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 Illinois Appellate Court, Fifth District

REPLY BRIEF

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INTRODUCTION

Respondents' opposition confirms the need for this Court's immediate intervention. Rather than engage in a real defense of the Illinois court's indefensible jurisdictional holdings, Respondents deploy multiple distractions. But no number of fun-house mirrors can disguise the Illinois court's egregious errors or the need for this Court's immediate intervention. Due process and interstate federalism—to say nothing of vulnerable preterm infants—depend on it.

Respondents do not dispute that they engaged in blatant forum shopping by filing in Illinois counties known for being hostile to businesses, along with 97% of all plaintiffs nationwide—thousands in all—who assert similar claims about Petitioners' preterm formulas. Respondents do not live in Illinois, and their infants did not consume Petitioners' lifesaving products in Illinois, were not injured in Illinois, and did not receive medical treatment in Illinois. But the Illinois appellate court found specific jurisdiction over their claims because Petitioners placed their products into the stream of commerce in Illinois—even though that Illinois stream never intersected with any Respondent. And the court found general jurisdiction over different sets of Respondents for different reasons—an approach that misunderstands the nature of general jurisdiction—based on different theories that conflict with this Court's precedent. Finally, Respondents cannot obscure the catastrophic consequences that would befall our most vulnerable infants if Petitioners' products were driven from the market by forum-shopping tactics like these.

None of Respondents' distractions has merit or provides a reason to delay review of these important issues. This Court has repeatedly exercised jurisdiction under 28 U.S.C. § 1257(a) to review state-court decisions that finally resolve personal jurisdiction; it should do so here as well. Respondents' consent theory is foreclosed by state law. And the interlocutory posture is no obstacle to review. Absent this Court's intervention now, Petitioners have no realistic prospect of vindicating their due process rights through later review.

In light of the critical real-world stakes and the state court's egregious errors, this Court should grant the Petition for plenary review or summarily reverse.

I. This Is an Ideal Vehicle for This Court's Immediate Review of the Questions Presented.

Respondents raise numerous meritless threshold objections, hoping to distract from the state court's serious legal errors and from the danger this constellation of cases poses to vulnerable infants. But this Court has jurisdiction, no alternative theory of personal jurisdiction is available, and the interlocutory posture of the case is a feature, not a bug. Once clear of that clutter, it is apparent that this case is an ideal vehicle to address the questions presented.

A. This Court has appellate jurisdiction under 28 U.S.C. § 1257(a) because the appellate court's decision finally resolved whether the Illinois courts may exercise personal jurisdiction over Petitioners.

Section 1257(a) grants this Court jurisdiction to review "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be

had." Respondents argue that the final-judgment language precludes review of interlocutory state-court decisions because they are not "final." Opp.15-19. This Court has already rejected such a "mechanical" interpretation of § 1257(a) that would preclude review when "anything further remains to be determined by a State court." *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 477 (1975) (citation omitted). Instead, this Court has "recurringly" exercised jurisdiction where the state courts have "finally determined the federal issue present in a particular case," even when "there are further [state] proceedings." *Id.*

Notably, this Court has rejected Respondents' cramped view of § 1257 as applied to interlocutory review of personal-jurisdiction decisions specifically, repeatedly exercising jurisdiction over such decisions because they are "final within the meaning of [28 U.S.C.] § 1257"—including when "there has not yet been a trial on the merits"—because they are "plainly final on the federal issue." *Calder v. Jones*, 465 U.S. 783, 788 n.8 (1984) (alteration in original; citation omitted). The reason why is straightforward: holding that a state court lacks jurisdiction on due process grounds "would be preclusive of any further litigation," whereas "a refusal immediately to review the state court decision might seriously erode federal policy" by subjecting a defendant to unconstitutional state-court jurisdiction. *Cox*, 420 U.S. at 482-83. The Court has repeatedly reviewed personal-jurisdiction challenges in an interlocutory posture. *See, e.g.*, *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351 (2021) (reviewing denial of motion to dismiss); *BNSF Ry. Co. v. Tyrrell*, 581 U.S. 402 (2017) (same); *Bristol-Myers Squibb Co. v. Super. Ct.*, 582 U.S. 255 (2017)

("*BMS*") (reviewing denial of writ of mandate); *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915 (2011) (reviewing denial of motion to dismiss); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980) (reviewing denial of writ of prohibition).

