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Personal Jurisdiction, Very Specifically

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CIVIL PROCEDURE

Personal Jurisdiction, Very Specifically

CASE AT A GLANCE

This appeal consolidated from the Montana and Minnesota Supreme Courts addresses the question of whether a state court—consistent with the Due Process Clause of the Constitution and federalism principles—may assert personal jurisdiction over a corporate defendant that regularly markets and sells products in the state, but when the plaintiff’s claims are only remotely connected to the defendant’s out-of-state conduct.

Ford Motor Company v. Montana Eighth Judicial District Court
Docket No. 19-368

Ford Motor Company v. Bandemer
Docket No. 19-369

Argument Date: **October 7, 2020** From: **The Supreme Courts of Montana and Minnesota**

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Issue

May a state court assert personal jurisdiction over a corporate defendant when the plaintiff’s claims do not specifically arise out of or relate to the defendant’s conduct or activities within the state, but rather are only remotely connected to the defendant’s out-of-state conduct?

Facts

Ford Motor Company’s appeal to the Supreme Court arises out of separate decisions from the Montana and Minnesota Supreme Courts that upheld the validity of the states’ assertion of personal jurisdiction over Ford in underlying tort accident litigation. In each case, Ford challenged the constitutional authority of the state court to assert personal jurisdiction, arguing that the plaintiffs’ claims did not directly arise out of or relate to Ford’s conduct or activities in the state. Because the two state supreme courts decided these challenges based on similar doctrinal analyses of personal jurisdiction principles, the U.S. Supreme Court consolidated the cases on appeal.

The Montana litigation alleged tort claims stemming from the death of Markkaya Gullett while driving a 1996 Ford Explorer that Gullett owned. Ford manufactured the Explorer in Kentucky and sold the vehicle to an independent dealership in Washington state. The dealership then sold it to an Oregon consumer. Over ensuing years, the vehicle was bought and sold several times, and eventually it wound up in Montana. Neither Ford nor the Washington dealership were involved in the transactions for reselling the vehicle. Ford advertises, sells, and services vehicles in Montana.

While Gullett was driving on a Montana highway in 2015, a tire tread separated. Gullett lost control of the vehicle, which rolled into a ditch, and she died. Charles Lucero, the personal representative of Gullett’s estate, sued Ford in state court alleging claims for design defect, failure to warn, and negligence. The lawsuit sought compensatory and punitive damages.

Ford moved to dismiss the case for a lack of personal jurisdiction contending that due process prohibited

the state court from exercising specific jurisdiction because Ford had not done anything in Montana that gave rise to those claims. The plaintiff conceded that Ford was not subject to general personal jurisdiction in Montana, although the Court determined that Ford had purposefully availed itself of the privilege of conducting activities in Montana, thereby invoking Montana laws. Based on a theory of specific jurisdiction, however, the trial court denied Ford's motion. The Montana Supreme Court affirmed.

The court first concluded that the state's long-arm statute permitted the exercise of personal jurisdiction. The court analyzed whether the assertion of personal jurisdiction comported with the Fourteenth Amendment Due Process Clause, based on a three-part test: (1) whether the nonresident defendant purposefully availed itself of the privilege of conducting activities in Montana, thereby invoking Montana's laws, (2) whether the plaintiff's claims arose out of or related to the defendant's forum-related activities, and (3) whether the state's exercise of personal jurisdiction was reasonable.

The court concluded that Ford satisfied the first "purposeful availment" test because it delivered vehicles and car parts into the stream of commerce with the expectation that Montana consumers would purchase them. Ford also was registered to do business, had subsidiaries in Montana, and had contracts with 36 independent Montana dealerships. In addition, Ford's "extensive" Montana contacts rendered the state's exercise of personal jurisdiction reasonable.

Focusing on the second requirement, the court held that there was a sufficient link between Gullett's Montana injury and the litigation to support an assertion of specific personal jurisdiction. The court concluded that the plaintiff's claims *related to* Ford's Montana activities. The court acknowledged that Ford's forum-related activities did not directly result in Gullett's accident and death. Instead, the court determined that Ford's out-of-state activities linked Gullett's use of the Explorer to her injury: "Gullett's use of the Explorer in Montana [was] tied to [Ford's] activities, which show 'a willingness to sell and serve Montana customers like Gullett.'" The court concluded that due process does not require that a plaintiff demonstrate a direct connection between the plaintiff's injury and the defendant's conduct. A plaintiff need to show only that the connection is "sufficient enough not to offend due process."

