No. 26-29

In the Supreme Court of the United States

MEAD JOHNSON & COMPANY, LLC AND MEAD JOHNSON NUTRITION COMPANY,

Petitioners,

v.

CLARISSA GREEAR, ON BEHALF OF HERSELF AND HER MINOR CHILD B.H., ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the Appellate Court of Illinois, Fifth District

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

On interlocutory review, a unanimous panel of the Appellate Court of Illinois, Fifth District, deferred to the trial court's factual findings and followed well-settled precedent in affirming a decision to deny a motion to dismiss for lack of personal jurisdiction.

The questions presented are:

1. Does this Court have jurisdiction to review an interlocutory ruling on personal jurisdiction from an Illinois intermediate appellate court?

2. Should this Court summarily dispose of a splitless Illinois intermediate appellate court ruling that did not address every ground for affirmance and rests on findings of fact that can only be disturbed for being against the manifest weight of the evidence?

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COUNTER-STATEMENT OF JURISDICTION

This Court lacks jurisdiction to review the decision of the Appellate Court of Illinois, Fifth District, because it is not a final judgment. 28 U.S.C. § 1257(a). *See infra* pp. 15–19.

INTRODUCTION

Petitioners Mead Johnson & Company, LLC and Mead Johnson Nutrition Company ("Mead Johnson") have known for years that their preterm formula and fortifier products significantly increase the risk of necrotizing enterocolitis ("NEC") in preterm infants. They have deliberately hidden this information from parents, healthcare professionals, and the public to serve their bottom lines. When victims such as Respondents have sued for failure to warn, Petitioners have deployed every tactic under the sun to grind the gears of justice to a halt. They have removed the *same* non-diverse cases to federal court *multiple* times, imposing years of cumulative delay ahead of each inevitable remand. And, as here, they have unsuccessfully challenged venue, the convenience of the forum, and personal jurisdiction. Unable to persuade the trial court to relocate these cases to their preferred venues, Petitioners lodged an interlocutory appeal that had the effect of icing these cases for two and a half years.

They now attempt to invoke this Court's jurisdiction to address, *summarily,* the intermediate appellate court's splitless, fact-bound, interlocutory application of settled precedent. The petition does not raise any of the "compelling reasons" this Court typically requires for discretionary review. *See* Sup. Ct. R. 10. It should be denied for multiple, independent reasons.

First and foremost, this Court lacks jurisdiction over this appeal. Parties complaining about jurisdiction should be attentive to it. Petitioners are not. They offer a single, conclusory sentence proclaiming: "This Court has jurisdiction under 28 U.S.C. [§] 1257(a)." Pet. 1. But that statutory grant of jurisdiction is limited to "final judgments or decrees" from the highest court in a state. The decision below does not qualify as final. There is no need to take Respondents' word for it. Just consult the petition: "Although this case comes to the Court in an interlocutory posture," Petitioners ask this Court "to set things right." *Id.* at 31.

This Court's subject-matter jurisdiction cannot be enlarged simply because a petitioner claims a putative wrong it strongly wishes this Court to right. The general rule, with limited exceptions that do not apply here, is that there is no final judgment or decree "where anything further remains to be determined by a State court no matter how dissociated from the only federal issue that has finally been adjudicated by the

highest court of the State." *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 477 (1975) (citing *Radio Station WOW, Inc. v. Johnson*, 326 U.S. 120, 124 (1945)). The trial court has an endless list of issues left to determine before reaching a final judgment. That is the quintessential interlocutory posture over which this Court lacks adjudicatory power.

Because Mead Johnson says nary a word analyzing this Court's appellate jurisdiction, it does not even attempt to fit this case into one of the rarely invoked exceptions to the final-judgment rule. None apply, though assessing them is a precondition to reaching the questions presented. These are not ordinary vehicle problems this Court would have discretion to ignore. They are subject-matter jurisdiction obstacles that have not even been briefed. A glaring jurisdictional defect Petitioners do not deign to identify, let alone confront, is ample reason to deny the petition. Sup. Ct. R. 14.4. It is certainly a reason not to dispose of this case summarily.

Second, Petitioners completely ignore an independent ground to find personal jurisdiction—namely, this Court's decision in *Mallory v. Norfolk Southern Railway Co.*, 600 U.S. 122 (2023)—that the Illinois intermediate court did not reach despite briefing and argument from the parties. Subject-matter jurisdiction obstacles to one side, that independent basis to affirm makes the state appellate court's interlocutory order a particularly poor vehicle

to confront the questions presented. A future final judgment may eventually rest on the independent ground. And Respondents will brief and argue that the independent ground supports affirmance if the Court grants discretionary review, obviating any need to decide the questions presented.

Third, Petitioners' two questions presented tacitly concede an undeniable point. For many Respondents, the decision below rests on entirely independent grounds: a finding of specific *and* general jurisdiction. This Court cannot reverse unless it finds that the intermediate appellate court erred when deciding both issues. That will require a searching review that is ill-suited for a summary disposition. The appellate court's general jurisdiction ruling turns on a temporal question about when it ceases to be fair to find jurisdiction over a corporation that unquestionably was at home in Illinois when the underlying misconduct occurred. Courts routinely analyze the question the way the intermediate appellate court did, and Petitioners *concede* that there is no split in authority on the issue. That makes it a poor fit for summary treatment, not least because the appellate court's approach was correct.