This case comes to the Court in that familiar posture. Because the Illinois Supreme Court denied discretionary review, Pet.App.94a, the personal-jurisdiction issue "is not subject to further review in the state courts." *Calder*, 465 U.S. at 788 n.8 (citation omitted). Absent this Court's review, Petitioners will be forced to spend years litigating against Respondents—and thousands of similar plaintiffs and counting—in courts that Petitioners contend lack constitutional authority over them. Pet.8. Those proceedings would impose immense and irreparable costs on Petitioners and the courts, inflicting a due process injury that later review cannot remedy. Petitioners "might prevail on the merits on nonfederal grounds," *Cox*, 420 U.S. at 482, but only after years of costly litigation; more likely, the burdens of that litigation will force Petitioners to settle before judgment. Pet.31-32. Either way, the Illinois court's erroneous jurisdictional rulings would escape this Court's review, leaving these Petitioners (and any company that sells products nationwide) vulnerable to the Illinois courts' rogue view of their own authority.

Respondents protest that § 1257 should not give this Court jurisdiction over "every personal-jurisdiction appeal" that it views as cert-worthy. Opp.19. But this Court has repeatedly reviewed personal-jurisdiction questions before a final judgment on the merits. Continuing to view § 1257 as *authorizing* the Court to

exercise jurisdiction does not *require* it to do so in every case.

B. Employing another distraction tactic, Respondents argue that review is unwarranted because they might be able to establish personal jurisdiction under a consent-by-registration theory. *See* Opp.20-21 (citing *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122 (2023)). That theory is foreclosed by state law, which this Court would have no jurisdiction to review or overturn.

Respondents rely (without citation) on the Illinois statute that requires businesses to register and consent to service of process, arguing that Petitioners consented to general jurisdiction in Illinois. Opp.20-21. Respondents fail to mention that the Illinois Supreme Court has already construed the text of that statute *not* to provide jurisdiction by consent over foreign corporations. *Aspen Am. Ins. Co. v. Interstate Warehousing, Inc.*, 90 N.E.3d 440, 446-48 (Ill. 2017). That holding, which forecloses Respondents' consent theory, was based only on the Illinois Supreme Court's interpretation of the text of the state statute—not on federal law—and is therefore not subject to review or reversal by this Court.

To the extent Respondents suggest that this Court's decision in *Mallory* could overrule that statutory holding, they are mistaken. *Mallory* considered a Pennsylvania statute that expressly made registration to do business a basis for general jurisdiction. 600 U.S. at 134-35. No such statute existed in Illinois when Respondents sued in 2022 and 2023. *See Coudrain v. Walgreen Co.*, 2026 IL App (1st) 250614-U,

¶ 41 (citing *Aspen*, 90 N.E.3d at 447). As Respondents' counsel acknowledged when arguing *Mallory* in 2022, "[o]nly Pennsylvania ha[d] a statute like this[.]" Tr. of Oral Arg. 47:15-23. Although Illinois enacted a targeted consent-by-registration provision in 2025, Respondents do not invoke that statute, and for good reason. That provision applies only to "toxic substance" cases brought under an Illinois statute that has an express carve-out for items (like the products here) that are subject to the Federal Food, Drug, and Cosmetic Act. *See* 735 Ill. Comp. Stat. 5/2-209(b)(5) (as amended by Ill. Pub. Act No. 104-0352 § 5 (eff. Aug. 15, 2025)). Even on its own terms, Respondents' consent theory is inapplicable to petitioner Mead Johnson Nutrition Company, which has not had an active Illinois registration since February 2019, years before Respondents filed suit. Pet.App.9a.

C. Respondents' remaining threshold objections offer no reason to deny review.

First, Respondents complain that the Court would need to decide both specific and general jurisdiction to rule for Petitioners. Opp.21-22. Indeed—that is why the Petition includes two questions presented. But the need to decide both questions counsels in *favor* of granting the Petition because doing so would allow the Court to put an end to Illinois' specific and general disregard of due process.

Second, the interlocutory posture is a reason to grant the Petition, not deny it. "[T]wo sets of values" have guided this Court's personal-jurisdiction doctrine for nearly a century: "treating defendants fairly and protecting 'interstate federalism.'" *Ford Motor*, 592 U.S. at 360 (quoting *World-Wide Volkswagen*, 444

U.S. at 293). Declining to review personal-jurisdiction rulings in an interlocutory posture would seriously erode the first value and dramatically delay vindication of the second.