The court chose a flexible, expansive standard to define what constituted a "sufficient" connection to support an assertion of specific jurisdiction. The court held that a plaintiff's claims relate to a defendant's forum-related activities if a nexus exists between the product and the defendant's in-state activity, and if the defendant could reasonably foresee that its product would be used in Montana. In articulating an expansive test for specific personal jurisdiction, the Montana Supreme Court noted that a more stringent test "would unduly restrict courts of this state from exercising specific personal jurisdiction."

Applying this standard, the court concluded that there was a sufficient nexus between Ford's in-state activities and Gullett's use of the vehicle, based on the facts that Ford advertised, sold, and serviced other vehicles in Montana. Ford's in-state activities thus made it convenient for Montana residents to drive Ford vehicles. Moreover, Ford could reasonably have foreseen that the Explorer—a product specifically built to travel—would be used in Montana.

Finally, the court held that Montana's jurisdiction over Ford was reasonable because the company's "interjections into Montana" were extensive. Montana had a strong interest in adjudicating the lawsuit because the accident involved a Montana resident on a Montana roadway. The case could be efficiently resolved in Montana, the place of the accident. Additionally, Ford did not contend that it would be burdened by having to defend in Montana.

The second Ford litigation concerned a 2015 accident. Adam Bandemer, a passenger in a 1994 Ford Crown Victoria, suffered a brain injury when the driver rear-ended a county snowplow on a Minnesota road. The car wound up in a ditch, and the air bags failed to deploy. Bandemer sued the vehicle owner as well as Ford. He asserted claims of products liability, negligence, and breach of warranty against Ford.

Ford designed the Crown Victoria in Michigan; assembled it in Ontario, Canada; and originally sold it to an independent Ford dealership in Bismarck, North Dakota. The vehicle was bought and resold several times between 1993 and 2013. In 2013, the vehicle's fifth owner registered the Crown Victoria in Minnesota. Ford had no involvement with the multiple resales of the vehicle.

Ford moved to dismiss for lack of personal jurisdiction in Minnesota. The parties stipulated that Ford was not "at home" in Minnesota and therefore the theory of general jurisdiction did not apply. The trial court denied Ford's

motion, concluding that Ford consented to the jurisdiction by registering to do business in Minnesota.

On appeal to the Minnesota Court of Appeals, Ford contended that the plaintiff's injury was not linked to any of Ford's Minnesota conduct. Nonetheless, the appellate court affirmed based on specific jurisdiction grounds. The court held that Ford's Minnesota activities were sufficiently linked to Bandemer's injury because Ford engaged in marketing in the state. Although Ford's marketing did not specifically promote the Crown Victoria, it was "sufficiently related to the cause of action" to support specific jurisdiction.

The Minnesota Supreme Court affirmed the assertion of specific personal jurisdiction in a 5–2 split decision. The court reviewed Ford's contacts with Minnesota to assess the "relationship among the defendant, the forum, and the litigation," applying the U.S. Supreme Court's standard in *Walden v. Fiore*, 571 U.S. 277 (2014). The majority held that Ford had purposefully availed itself of Minnesota by collecting data on vehicle performance, used the data to improve performance and train mechanics, and sold more than 2,000 Crown Victorias in state. Ford conducted direct mail advertising and directed marketing in Minnesota. Between 2013 and 2015, Ford sold over 200,000 vehicles of all kinds through independent Minnesota dealerships.

Regarding the standard for assertion of specific personal jurisdiction, the majority held that a causal link was not required between the defendant's conduct with the state and the plaintiff's claims. Due process was satisfied so long as Ford's contacts *related* to the claim. However, the court did not define what kind of relationship satisfied this test. The court opined that the doctrinal use of the term "related to" was expansive enough to embrace noncausal connections.

The court held that Ford's contacts satisfied the requirement for specific jurisdiction, even though the contacts that caused the claim—such as designing, manufacturing, warranting, or warning about the Crown Victoria—occurred outside Minnesota. Ford had contacts that related to Bandemer's claims, which included data collection, marketing, and sales. In addition, the accident occurred in Minnesota. Taken together, these contacts created a "substantial connection between the defendant Ford, the forum Minnesota, and the claims brought by Bandemer."