On the independent ground of specific jurisdiction, the appellate court affirmed detailed factual findings made by a trial court about Petitioners' extensive contacts with Illinois. These determinations were not limited merely to the

uncontested fact that Petitioners put their products into the stream of commerce. They include facts about where Petitioners learned about the risks their products posed to *these* Respondents, where Petitioners made the choice not to warn *these* Respondents, and where Petitioners conducted research into the safety of the products *these* Respondents consumed. There is no important, meta question of law to address or split in authority to resolve. There is only a highly fact-bound inquiry—reviewed under a deferential appellate standard—into whether Petitioners' Illinois contacts were sufficient to support the exercise of judicial power.

At bottom, Petitioners ask for a carveout from Rule 10 because they claim the Illinois sky is falling. Those histrionics do not withstand scrutiny. Petitioners admit they seek nothing more than error correction of an interlocutory order that has divided precisely zero courts in the state or federal judiciaries. That is typically how *respondents* attempt to frame a case in a brief in opposition, not the concession petitioners lead with in a worthy certiorari petition. The petition should be denied.

STATEMENT OF THE CASE

I. FACTUAL BACKGROUND

Amanda Toles and other plaintiffs filed a complaint in St. Clair County in 2021. Their cases were coordinated for pretrial purposes on August 25,

2022. In each case, the plaintiff infant received preterm cow's milk-based formula or fortifier products, including Petitioners' products. Petitioners knew that their products significantly increased the risk of developing NEC. They failed to warn of that risk, and the plaintiff infants suffered serious and often fatal injuries as a result.

Petitioners' principal place of business was in Illinois both before and during the events giving rise to this litigation. Starting in 2008, Petitioners maintained global headquarters in Illinois for at least a decade. Pet. App. 68a–69a. Mead Johnson acknowledges that in the approximately 10 years Illinois was its global headquarters, its marketing teams, sales teams, and employees overseeing the research and development of Petitioners' preterm products were all based in Illinois. *Id.* at 68a–69a. Mead Johnson's Vice President of Sales, its Vice President of Marketing, its Director of Medical Marketing (who supervised the selling of preterm formula), and its Vice President of R & D all worked in Illinois, along with other key employees. *Id.* at 69a, 78a.

Petitioners continue to use the Illinois headquarters as an office today. *Id.* at 69a–70a. It is used for dozens of Illinois-based employees responsible for Petitioners' state and national strategy on hospital sales and marketing, as well as for the training of sales representatives nationwide on

products, including preterm formulas and fortifiers. *Id.* at 69a–71a.

Petitioners also held themselves out as an Illinois company to the courts, the government, and the public. Mead Johnson's Vice President and General Counsel of Nutrition affirmed to the Illinois Secretary of State on March 7, 2021, "under penalties of perjury," that Mead Johnson's principal place of business was Chicago, Illinois. *Id.* at 72a. When the first NEC complaint was filed in St. Clair County on October 12, 2021, Mead Johnson had designated Illinois as its home base in nearly all public filings that asked for a principal place of business, and its own website identified Chicago, Illinois as its global headquarters. *Id.*

Even after the St. Clair County coordinated NEC litigation began in mid-October 2021, Mead Johnson filed sworn statements identifying Illinois as its principal place of business. Only later did Petitioners amend their filings to claim they left Illinois for Indiana in 2018.

That position was not maintained consistently. Elsewhere, Mead Johnson continued to represent—including to courts—that it was an Illinois corporation well beyond 2018. Mead Johnson's counsel in this case told other courts that Mead Johnson was an Illinois-based corporation on November 9, 2020, and again on August 16, 2021. *Id.* at 72a–73a. As recently as

September 22, 2021, Mead Johnson affirmatively *denied* it was based in Indiana. *Id.* at 73a. Mead Johnson has so consistently held itself out as being based in Illinois that in 2022, long after the coordinated NEC litigation began, officials in both the State of Illinois and the United States Congress understood Mead Johnson's principal place of business as being in Chicago, Illinois. Br. of Pls.-Appellees at 10, *Toles v. Mead Johnson & Co.,* 278 N.E.3d 298 (Ill. App. 2025) (No. 5-23-1205), https://perma.cc/85BA-VS5N.

Petitioners' Illinois operations extend far beyond key corporate decision makers. From research to product development, manufacturing to packaging and labeling, to sales and marketing, Petitioners' Illinois presence has been extensive, long-lasting, and ongoing.

Petitioners conduct key research in Illinois, including for their preterm products at issue in this litigation, and that research has supported Petitioners' marketing and FDA submissions. For example, Mead Johnson's study of premature infants fed breast milk with bovine-based fortifiers (the "Illinois Powdered Fortifier Study") and its study of the effects of DHA and ARA on growth and development (the "Illinois DHA and ARA Study") were conducted based on direction provided in and arising from Illinois—including direction concerning the risks of preterm products and how to record safety

events. Pet. App. 81a–82a. Both studies have been important in Mead Johnson's marketing of preterm formulas. Petitioners also collected data from infants fed its preterm fortifier product at hospitals in Illinois during its "Comparison of New Liquid Human Milk Fortifier (HMF) to a Commercially Marketed HMF Powder" (the "Illinois Liquid Fortifier Study"). *Id.* at 82a.