Respondents' insistence that the Court can review these issues after trial is self-serving and laughable. For one thing, if Petitioners win on the merits (as they should), there will be nothing for this Court to review and no remedy to Petitioners for the unlawful exercise of state authority. For another, Respondents know full well that the point of gathering thousands upon thousands of plaintiffs in a notoriously plaintiff-friendly jurisdiction is to exert crushing pressure on Petitioners to settle—which would insulate the jurisdictional rulings from review, allowing plaintiffs to continue to take advantage of Illinois' jurisdictional wild west. *See* U.S.Chamber.Am.Br.19-22. The time for this Court to act is now.

Third, in the same breath that they decry the interlocutory posture, Respondents bemoan the absence of a mature split. But the threshold nature of personal jurisdiction makes it difficult for defendants to obtain appellate review when state courts exceed their authority—because in most jurisdictions, defendants are not entitled to interlocutory review as of right. Regardless, the lack of a mature split simply shows that most jurisdictions follow this Court's guidance. Illinois is an outlier. Although this Court ordinarily does not exercise review to correct rogue courts, the consequences of not doing so here are catastrophic for businesses nationwide that will suffer the same treatment at the hands of plaintiffs' lawyers and Illinois courts, and for vulnerable babies.

Fourth, Respondents' suggestion that the questions presented are too "fact-bound," Opp.5, to merit this Court's review is baseless. Questions of personal jurisdiction always depend to some degree on the facts. Petitioners do not ask this Court to engage in its own fact-finding; Petitioners take the underlying facts that the Illinois appellate court relied on at face value and argue that they cannot support specific or general jurisdiction. That is a legal argument.

Finally, Respondents do not even try to contest that allowing these cases to collect in a jurisdictional neverland could inflict catastrophic harm on our most vulnerable infants. The American Academy of Pediatrics (AAP) and other neonatal health organizations filed an amicus brief in support of the Petition, explaining that leaving Illinois' rogue jurisdictional rulings in place "would invite forum shopping and allow plaintiffs to aggregate their claims in a favorable forum, imposing tort liability on a manufacturer of preterm-infant formula based on" a "theory [that] conflicts with current medical science." AAP.Am.Br.4. AAP further explained that these suits threaten to "jeopardize the availability of a product on which neonatal medicine depends." AAP.Am.Br.4. The real-world need for a jurisdictional course-correction is another reason to grant the Petition.

II. The State Court's Decision Is Wrong.

Respondents' tepid defense of the Illinois court's decision only underscores how much it conflicts with this Court's precedents. *See* Opp.29-35.

A. Respondents argue that general jurisdiction is a "flexible" inquiry that can be sustained when a company maintains an office in a State and employs a tiny

fraction of its overall workforce there. Opp.29-30. It is impossible to square that view with this Court's modern jurisprudence. The Court explained in *Daimler AG v. Bauman* that "only a limited set of affiliations with a forum will render a defendant amenable to all-purpose jurisdiction there"—specifically, its place of incorporation and principal place of business. 571 U.S. 117, 137 (2014). Under Respondents' view, a defendant can have multiple "principal" places of business simultaneously and can be subject to general jurisdiction in different States, depending on who the plaintiff is. Opp.29-32. Nothing in this Court's modern cases supports that view, which blurs the line between specific and general jurisdiction to the point of extinction.

Respondents largely rely on the trial court's recitation of facts to support their worldview, while ignoring distinctions between events that pre- or post-date Petitioners' move to Indiana. But it is the Illinois appellate court's decision that is at issue here, and that court did not rely on most of the purported facts that Respondents point to. As explained, *see* Pet.14, the appellate court relied upon the fact that Mead Johnson has an office and dozens of employees in Illinois to hold that it is "at home" there. Pet.App.12a-13a. If that were enough, most national businesses would be "at home" in nearly every State.

Although Respondents insist that Petitioners maintain their principal place of business in Illinois, Respondents' counsel recently took the opposite position elsewhere, conceding in a related case pending in Illinois state court that Mead Johnson no longer maintains its principal place of business in Illinois. Pls.' Pet. Leave Appeal at 17, *Watson v. Mead Johnson &*

Co., No. 133334 (Ill. Aug. 21, 2026). Mead Johnson's post-relocation contacts, at most, establish "a substantial, continuous, and systematic course of business," which might suffice for specific jurisdiction over an Illinois plaintiff or an Illinois injury, but which this Court has held is "unacceptably grasping" for general jurisdiction. *Daimler*, 571 U.S. at 138 (citations omitted).