The court further held that Minnesota's exercise of specific jurisdiction was constitutionally reasonable because

Minnesota had a strong interest in adjudicating a lawsuit about an accident on a Minnesota road that involved a Minnesota resident and Ford, a corporation that conducted regular business in the state.

Two justices dissented, arguing that the majority's holding was inconsistent with controlling U.S. Supreme Court personal jurisdiction jurisprudence. The dissenters noted that recent Supreme Court decisions addressing specific jurisdiction required a connection between the forum and the specific claims. Reviewing the facts cited by the majority to support a finding of a causal connection, the dissenters thought this record was entirely insufficient to permit Minnesota to assert personal jurisdiction on these facts. The dissenters objected to Ford being hauled into court simply because an accident occurred on Minnesota roads that involved a vehicle Ford designed and manufactured elsewhere.

Case Analysis

With the *Ford* appeal, the Supreme Court returns to one of its favorite subjects: personal jurisdiction. Personal jurisdiction concerns the authority of a state to assert its power over the parties to a dispute and to render a valid, binding, and enforceable judgement in litigation. Since the late nineteenth century, the Court repeatedly has revisited the problem of state authority over parties involved in litigation, articulating a canonical series of decisions well-known to all law students and practicing lawyers.

In the late 19th century, the Court's personal jurisdiction jurisprudence was grounded in theories of state sovereignty. However, beginning with the 1945 landmark decision in *International Shoe Co. v. Washington*, the Supreme Court pivoted to base the legitimacy of state assertions of personal jurisdiction in the Fourteenth Amendment Due Process Clause. 326 U.S. 310 (1945). The Fourteenth Amendment provides that no state may "deprive any person of life, liberty, or property, without due process of law." Almost all the Court's modern personal jurisdiction jurisprudence has consisted of elaborate, detailed refinements of the due process requirements for state assertions of personal jurisdiction.

In the 1960s, states enacted so-called long-arm statutes that set forth the activities and claims that subjected a defendant to jurisdiction. After the introduction of long-arm statutes, courts now assess the exercise of jurisdiction through a two-step analysis. First, courts determine whether a defendant's conduct comes within the state's long-arm statute. If so, courts then ask whether

the exercise of personal jurisdiction over a defendant is reasonable and comports with constitutional due process. Both Montana and Minnesota in the underlying cases utilized this two-step analysis. The *Ford* appeal focuses on the latter constitutional due process inquiry.

For the greater part of the past 75 years, the personal jurisdiction inquiry has chiefly focused on the fairness of state exercises of personal jurisdiction over nonresident defendants. The Court has articulated several tests for assessing fairness, which largely (although not exclusively) center on the defendant's contacts with and conduct in the forum state. The Court's continued focus on the defendant reflects that the principle function of personal jurisdiction is to protect a defendant's liberty, accounting for the burden and inconvenience of requiring a defendant to appear in a distant forum. In addition, the Court has indicated several times that a plaintiff's contacts with a state have little bearing on the personal jurisdiction inquiry; however, some courts do assess a state's interest in adjudicating a dispute, particularly to protect state residents from harm.

The *Ford* appeal entails a granular issue concerning the standard for exercise of a particular theory of personal jurisdiction; namely, specific jurisdiction. In *International Shoe*, the Court suggested that personal jurisdiction embraced two concepts: general and specific jurisdiction. According to the theory of general jurisdiction, a court can assert personal jurisdiction over a nonresident defendant if a defendant purposefully avails itself of the benefits and privileges of a state, if a defendant conducts systematic and continuous business of a substantial nature, and if those activities give rise to the liabilities on which the plaintiff sues. Recently, the Court has indicated that the test for the exercise of general jurisdiction asks whether the defendant is "at home" in the state. This theory of general jurisdiction is not before the Court in the *Ford* appeal, because the parties in the underlying litigations conceded that general jurisdiction was not an issue.

In contrast, a court may assert *specific* jurisdiction in absence of a defendant's systematic and continuous presence within a state, if the plaintiff's claims *arise out of or relate to* the defendant's presence in the state. In 2017, the Court defined specific jurisdiction: "[I]n order for a state court to exercise specific jurisdiction, 'the suit' must 'arise out of or relate to the defendant's contacts with the forum.'" *Bristol-Myers Squibb v. Superior Court*, 137 S. Ct. 1773 (2017).