Mead Johnson relies on extensive Illinois research published in over 20 papers for regulatory and marketing claims about product safety, growth, and cognition. For example, Mead Johnson sent the Illinois DHA and ARA Study to the FDA for approval of those ingredients in preterm formula. *Id.* And it submitted data from the Illinois Liquid Fortifier Study in support of product safety. *Id.* The Illinois data was also the basis for public-facing safety claims. In 2012, Mead Johnson published the results of the Illinois Powdered Fortifier Study in Pediatrics to address a claim at the heart of this litigation, arguing the study "refute[d] the premise" that fortifier would "increase the incidence of sepsis and NEC." *Id.* at 86a. This Pediatrics article was so central to Mead Johnson's marketing that it mandated sales representatives leave one with all healthcare professionals. As recently as 2020, Mead Johnson was still using the Illinois study as the best source to answer "objection[s]" to using HMF in the Neonatal Intensive Care Unit ("NICU"). *Id.*

Mead Johnson has solicited input on NICU strategy via advisory boards held in Illinois, including its strategy on how, and whether, to present the risks of NEC to parents—and what benefits of Mead Johnson's products could be touted in its advertising to persuade parents and providers to overlook those risks. *Id.* at 83a, 86a–87a. One doctor noted at a 2018 advisory meeting in Illinois that educating parents or a family "that donor milk or breast milk reduces NEC" makes them and healthcare providers "afraid to then transition to a product." *Id.* at 86a–87a. That doctor then suggested that emphasizing "brain development" instead "may be sufficient enough to motivate people" to transition to a product. *Id.*

Mead Johnson developed preterm products at issue in the NEC litigation in Illinois, including product testing, production, and labeling. Over the last 15 years, Mead Johnson partnered with Catalent Pharma Solutions ("Catalent"), located in Woodstock, Illinois, and they together developed, tested, manufactured, packaged, and labeled its Liquid Human Milk Fortifier ("LHMF") product, one of the products at the center of Plaintiffs' claims. *Id.* at 83a, 87a–88a. Mead Johnson further marketed LHMF as a superior sterile product—based on Illinois-based Catalent's sterile packaging—to reassure customers concerned that human milk fortifiers cause NEC. *Id.*

Mead Johnson operates its extensive product sales and marketing teams from Illinois, including

teams responsible for preterm products at issue in these cases. For nearly 15 years prior to this litigation, sales representatives were directed by the Illinois-based Director of Medical Marketing and the Illinois-based Manager of Commercial Training. *Id.* at 78a. And Mead Johnson's sales representatives in Illinois and across the entire country are trained by the Illinois-based Manager of Commercial Training. *Id.* For much of the relevant timeframe, Mead Johnson directed its primary contracting strategy—providing loyal hospitals with discounted or even free preterm products—from Illinois. *Id.* at 78a–79a.

Mead Johnson also contracted with the Illinois-based American Association of Pediatrics to be the "exclusive sponsor" of its Pediatric Care Online resource, ensuring that healthcare practitioners across the country would receive "point of care" education from Mead Johnson, including lectures about NEC, and about how Mead Johnson's products can play a role in preterm infant nutrition. *Id.* at 77a–78a. For decades, Mead Johnson has run its medical sales from Illinois; it has also made sales calls and provided samples to over 100 hospitals in Illinois. *Id.* at 79a. Further, Mead Johnson not only has exclusive contracts with 45 Illinois hospitals and sells into another 34, but also has the exclusive contract for the Illinois Special Supplemental Nutrition Program for Women, Infants, and Children ("WIC") program. *Id.* at 77a, 79a–80a. Nearly half of all babies receive Mead

Johnson's products through the WIC program during their first year. *Id.* at 80a.

II. PROCEDURAL HISTORY

Petitioners filed motions to dismiss the claims of certain St. Clair County plaintiffs on January 18, 2022, based on a lack of personal jurisdiction. Mead Johnson also filed motions to dismiss similar claims of plaintiffs who elected to file in other counties across Illinois, including in Madison County, Illinois. In Madison County, the trial court found that Illinois courts may exercise personal jurisdiction over Mead Johnson. Mead Johnson failed to properly appeal that decision.[1]

The trial court in St. Clair County also denied Petitioners' motions to dismiss for lack of personal jurisdiction in a thorough written opinion. It held that Mead Johnson was subject to personal jurisdiction in Illinois because the court "has general personal jurisdiction over Mead Johnson" as well as "specific personal jurisdiction," and that "[e]ither of these grounds alone is sufficient." *Id.* at 67a. The trial court's decision rested on numerous findings of fact.

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[1] Mead Johnson repeatedly argues in its petition that Madison County is a hotbed for plaintiff suits and that the Madison County trial court improperly found personal jurisdiction over Mead Johnson. That self-serving and inaccurate characterization is a distraction. The Madison County decision has no bearing on Respondents' cases, or the propriety of the appellate decision Petitioners are asking this Court to review.

The court found that "Mead Johnson was headquartered in Illinois during the time of the conduct complained of." *Id.* at 69a. Even "though Mead Johnson has begun the process of moving or has moved its headquarters to Indiana, it continues to have operations in Illinois that are so substantial and of such a nature as to render the corporation at home in this state." *Id.* at 69a (alteration omitted) (internal quotation marks and citation omitted). The trial court further found that it had specific personal jurisdiction over Mead Johnson because "there is an ample link between the cases alleged by the Plaintiffs and the business activities of Mead Johnson in Illinois so that it is reasonable to find that jurisdiction exists in Illinois." *Id.* at 76a. The trial court found that Mead Johnson "generates substantial Illinois sales" and business, "Illinois was at the center of Mead Johnson's research and development efforts" on the "products at issue in these claims," and "Mead Johnson contracted to test, manufacture, and label key products at issue in this litigation in a factory in Illinois." *Id.* at 77a, 81a, 83a.

