat. 853, because “terrorism is a serious and deadly problem that threatens” national security, *id.* § 2(a)(1), 130 Stat. 852. The D.C. Circuit correctly applied the statute. Petitioners’ speculation about the consequences should be “addressed to Congress, not the courts.” *Sandoz Inc. v. Amgen Inc.*, 582 U.S. 1, 21 (2017).

Petitioners’ assertions also are unfounded. Contrary to their suggestion (at 30), the D.C. Circuit did not override the government’s decision not to designate Jaysh al-Mahdi; it accepted factual allegations about Hezbollah’s role in Jaysh al-Mahdi’s attacks. One of “the realities of modern terrorism” is “that terrorist organizations, and Hezbollah in particular, often operate by proxy.” App.61a. Congress did not intend to exempt entities that aid those undesignated proxies from ATA liability. *See* Commanders C.A. Br. 17-24. The very complaint paragraph petitioners quote explains that the non-designation “was [not] intended to allow private companies to deliver support to Jaysh al-Mahdi.” C.A.App.246 (¶ 355).

Petitioners’ humanitarian arguments are even hollower. For “legitimate multinational businesses,” Chamber Br. 19, humanitarian actors, or any other companies and nonprofits to answer government requests for aid, they need only refrain from knowingly funding terrorists. Neither petitioners nor their amici offer any evidence that doing so is impossible—or even difficult. After all, it already is a crime to

provide material support to undesignated terrorists. See 18 U.S.C. § 2339A.

Petitioners’ final policy argument—that the D.C. Circuit will become a magnet for ATA claims—is incorrect. The D.C. Circuit has shown that it is not uniquely hospitable to ATA claims, rejecting other ATA suits after its original decision here. See *Keren Kayemeth LeIsrael – Jewish Nat’l Fund v. Education for a Just Peace in the Middle E.*, 66 F.4th 1007, 1017 (D.C. Cir. 2023) (calling allegations “far less convincing” than those here); *Bernhardt v. Islamic Republic of Iran*, 47 F.4th 856, 865 (D.C. Cir. 2022) (noting the “stark contrast” with this case). The rule in the D.C. Circuit is the same as the rule everywhere: bribing terrorists creates ATA liability, but non-culpable, passive behavior does not.

IV. THE INTERLOCUTORY POSTURE OF THIS CASE CONFIRMS THAT REVIEW IS UNWARRANTED

The petition’s interlocutory status furnishes a final reason to deny it. This case “comes to [this Court] at the motion-to-dismiss stage, and the interlocutory posture is a factor counseling against this Court’s review at this time.” *NFL v. Ninth Inning, Inc.*, 592 U.S. 1081, 1082 (2020) (Kavanaugh, J., respecting denial of certiorari); see *Abbott v. Veasey*, 580 U.S. 1104, 1105 (2017) (Roberts, C.J., respecting denial of certiorari). Much remains to be done below: the D.C. Circuit “remand[ed] the balance of the issues” for the district court to consider in the first instance. App.45a. And discovery is *finally* underway—nine years since filing, during which 51 respondents already have died. The Court should not delay them further by reviewing the allegations in an interlocutory posture.

If the Questions Presented prove worthy of this Court's attention, there will be ample time to address them "in a later petition following entry of a final judgment." *Mount Soledad Mem'l Ass'n v. Trunk*, 567 U.S. 944, 945-46 (2012) (Alito, J., respecting denial of certiorari). In the meantime, the lower courts should have the opportunity to apply *Twitter's* framework across a fuller range of cases. Petitioners seek plenary review based on just two appellate decisions applying that same framework to materially different allegations. Those factbound applications of settled law supply no reason for review before final judgment.

At this point, petitioners' repeated mischaracterizations of the complaint make clear that their defense is really a factual one. Petitioners will have their chance to prove that all they did was "answer[] th[e] call" for private aid in Iraq. Pet. 6. But for now, granting certiorari would just further delay respondents' chance to finally prove their claims.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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October 7, 2026