State and federal courts have used different linguistic formulations to define specific jurisdiction, such as "arising out of," "related to," or "substantially related to" among other variants. Although most of the Court's personal jurisdiction decisions have applied a theory of specific jurisdiction, the Court has been slow—or ambiguous—in clarifying the exact contours of specific jurisdiction. In particular, the Court has neglected to indicate the degree of causal connection between a defendant's presence and the plaintiff's alleged harm that is necessary to support a legitimate exercise of personal jurisdiction pursuant to the "arising out of" or "related to" standard. The Court will address this granular issue of specific jurisdiction in *Ford's* appeal.

On appeal, *Ford* argues that the Court has made clear that a corporate defendant's general contacts with a state do not support an assertion of specific jurisdiction for claims that are unrelated to those connections. The defendant itself must establish contacts and purposefully avail itself of the forum, and the plaintiff's lawsuit must arise out of or relate to those activities. The defendant must engage in *suit-related* conduct. A state court may not exercise specific jurisdiction over a defendant regarding a product sold outside the forum, simply because the defendant also sells the same type of product within the state or has extensive general business connections with the state. This is so even if the product causes injury after a plaintiff or third-party unilaterally brings the product into the forum state.

Thus, *Ford* argues that the Court has not accepted the proposition that when a claim arises out of a defendant's business activities outside the state, these outside activities can supply the necessary connection to support jurisdiction merely because the defendant engages in the same business in state. *Ford* notes that in every case after *International Shoe*, the Court determined the legitimacy of specific jurisdiction based on the presence or absence of a causal link between the defendant's forum state conduct and the plaintiff's claim.

Ford points out the expansive "bare relatedness" test applied by the Montana and Minnesota courts erodes the distinction between general and specific jurisdiction and effectively turns specific jurisdiction into all-purpose general jurisdiction. *Ford* contends that the Court has rejected any formulation of specific jurisdiction that relies on a defendant's unconnected forum contacts, which the Court has deemed an impermissible "loose and spurious forum of general jurisdiction." Thus, the approach taken by the Montana and Minnesota Supreme Courts

improperly blended general and specific jurisdiction.

Ford further contends that the fact that the plaintiffs in both cases were injured in their respective states does not provide the necessary nexus to support an assertion of specific jurisdiction, even though the states might have an interest in the underlying controversy or be the most convenient forum for resolution of the litigation. Ford points out that the Court has always focused on the defendant's contacts and activities with the state, and not on the plaintiff's contacts. Thus, the Court has not endorsed the proposition that a plaintiff or third-party's unilateral acts support the exercise of specific jurisdiction; the principal purpose of the Court's rules relating to personal jurisdiction are to protect defendants, and not plaintiffs.

Finally, Ford asserts a broader argument based in federalism principles. Ford notes that personal jurisdiction jurisprudence has long been undergirded with federalism principles that animate the due process limitations on personal jurisdiction. In this view, principles of federalism require respect for the territorial limitations on the power of states to hale nonresident defendants into state court to answer for harms unconnected to the plaintiff's claims.

Applying a causal test to the underlying litigations, Ford asserts that the Montana and Minnesota Supreme Courts erroneously misapplied prevailing personal jurisdiction jurisprudence. None of Ford's conduct in those states caused the plaintiffs' claims. Although Ford conducted wide-ranging activities within these states, a corporation's general business conduct is not a basis for the assertion of specific jurisdiction—as the lower courts held. In the underlying cases, Ford designed, manufactured, and sold the vehicles outside Montana and Minnesota. The vehicles were sold and resold in a number of other states to a series of different owners, eventually winding up in Montana and Minnesota.

Ford contends that it is not subject to the specific jurisdiction of those courts based on its in-state activities the courts cited, such as marketing, advertising, data collection, servicing, or sale of other vehicles. Ford's contacts with the forum states did not give rise to or relate to the plaintiff's claims. The states could not assert personal jurisdiction merely by being the center of gravity of the litigation or the most convenient forum for the litigation.

Ford warns that the approach taken by the Montana and Minnesota Supreme Courts is unsound, administratively

problematic, and unpredictable. It allows a state court, based on fortuitous circumstances, to impose jurisdiction due to a combination of a defendant's contacts with the forum state, out-of-state activities giving rise to the plaintiff's claims, and the plaintiff's activities within the state. Contrary to prevailing jurisprudence, this blended approach fails to give sufficient weight to the defendant's interests. The requirement that a plaintiff's claim arise out of or relate to a defendant's contacts with the forum acts as a check on the scope of specific jurisdiction; to adopt the expansive views of the Montana and Minnesota courts would dilute that check and leave defendants vulnerable to no limiting principle on the exercise of specific jurisdiction.