Mead Johnson filed an interlocutory appeal of the trial court's ruling to the Appellate Court of Illinois, Fifth District—the Illinois intermediate appellate court—as permitted under Illinois law. Ill. Sup. Ct. R. 306. The Fifth District accepted the appeal, automatically staying proceedings in the trial court. Ill. Sup. Ct. R. 306(c)(6). The appellate court affirmed the trial court's finding that it had both

general and specific jurisdiction over Mead Johnson. Pet. App. 13a, 23a, 48a. The appellate court found general jurisdiction over Mead Johnson because "its principal place of business was located in Illinois from May 2009 through the end of 2018" and that "even after Mead Johnson *claims* to have moved its principal place of business out of Illinois, it continued to have substantial and continuous contacts" in Illinois such as in-state employment of key decision makers involved in hospital marketing, sales, and training on Mead Johnson's preterm products. *Id.* at 12a–13a (emphasis added). It also affirmed that Illinois has specific jurisdiction over Mead Johnson, including because of Mead Johnson's active marketing and sales of its preterm products for use in Illinois continuously since 2000, Mead Johnson's contracting with Illinois hospitals "to provide its products, including formula, at discounted prices based on the hospitals' use of those products[,]" and Mead Johnson's contract with WIC. *Id.* at 17a–19a, 21a.

On January 15, 2026, Mead Johnson filed a petition for leave to appeal the Fifth District's decision to the Illinois Supreme Court. On March 25, 2026, the Illinois Supreme Court summarily denied Mead Johnson's petition. *Id.* at 94a. The cases were remanded to the trial court in St. Clair County on April 29, 2026, for further proceedings. All of Respondents' cases are ongoing; none have reached final judgment.

REASONS FOR DENYING THE PETITION

I. THIS COURT LACKS JURISDICTION TO REVIEW THE DECISION BELOW.

Petitioners baldly assert that this Court has jurisdiction to review the decision below. Pet. 1. Not so. This Court's statutory jurisdiction is limited to "[f]inal judgments or decrees" rendered by the highest court of a state. 28 U.S.C. § 1257(a). "To qualify as final, a state court judgment must be 'an effective determination of the litigation and not of merely interlocutory or intermediate steps therein.'" *Atl. Richfield Co. v. Christian*, 590 U.S. 1, 12 (2020) (quoting *Jefferson v. City of Tarrant*, 522 U.S. 75, 81 (1997)). This finality rule "is not one of those technicalities to be easily scorned. It is an important factor in the smooth working of our federal system." *Jefferson*, 522 U.S. at 81 (quoting *Radio Station WOW, Inc.*, 326 U.S. at 124).

The decision below is interlocutory, as Petitioners themselves admit. Pet. 31. When an Illinois trial court denies a motion to dismiss for lack of personal jurisdiction, the defendant may seek an "[i]nterlocutory [a]ppeal[] by [p]ermission" to the intermediate appellate court. Ill. Sup. Ct. R. 306(a)(3). The "interlocutory" nature of the appeal is not a mere state naming convention. The appeal is interlocutory in the federal sense. It is the same case taken from the trial court to the appellate court, not an independent, self-contained appellate proceeding, such as

mandamus. *See People ex rel. Pa. R. Co. v. Ill. Com. Comm'n*, 237 N.E.2d 514, 516 (Ill. 1968) (noting that even for *direct* appeals to the Supreme Court under Illinois Supreme Court Rule 302(a), "[a] review on appeal is a continuation of the original proceeding, whereas [m]andamus is a wholly new action" (citation omitted)); *see also* Ill. Sup. Ct. R. 301 ("An appeal is a continuation of the proceeding."); *cf. Atl. Richfield Co.*, 590 U.S. at 12. If the interlocutory appeal is accepted, the trial court proceedings for that case are automatically stayed. Ill. Sup. Ct. R. 306(c)(6).

The Fifth District's disposition of Petitioners' interlocutory appeal is not a final judgment or decree because it is nowhere near "an effective determination of the litigation." *Atl. Richfield Co.,* 590 U.S. at 12. There is no judgment on the merits, no determination of liability *vel non,* no judicial order with *res judicata* effect. The entire substantive litigation remains to be had, including additional fact and expert discovery, dispositive motion practice, and a trial by jury. These cases are being *actively* litigated in the trial court while the petition is on the docket here. That is the epitome of a non-final judgment this Court lacks jurisdiction to entertain.

Because Petitioners blithely ignore this Court's jurisdiction, they make no effort to argue that an atextual exception to 28 U.S.C. § 1257(a)'s finality rule applies. None does. In *Cox Broadcasting Corp.*, 420 U.S. 469, this Court acknowledged that it has

wielded judicial power over interlocutory state cases where: (1) the federal issue is "conclusive" of the ongoing state court proceedings, (2) the federal issue has been finally decided by the state's highest court, and will require decision regardless of the outcome of future state-court proceedings, (3) the federal issue has been finally decided by the state's highest court, but later review of the federal issue cannot be had, and (4) the federal issue has been finally decided by the state's highest court, there are further proceedings in which the party seeking review could prevail on non-federal grounds, and a reversal by this Court would preclude any further litigation, provided that a "refusal immediately to review the state court decision might seriously erode federal policy." *Id.* at 479–83. These exceptions are inapplicable. And Petitioners should not be permitted to argue otherwise for the first time in reply. *See* Sup. Ct. R. 14.4.