Respondents also defend the state court's claim-specific approach—tying the forum for general jurisdiction to a particular claim's accrual date. Opp.30. That approach misunderstands the nature of general jurisdiction, which permits a company to "be sued on any and all claims" but only in a small number of States. *Daimler*, 571 U.S. at 137. It also does violence to this Court's instruction that a company's principal place of business must be "easily ascertainable" and should "ordinarily indicate[] only one place." *Id.* And it undermines basic notions of fair play by making it impossible for corporate defendants "to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." *Id.* at 139 (citation omitted).

Finally, Respondents' claim that a "wealth of . . . authority" supports the Illinois court's approach of tying general jurisdiction to the date of accrual rather than to the date of suit or service, Opp.25, is a fantasy. Most of the decisions Respondents rely on predate *Daimler*, cannot be reconciled with *Daimler*'s view of where a company is at home, and do not adhere to this Court's instructions about distinguishing between specific and general jurisdiction. Opp.21-24. It is true that some decisions discuss examining a defendant's forum contacts in the period between injury

and suit—but only to determine whether a defendant has sufficient contacts with the forum in the time leading up to suit. They do not stand for the proposition that a State can exercise general jurisdiction indefinitely while ignoring a business's conscious decision to terminate its at-home relationship with a State.*

B. Respondents' defense of specific jurisdiction fares no better. The state court found specific jurisdiction because Petitioners sold and marketed products in Illinois—to *other people*, not to Respondents. *See* Pet.App.18a-21a. Respondents and the Illinois court do not dispute that *none* of Respondents resides in Illinois, had contact with Petitioners' products in Illinois, or was injured in Illinois. Whatever merit a stream-of-commerce theory may have, under *Ford Motor* and *BMS*, it cannot support specific jurisdiction for out-of-state plaintiffs with out-of-state injuries.

That Petitioners, like the defendant in *Ford Motor*, serve the Illinois market with their preterm formula,

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* The manifest weight of lower-court cases looks to the time of filing and a reasonable period leading up to that—not the time of accrual. *See, e.g.*, *Harlow v. Children's Hosp.*, 432 F.3d 50, 64 (1st Cir. 2005); *Klinghoffer v. S.N.C. Achille Lauro*, 937 F.2d 44, 52 (2d Cir. 1991); *Asarco, Inc. v. Glenara, Ltd.*, 912 F.2d 784, 787 n.1 (5th Cir. 1990); *Wells Fargo & Co. v. Wells Fargo Exp. Co.*, 556 F.2d 406, 422 (9th Cir. 1977); *Owners Ins. Co. v. Hanifan*, 739 F. Supp. 3d 313, 320 (W.D.N.C. 2024); *Caston v. F. Hoffmann-La Roche, Inc.*, 729 F. Supp. 3d 930, 949-50 (N.D. Cal. 2024), *aff'd on these grounds, vacated on others*, 2025 WL 3205856 (9th Cir. Nov. 17, 2025); *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 169-70 (Tex. 2007); *Hardell v. Vanzyl*, 322 Cal. Rptr. 3d 228, 238 (Cal. Ct. App. 2024).

Opp.11, is irrelevant here. When a company markets or sells a product in a State, it "has 'clear notice' that it will be subject to jurisdiction in the State's courts when the product malfunctions *there*." *Ford Motor*, 592 U.S. at 368 (emphasis added; citation omitted). A court's exercise of jurisdiction in such circumstances is "reasonable" precisely because it is "predictable" that a defendant may be subject to suit when it chooses to serve a particular market and a plaintiff is injured by the product in that market. *Id.* That element is lacking here.

As in *BMS*, Respondents are "engaged in forum-shopping—suing in [Illinois] because it [i]s thought plaintiff-friendly, even though their cases ha[ve] no tie to the State." *Ford Motor*, 592 U.S. at 369-70.

CONCLUSION

For the reasons set forth above and in the Petition for a Writ of Certiorari, the Court should grant the Petition for plenary review or summarily reverse the state court's determination that Petitioners are subject to general and specific personal jurisdiction for out-of-state plaintiffs' claims.

Respectfully submitted,

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