Ford urges the Court to clarify the necessary degree of causal connection required for a state court to assert specific jurisdiction. Ford proposes that in order for a plaintiff to invoke the specific jurisdiction of a state court, the plaintiff needs to identify a discrete act of the defendant in or directed at the forum state that proximately caused the plaintiff's injury. Ford notes that a majority of federal appellate courts and state courts have applied a causal rule for years, without issue.

The Solicitor General, on behalf of the United States and in support of Ford, agrees that the Court's long-standing specific jurisdiction jurisprudence does not support the assertion of jurisdiction in these cases. However, the Solicitor General nonetheless asks the Court not to adopt Ford's proposed proximate cause test for specific jurisdiction. The government argues that Ford's proposed inflexible test lacks a sound basis in the Court's jurisprudence and would unduly complicate courts' administration of the doctrine of specific jurisdiction. Instead, the Solicitor General suggests that the Court hold that a state court may exercise specific jurisdiction if a manufacturer's ties to the forum give rise, at least in part, to the plaintiff's claims.

The Solicitor General further notes that the Court recently has stressed that jurisdictional rules should be simple. "Simple rules enable judges and parties to concentrate on the merits rather than on preliminary matters; help businesses predict the jurisdictional consequences of their activities; help plaintiffs decide where they can sue; and reduce the likelihood of gamesmanship, appeals and reversal." U.S. Brief at 21, citing *Hertz Corp. v. Friend*, 559 U.S. 77 (2010).

In response, the respondents urge the Court to uphold the decisions of the Montana and Minnesota Supreme

Courts, arguing that those courts correctly interpreted and applied existing U.S. Supreme Court jurisprudence concerning state assertions of personal jurisdiction. The respondents note that the Supreme Court has long upheld the fundamental principle that if a defendant purposefully avails itself of the privileges of conducting business within a state, it is not unfair to hold that defendant accountable for harms to state citizens.

The respondents contend that for 75 years the Court has clearly indicated that if a company deliberately cultivates a market for a product in a state and that product causes injury in the state, the relationship between the defendant's in-state activities and the plaintiff's harm is sufficient to support an exercise of specific jurisdiction. This is true regardless of where the particular product that is the basis of the lawsuit was first sold. This standard of relatedness satisfies the principles of fair warning to the defendant and reciprocal obligation among the parties.

The respondents argue that the Court has long recognized that corporate defendants that design, manufacture, or produce products out of state can be answerable in a foreign forum if the defendant places its product in the stream of commerce and that product causes harm in that forum. Thus, the place of harm to plaintiffs has long been a fundamental consideration in evaluating the fairness of the exercise of a state's jurisdictional authority. Where a manufacturer sells its products in a state "not simply [as] an isolated occurrence" but as an effort to cultivate a "market for its product," "it is not unreasonable to subject it to suit," in the state "if its allegedly defective merchandise has been the source of injury to its owner or to others." Respondents' Brief at 13, citing *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980).

The respondents assert that Ford ignores seven decades of precedent and would craft a new proximate cause requirement derived from tort law that has no basis in the Constitution or the Court's cases. The respondents suggest that Ford disregards the disjunctive formulation of the specific jurisdiction standard, which posits that a plaintiff's claims may "arise out of or relate to" the defendant's conduct. In the respondents' view, Ford's approach jettisons half of the Court's formulation and deliberately overlooks the "related to" language of specific jurisdiction.

Under the "related to" standard, Ford's activities in Montana and Minnesota were sufficiently connected with the plaintiffs' claims to support the exercise of specific jurisdiction.

Moreover, the respondents argue that Ford's proposed proximate cause rule is unworkable, noting that the concept of proximate cause is "notoriously hard to pin down, even in the tort context." Respondents' Brief at 11. Such a rule would undermine the goal of predictability and would require that plaintiffs track down the first sale of a product involved in a lawsuit. Such preliminary litigation would be wasteful and irrelevant to the ultimate merits of the litigation. In addition, Ford's proposed proximate cause rule would undermine fairness by denying plaintiffs access to the courts in the place where they are injured, without any countervailing benefit to defendants.