First, personal jurisdiction is not "conclusive" of the ongoing state court proceedings. Questions of personal jurisdiction dictate only where a dispute will be adjudicated, not the ultimate judgment. What's more, the intermediate Illinois appellate court addressed only some of the arguments Respondents raised to support personal jurisdiction. Entirely independent grounds for the interlocutory judgment remain. *See infra* pp. 20–21. A *partially* addressed federal issue cannot be "conclusive" when the

unaddressed component of federal law supports precisely the same judgment.

The second *Cox* exception does not apply because there is no assurance the interlocutory decision on personal jurisdiction will survive the state court proceedings. The trial court can always reverse its interlocutory order based on newly developed (or reconsidered) facts. *Commw. Edison Co. v. Ill. Com. Comm'n*, 858 N.E.2d 65, 77 (Ill. App. 2d Dist. 2006) (reversing a prior appellate jurisdictional order that was "tantamount" to a "denial of a motion to dismiss for lack of jurisdiction" because the "law of the case doctrine binds a court only where a court's prior order was final"); *see also Clemens v. Greenberg*, 224 N.E.3d 762, 769 (Ill. App. 1st Dist. 2022) (permitting a second motion to dismiss for lack of personal jurisdiction, even though the trial court previously denied a motion and the moving party failed to timely appeal, because the new motion "was based on changed circumstances" and "new facts"). For similar reasons, the third *Cox* exception does not apply. Nothing prevents Petitioners from raising their personal jurisdiction arguments after final judgment.

Finally, this is not a case in which "a refusal immediately to review the state court decision might seriously erode federal policy." *Cox*, 420 U.S. at 483. It is instead a highly fact-bound case about when Petitioners truly left Illinois, the extent of their past and ongoing contacts with the state, and whether

haling a pair of companies into Illinois court comports with basic notions of constitutional fairness. This is the sort of ordinary fight that transpires in most every personal-jurisdiction skirmish. If the fourth *Cox* exception applied here, it would apply to every personal-jurisdiction appeal. That, in turn, would confirm the error of crafting atextual exceptions to 28 U.S.C. § 1257(a) in the first place.

If the Court nonetheless elects to consider this appeal, Respondents will argue that *Cox* should be overruled and the appeal dismissed for want of subject-matter jurisdiction. There is no textual defense of *Cox* or any other decision of this Court that interprets "final judgments or decrees" to mean "interlocutory judgments or decrees where important stuff is at stake." *Cox* is egregiously wrong. And there are no legitimate reliance interests at stake that might cause the Court to nevertheless retain even a demonstrably erroneous precedent. Parties order their affairs based on substantive rules of decision. Nobody—in this appeal or any other—has engaged in a single act of prelitigation conduct premised on the highly remote possibility of obtaining discretionary review from this Court in an interlocutory posture as opposed to after the final disposition Congress insisted upon.

II. THE DECISION BELOW IS A POOR VEHICLE TO ADDRESS THE QUESTIONS PRESENTED.

A. The Appellate Court Did Not Address a Preserved, Entirely Independent Ground to Find General Jurisdiction.

The Fifth District's ruling was based on the extensive, case-specific factual record that Illinois has both general and specific personal jurisdiction over Petitioners based on their contacts with the state. Because those grounds were sufficient to resolve the interlocutory appeal, the appellate court never addressed whether Petitioners consented to general jurisdiction consistent with *Mallory*, 600 U.S. 122. That entirely independent ground for affirmance is an additional reason to deny discretionary review.

Illinois has general jurisdiction over Petitioners because Mead Johnson consented to such jurisdiction when it registered to do business in Illinois as a foreign corporation. Br. of Pls.-Appellees at 28–31, *Toles,* 278 N.E.3d 298 (No. 5-23-1205). Under *Mallory*, a corporate entity like Mead Johnson is subject to general jurisdiction in a state where it (1) registered to do business, and (2) by registering, consented to personal service upon the corporation in the state. 600 U.S. at 134 (citing *Pa. Fire Ins. Co. of Phila. v. Gold Issue Min. & Mill. Co.*, 243 U.S. 93, 94 (1917)). As Respondents argued below, "Mead Johnson has registered to do business in Illinois and

consented to personal service here, and in doing so has granted Illinois courts an adequate and independent basis to exercise general jurisdiction over it in this state." Br. of Pls.-Appellees at 29, *Toles*, 278 N.E.3d 298 (No. 5-23-1205).

Though the appellate court did not address this issue, this Court would need to in order to reverse. This Court reviews judgments, not opinions. *Jennings v. Stephens*, 574 U.S. 271, 277 (2015). Respondents preserved the *Mallory* argument below and fully intend to present it as an alternative ground for affirmance if this Court were to grant certiorari. The Court is not usually in the business of answering questions of constitutional law in an interlocutory posture. It certainly is not in the business of taking such cases when a fact-bound alternative ground for affirmance might obviate the need to answer Petitioners' questions presented in the first place.

B. The Appellate Court Found Both General and Specific Jurisdiction, Each of Which Is An Independently Sufficient Holding to Support the Decision Below.

While the decision from the Fifth District did not reach the separate, independent issue of Petitioners' consent to general jurisdiction, it did find that for most Respondents' claims, Illinois courts have *both* general and specific personal jurisdiction over Mead Johnson. That makes the questions presented

an all-or-nothing proposition. Neither (let alone both) is worthy of summary disposition or plenary review.

1. The lower court's ruling on general jurisdiction does not warrant summary disposition or plenary review.

Petitioners ask this Court to *summarily* dispose of this case because the Fifth District assessed general personal jurisdiction by considering the temporal gap between when Mead Johnson was *undisputedly* at home in Illinois and when these suits were filed. Pet. 20–22. Petitioners concede that this Court has never addressed that question, *id.* at 20, which should be the end of any request for summary treatment. It is not the practice of this Court to pronounce a new and consequential rule of law armed only with cert-stage briefing. *See Tolan v. Cotton*, 572 U.S. 650, 661 (2014) (Alito, J., concurring) (noting that granting a petition for writ of certiorari just to summarily vacate a lower court's judgment would "very substantially alter the Court's practice").

That would be true even for a new question of law. It is especially true for an old one, where state and federal courts have *routinely* and *uniformly* considered a defendant's contacts with the jurisdiction at the time the cause of action *accrued*, and through to the time the complaint is filed, to assess whether there is general personal jurisdiction. *See, e.g., Johnson v. Woodcock*, 444 F.3d 953, 955 (8th Cir. 2006) ("Minimum contacts must exist either at the

time the cause of action arose, the time the suit was filed, *or* within a reasonable period of time immediately prior to the filing of the lawsuit." (emphasis added) (citations omitted); *Harlow v. Child.'s Hosp.*, 432 F.3d 50, 64 (1st Cir. 2005) ("It is settled law that unrelated contacts which occurred after the cause of action arose, but before the suit was filed, may be considered for purposes of the general jurisdiction inquiry."); *Baton v. Ledger SAS*, 740 F. Supp. 3d 847, 892 (N.D. Cal. 2024) (citing cases that "look back to the defendant's prior residence in the forum state" and finding general personal jurisdiction over defendant that moved out of forum three years prior to commencement of suit); *Riemer v. KSL Recreation Corp.*, 807 N.E.2d 1004, 1012–13 (Ill. App. 1st Dist. 2004) (general jurisdiction analysis applies to "a continuous period of time" from "approximately when the claim arose . . . to when suit was filed"); *Metro. Life Ins. v. Robertson-Ceco Corp.*, 84 F.3d 560, 569 (2d Cir. 1996) ("contacts are commonly assessed over a period of years prior to the plaintiff's filing of the complaint").

4 *Wright & Miller's Federal Practice & Procedure* § 1067.5 (4th ed. Apr. 2026 update), upon which Petitioners rely, recognizes the approach adopted by the Illinois appellate court. It collates an unbroken line of precedent holding that a court should consider whether there are contacts sufficient for general jurisdiction *both* at the time the claim accrues

and a reasonable time before the accrual or filing of the claim:

> There are two related, but distinct timing questions that must be answered. First, it must be determined whether contacts sufficient for general jurisdiction must exist at the time the claim accrues, or at the time the lawsuit is filed. After answering that, the court must determine how far back from either the accrual or filing of the claim they will look; most courts use a "reasonable time" standard yielding timeframes of roughly three to seven years.

Id. (citations omitted).

Petitioners prefer a bright-line temporal rule that would determine the propriety of general personal jurisdiction based solely on when the plaintiff's lawsuit was filed, regardless of when the cause of action accrued. Never mind how Petitioners plan to divine this rule from the Fourteenth Amendment's textual guarantee of "due process of law," U.S. Const. amend. XIV, § 1; how such a rule is the only one compatible with basic notions of "fair play and substantial justice," *Int'l Shoe Co. v. Washington,* 326 U.S. 310, 316 (1945); or why assessing pre-suit contacts with a forum is *unquestionably* a constitutional method—indeed, it is the only

method—for specific personal jurisdiction. The salient point at the certiorari phase is that *no court* has ever embraced Petitioners' bright-line rule, which the petition begrudgingly concedes. Pet. 20.

The wealth of contrary authority approaching the question the way the Illinois appellate court did at a minimum indicates that Petitioners' rule is not ineluctably correct. Even if there were some concern that these courts were wrong (and they are not), the fact that so many have engaged in the same approach cautions strongly against a summary disposition. And it similarly explains why this Court almost always waits for a split in authority before addressing a question that has not spurred any disagreement in the lower courts. The Court should adhere to its ordinary practices.

None of the cases cited by Petitioners make this a cert-worthy case. *Perkins v. Benguet Consolidated Mining Co.* involved an appeal of an order sustaining two motions to quash. 342 U.S. 437, 439 (1952). Nothing in the opinion says or even intimates that courts may not consult a defendant's contacts with the forum at the time the cause of action accrued. That is precisely *why* other courts, without thumbing their noses at this Court's binding precedent, have uniformly approached the analysis the same way the Illinois appellate court did.

The remaining cases cited by Petitioners are not even about personal jurisdiction. They concern diversity and other heads of subject-matter jurisdiction. Though personal jurisdiction and subject-matter jurisdiction both involve the word "jurisdiction," it is ludicrous for Petitioners to claim that the rules applicable to them must be the same, let alone that this Court should summarily decree as much. Under extant precedent, personal jurisdiction applies in state court pursuant to the Fourteenth Amendment's guarantee of "due process," which was ratified by the People in 1868. Federal subject-matter jurisdiction restrictions do not apply to state courts *at all*. They flow from *federal* statutes governing the *federal* judiciary and Article III's vesting—in 1789—of *federal* judicial power over discrete, delimited categories of cases and controversies.[2]

The notion that a temporal rule, applied by federal courts to ensure that they stay within the limits of their statutory and constitutional *subject*-matter jurisdiction, can (much less should) be grafted onto the Fourteenth Amendment is nothing more than attorney *ipse dixit*. It finds no support in this Court's precedents. *See Grupo Dataflux v. Atlas Glob.*

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[2] It is true that Congress can elect to make federal jurisdiction exclusive, divesting state courts of their otherwise concurrent power. That occasional exercise of congressional authority does not change the fact that constitutional and statutory *limits* on "the judicial power of the United States" are no limits at all on the Illinois judiciary.