More broadly, the respondents exhort the Court to consider the federalism interests that consistently have undergirded the Court's personal jurisdiction jurisprudence. Respondents urge that Ford's causal rule would undermine principles of federalism by denying jurisdiction to the states that have the most interest in the litigation; namely, the state where the injury occurred. According to the respondents, Ford has not identified any state that has a greater interest than where the plaintiff was injured and has not identified how, in exercising jurisdiction, forum states overreach their valid regulatory powers. At any rate, regardless of whether Ford's causal connection rule applied to determine jurisdiction, Ford's liability for the accident would be governed by the substantive law of the place of the injury.

Finally, the respondents contend that Ford's policy concerns are meritless because existing doctrine protects defendants from aggressive overreaching by state courts. The Court's jurisdictional precedents provide fair warning to defendants as to where they might be sued, adhere to territorial limitations, and uphold the long-standing distinctions between general and specific jurisdiction. Respondents conclude by suggesting that Ford's policy concerns "are better addressed through the democratic process than by revision of the Due Process Clause."

Significance

The *Ford* appeal highlights a gap in the Court's evolving doctrinal embrace of the concept of specific jurisdiction. Although the Court has long recognized the concept of specific jurisdiction and upheld its exercise in numerous cases, the Court has been less than pellucidly clear concerning the degree of connectedness required for a state legitimately to assert specific personal jurisdiction. Instead, the Court has simply repeated the bromides that

assertions of jurisdiction are cognizable if the plaintiff's claims arise out of or are related to the defendant's conduct or activities within the forum state. Apart from the repetition of these broad phrases, the Court has not distinctly defined the necessary nexus between a defendant's out-of-state conduct and a forum plaintiff's claims that would support jurisdiction.

This appeal affords the Court the opportunity to clarify the quality and nature of the necessary nexus between a non-resident defendant's activities and the plaintiff's claims for a legitimate assertion of specific jurisdiction. The *Ford* appeal provides a compelling factual basis to clarify such a test, given the attenuated connections between Ford's out-of-state conduct with the eventual plaintiff's claims. In addressing this issue, the Court most likely will grapple with the precise formulation of the test for connectedness, with Ford urging one formulation, the U.S. government advocating another, more lenient construction, and the respondents arguing in favor of retention of the *status quo*.

Moreover, as a doctrinal matter, the Court may address the contention over whether the tests approved and applied by the Montana and Minnesota Supreme Courts effectively conflated general and specific jurisdiction, exposing nonresident defendants to a foreign state's jurisdiction based on random, fortuitous circumstances—or not. In addition, the Court may broadly comment on the territorial, federalism issues implicated by a state's assertion of personal jurisdiction and whether the Montana and Minnesota Supreme Court decisions were prohibited exercises of territorial overreach. Finally, the Court may address whether the Montana and Minnesota broadly construed specific jurisdiction tests comport with the Court's prior discussions of due process.

The implications of the expansive causal rules adopted in Montana and Minnesota have provoked a predictable array of interested amici on both sides of the appeal. Hence, the usual collection of corporate and business entities have aligned in interest with Ford. These amici point out the deleterious consequences for the business community of a barebones connectedness standard for the assertion of personal jurisdiction; according to amici, such a standard would subject corporate defendants to litigation in distant forums based on fortuitous circumstances beyond their control.

On the contrary, 39 states and the District of Columbia, numerous law professors, public interest groups, and the

National Homebuilders Association have filed as amici, urging the Court to affirm the state courts' decisions. These amici collectively advocate that the Court protect future consumers from the harmful conduct of bad actor defendants—particularly in defective products cases—by keeping the courthouse doors open. In their view, Ford's proposal for a more stringent articulation of a specific jurisdiction statute is inconsistent with 75 years of personal jurisdiction jurisprudence and will enable defendants to escape answering for the harms they commit to state residents. The amici reiterate that the Court consistently has maintained that state courts may exercise jurisdiction over nonresident defendants for their activities elsewhere, where that conduct has consequences to state residents.

Given the broad policy issues embedded in this dispute over the scope of specific jurisdiction, it is possible that the Court may divide along ideological lines. Thus, the Court's conservative, pro-business cohort may agree with Ford based on due process and state sovereignty concerns, while the Court's liberal cohort may argue in favor of an expansive, liberal test for assertions of specific jurisdiction based on fairness to victims and access to justice.

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