Grp., L.P., 541 U.S. 567, 570 (2004) (evaluating diversity jurisdiction); *Mollan v. Torrance*, 22 U.S. (9 Wheat.) 537, 539 (1824) (same); *Royal Canin U.S.A. v. Wullschleger*, 604 U.S. 22, 36 n.5 (2025) (discussing diversity jurisdiction); *Dole Food Co. v. Patrickson*, 538 U.S. 468, 478 (2003) (discussing diversity jurisdiction).

2. The lower court's ruling on specific jurisdiction does not warrant summary disposition or plenary review.

Summary treatment or full merits review is similarly unwarranted on specific jurisdiction. The Fifth District's specific jurisdiction ruling is based on a litany of detailed factual findings from the trial court about Petitioners' extensive contacts with Illinois. Petitioners' effort to paint the factual record as limited in scope to stream-of-commerce facts is farcical. The extensive factual findings from the trial court, which followed several months of jurisdictional discovery, included: facts about where Petitioners learned about the risks their products posed to Respondents (Illinois), where Petitioners made the decision not to warn Respondents of that risk (Illinois), and where Petitioners conducted key research on the safety of the products provided to these Respondents (also Illinois). Pet. App. 77a–88a. As the intermediate appellate court acknowledged, these factual findings cannot be disturbed unless they are against the manifest weight of the evidence. *Id.* at 7a (citing *1350 Lake Shore Assocs. v. Randall*, 928

N.E.2d 181, 186 (Ill. App. 1st Dist. 2010)); *see also W.R. Grace & Co. v. CSR Ltd.*, 666 N.E.2d 8, 10 (Ill. App. 3d Dist. 1996) ("On review, we will not disturb a trial court's findings concerning its exercise of personal jurisdiction unless they are against the manifest weight of the evidence.").

Petitioners try to ignore the extensive factual record supporting the lower court's ruling by inventing a convenient new rule of law: a state can never have specific jurisdiction over a foreign corporation where the plaintiff is an out-of-state resident and the injury occurred out of state. Pet. 22. This Court has never interpreted "due process of law" to embrace that rule. No other court has read the Fourteenth Amendment that way either.

To the contrary, this Court has recently reaffirmed that specific jurisdiction exists whenever (1) the defendant has taken "some act by which [it] purposefully avails itself of the privilege of conducting activities within" the state; (2) the claims "arise out of or relate to the defendant's contact" with the state; and (3) the exercise of jurisdiction is reasonable. *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358–59 (2021) (cleaned up). While that test will *often* ensure that in-state victims can sue where they were injured, that hardly suggests out-of-state victims cannot sue in the state where key acts of misconduct occurred. Pet. App. 15a–23a.

Any doubt on that score should produce a division in authority, creating the ordinary path to this Court's eventual review. But as Petitioners again concede, there is no split to resolve here. That leaves hand-waving: Petitioners are sure they will eventually prevail on the merits, make a very important set of products, and are laboring under the effects of a different personal-jurisdiction order from a different trial court that they failed to properly appeal. Pet. 2–5, 8. If those do not sound like the Rule 10 criteria for certiorari, it is because they are not.

III. THE APPELLATE COURT'S DECISION WAS CORRECT.

The Court should not summarily dispose of this case. But if it did so, it should summarily affirm.

A. The Lower Court's Ruling on General Jurisdiction Was Correct.

A corporation is unquestionably subject to general jurisdiction where it is incorporated or has its principal place of business. Those are the "paradigm all-purpose forums." *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014). They are not exclusive. *Id.* at 139 n.19. For instance, "in an exceptional case, a corporate defendant's operations in another forum may be so substantial and of such a nature as to render the corporation at home in that State." *BNSF Ry. Co. v. Tyrrell*, 581 U.S. 402, 413 (2017) (cleaned up). The flexible inquiry again reflects that general

jurisdictional principles flow from the Due Process Clause, which at bottom is concerned with basic notions of fair play and substantial justice. *Int'l Shoe Co.,* 326 U.S. at 316.

The Fifth District's opinion comports with these principles twice over. First, application of the temporal rule Petitioners abhor is entirely consistent with fair play and substantial justice. If a corporation is headquartered in a state when a cause of action *accrues*, it is constitutionally "fair" to conclude the state's courts have judicial power over those claims. Jurisdiction is about sovereign power, and causes of action accrue when alleged misconduct is complete.

The state of Illinois *unquestionably* had sovereign power to regulate Petitioners' actions—in whatever states they were pursued—when they engaged in the conduct that harmed Respondents. Petitioners were at home in Illinois, after all. Illinois wielded its sovereign power through its substantive rules of tort law. The fact that Mead Johnson claims to have left Illinois *after* it violated these substantive rules cannot deprive Illinois courts of the power to redress the already-completed violations. It certainly cannot do so based on abstract appeals to "fairness" that find no support in the Nation's history or traditions in 1868.

Second, and independently, the Fifth District correctly found that the evidence demonstrated that

Mead Johnson's operations in Illinois were "so substantial and of such a nature as to render the corporation at home" in Illinois during even the period when Mead Johnson "claims to have moved its principal place of business out of Illinois." Pet. App. 12a–13a. That evidence included: (1) Mead Johnson's own admissions that it was an Illinois company, including representations made "under penalties of perjury"; (2) Mead Johnson's continued and extensive use of its former Chicago headquarters; and (3) Mead Johnson's continued employment of key decision makers and teams in Illinois, including those involved with sales, marketing, and contracting across the United States. *Id.* at 10a, 12a–13a; *see* also *id.* at 68a–73a. Petitioners' assertion that "there is literally no support in the record for the Illinois appellate court's determination that Mead Johnson remained at home in Illinois after relocating to Indiana in 2018," Pet. 16, is literally false.

Petitioners' contention that the court did not properly conduct "an appraisal" of Mead Johnson's "activities in their entirety" is likewise misplaced. *Id.* at 15. The Fifth District considered Petitioners' activities both inside and outside of Illinois after Mead Johnson contended it moved its headquarters to Indiana. Pet. App. 8a–10a, 12a–13a. But when a corporation allegedly moved its headquarters out of the relevant jurisdiction is a question of fact that itself turns on subsidiary facts that the Fifth District addressed. *See, e.g.*, *Baton*, 740 F. Supp. 3d at 891–92

(evaluating corporate contacts with the relevant jurisdiction for several years prior to the filing of the complaint in evaluating general personal jurisdiction); *see also Forsburg v. Wells Fargo & Co.*, 596 F. Supp. 3d 572, 583–85 (W.D. Va. 2022) (in evaluating general personal jurisdiction, the court considered both the allegations in the complaint and the factual assertions in the light most favorable to the plaintiffs). In an appellate posture, those factual findings are entitled to substantial deference, and Petitioners have come nowhere close to meeting their burden to show clear and manifest error.

B. The Lower Court's Ruling on Specific Jurisdiction Was Correct.

The Fifth District also correctly found specific jurisdiction by applying this Court's settled precedent in *Ford Motor Co*. Pet. App. 19a–21a. Based again on an extensive factual record, the appellate court correctly concluded that Respondents' claims arose out of or related to conduct Mead Johnson performed in Illinois.

Petitioners' primary retort is that the decision flouts *Bristol-Myers*. But the facts say otherwise. There, plaintiffs filed suit in California against Bristol-Myers, alleging that its drug Plavix caused them harm. *Bristol-Myers Squibb Co. v. Super. Ct.*, 582 U.S. 255, 259 (2017). Bristol-Myers was incorporated in Delaware and headquartered in New York, and its substantial operations were limited to

New York and New Jersey. *Id.* at 258–59. It "did not develop Plavix in California, did not create a marketing strategy for Plavix in California, and did not manufacture, label, package, or work on the regulatory approval of the product in California." *Id.* at 259. Nor did it conduct research on Plavix in California. *Id.* at 265. On those uncontested facts, of course plaintiffs' claims did not arise out of or relate to Bristol-Myers' contacts in California.

The appellate court affirmed factual findings showing that *each* of those considerations cut the other way here: (1) Mead Johnson's headquarters were in Illinois when the claims accrued, and it had not fully transitioned to Indiana at the time these suits were filed; (2) Mead Johnson researched and ran trials on its preterm products in Illinois; (3) Mead Johnson actively marketed the preterm products that plaintiff infants ingested and trained its sales staff on executing its marketing strategy in Illinois; (4) Mead Johnson contracted for testing, manufacturing, packaging, and labeling its preterm products with a company in Illinois; and (5) Mead Johnson contracted with hospitals and WIC in Illinois to disseminate its preterm products to preterm infants in Illinois. *See supra* pp. 6–12.

Amending this Court's precedent, Mead Johnson contends that there can never be a sufficient connection between the case and a forum state where the plaintiff is a non-resident and the injury occurred

out of state. The Fifth District cannot be faulted for not applying that rule because it is not the law. To the contrary, this Court made clear that while the "essential foundation" of specific jurisdiction is "a strong 'relationship among the defendant, the forum, and the litigation[,]'" *Ford Motor Co.*, 592 U.S. at 365–66 (quoting *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 (1984)), a "strict causal relationship" between Mead Johnson's Illinois conduct and plaintiffs' claims is *not* required, *id.* at 362. Among the acts that courts may consider in determining a connection between the purposeful availment and the claims are "exploit[ing] a market in the forum State or entering a contractual relationship centered there." *Id.* at 359 (alteration in original) (cleaned up).

The Illinois appellate court followed this Court's precedent when it determined:

> [P]laintiffs asserted several claims related to the plaintiff infants' use of the defendants' allegedly defective cow's milk-based infant feeding products, which caused the infants to develop NEC. These are the very products that Mead Johnson confirmed it had actively marketed for NICU use in Illinois continuously since 2000, which is the year the first plaintiff infant was born. Accordingly, we conclude that the cause

> of action arose out of or is related to Mead Johnson's contacts with Illinois.

Pet. App. 21a.

The appellate court reviewed the extensive factual record and correctly applied settled precedent to both general and specific jurisdiction. Petitioners' cry of error is almost never a basis for discretionary review. But there is no error to correct in any event.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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