SMU | Dedman School of Law

SMU Law Review

Volume 76 | Issue 4 Article 3

2023

The Trilogy of Personal Jurisdiction and the Importance of *Ford*

Jonathan M. Hoffman
MB Law Group LLP

Michaela Cloutier
Flaherty Sensabaugh Bonasso

Jason Proctor
Flaherty Sensabaugh Bonasso

The Trilogy of Personal Jurisdiction and the Importance of *Ford*

*Jonathan Hoffman, Jason Proctor, and Michaela Cloutier**

ABSTRACT

Litigants and judges alike have struggled to understand and resolve the parameters of personal jurisdiction, particularly in product liability cases. This results in significant costs and time which is likely to be of little benefit to anyone.

Much of this confusion arises from two problems: (1) most of the early Supreme Court decisions on personal jurisdiction arose from contractual disputes; and (2) when the economy expanded after World War II, and new automobiles, commercial aircraft, appliances, and other complex products appeared, the Court's attempts to resolve personal jurisdiction issues were unsuccessful. For over three decades, the Supreme Court failed to produce a clear majority opinion, while at the same time, these cases were becoming more common and complex.

In the past decade, however, the Court has quietly produced a trilogy of virtually unanimous opinions that offer pathways to resolve personal jurisdiction disputes. These decisions will be particularly useful in product liability cases of all kinds, which often involve suit-related events occurring across multiple jurisdictions. Once lawyers and judges understand this clarified framework, it should become easier for plaintiffs to make better decisions about where to bring their case and enable both plaintiffs and defendants to spend less time and expense litigating personal jurisdiction disputes.

---

https://doi.org/10.25172/smulr.76.4.3

* Jonathan Hoffman is a graduate of Harvard College and has practiced and specialized in complex civil litigation for nearly 50 years. He served in the U.S Department of Justice from 1975 to 1980. Since entering private practice in 1981, he has specialized in the defense of product liability, aviation, and other tort claims in federal and state trial courts, as well as numerous appeals. Jonathan is a member of the Product Liability Advisory Council (PLAC) and has appeared on the Oregon Super Lawyers® list multiple times and won numerous awards in the practice areas of personal injury litigation and product liability litigation. Jason Proctor is a member at Flaherty Sensabaugh Bonasso in Charleston, West Virginia, where his work focuses primarily on product liability litigation with an emphasis on automotive defense. He holds a bachelor's degree in industrial engineering and a law degree from West Virginia University. Jason is also a member of PLAC, as well as the Federation of Defense and Corporate Counsel. Michaela Cloutier is an associate at Flaherty Sensabaugh Bonasso in Charleston, West Virginia, where her practice focuses primarily on complex tort and product liability litigation. She holds an undergraduate degree from Yale University and a law degree from Penn State Dickinson Law. Michaela is also a member of the Product Liability Subcommittee for the Defense Trial Counsel of West Virginia.

TABLE OF CONTENTS

I. INTRODUCTION

PERSONAL jurisdiction is a major issue in product liability litigation, one in which plaintiffs and defendants have vested interests in improving clarity. Personal jurisdiction disputes can be expensive, can delay litigation of the underlying issues, and rarely affect the outcome of the substantive matters in a case. Yet, if plaintiffs file lawsuits wherever they choose, defendants are entitled to challenge those suits on jurisdictional grounds. Personal jurisdiction is thus often an inescapable preliminary issue that must be resolved before a case can proceed to the merits. Improved clarity in this regard could benefit all litigants.

Three recent U.S. Supreme Court cases—*Walden v. Fiore* (2014),[1] *Bristol-Myers Squibb Co. v. Superior Court of California* (2017) (BMS),[2] and *Ford Motor Co. v. Montana Eighth Judicial District Court* (2021)[3]—have provided clarification on personal jurisdiction.[4] Prior to this Trilogy

1. Walden v. Fiore, 571 U.S. 277 (2014).
2. Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 582 U.S. 255 (2017).
3. Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017 (2021).
4. *Mallory v. Norfolk Southern Railway Co.*, 600 U.S. 122 (2023) is another recent Supreme Court decision dealing with personal jurisdiction, which was decided following the research and drafting of this Article. In *Mallory*, the Supreme Court held that a Pennsylvania statute requiring out-of-state corporations to consent to personal jurisdiction in Pennsylvania if they registered to do business there did not violate the Due Process Clause. *See id.* at 136–46. Arguably, *Mallory* could be read as a further expansion of the bases for personal jurisdiction in the United States. However, as the Court acknowledged, typical personal jurisdiction considerations such as the state of injury were irrelevant in *Mallory*. *See id.* at 135. The outcome did not depend on the strength of the defendant's contacts with a state, or whether those contacts "related to" the suit, because the defendant in *Mallory* had consented to be "found," and therefore subject to personal jurisdiction, within the state. *Id.* The Court had previously addressed the question of whether personal jurisdiction could be established over a defendant via consent in *Pennsylvania Fire Insurance Co. v. Gold Issue Mining & Milling Co.*, 243 U.S. 93 (1917). As the Court explained in *Mallory*, consent is a separate inquiry from the specific vs. general, contacts-based analysis involved in most personal jurisdiction inquiries. *See Mallory*, 600 U.S. at 138:

> In reality, then, all *International Shoe* did was stake out an *additional* road to jurisdiction over out-of-state corporations. *Pennsylvania Fire* held that an out-of-state corporation that *has* consented to in-state suits in order to do business in the forum is susceptible to suit there. *International Shoe* held that an

of decisions, lower courts could seemingly pick and choose criteria from the separate opinions in *Asahi Metal Industry Co. v. Superior Court of California*,[5] neither of which garnered a majority. The Court failed to take another case to solve the problem for over a quarter-century until it took another try in *J. McIntyre Machinery, Ltd. v. Nicastro*,[6] which again failed to produce a majority opinion.

We chose to describe the key decisions of this decade as the "Trilogy" because the Court finally agreed on the issues.[7] The Court strongly reaffirmed the significance of interstate federalism[8] and cited key statements from prior decisions that clarified the crucial requirements for personal jurisdiction, particularly in product liability litigation.[9] Nevertheless, some subsequent lower courts have misinterpreted or ignored the Trilogy and have continued to rationalize their desired outcome on other bases, usually *Asahi* or lower court decisions that followed it.[10] Those theories may no longer apply. But as shown below, the Trilogy's decisions, virtually unanimous, define the elements of personal jurisdiction that render *Asahi's* four-vote opinions, and lower court opinions that rely on them, virtually irrelevant.

Among the three decisions of the Trilogy, this Article focuses primarily on *Ford* for three reasons: (1) it was the first personal jurisdiction case in decades that ruled in favor of a plaintiff, (2) it is the Court's most recent decision on the issue, and (3) despite the outcome against the defendant, *Ford* followed (and thereby consolidated) the holdings of *Walden* and *Bristol-Myers*. We describe how various courts have addressed personal jurisdiction disputes since *Ford* was handed down. As of the Fall of 2022, well over 150 lower court cases—most of which have been product

---

> out-of-state corporation that *has not* consented to in-state suits may also be susceptible to claims in the forum State based on "the quality and nature of [its] activity" in the forum.

(alteration in original) (emphasis in original) (quoting Int'l Shoe Co. v. Washington, 326 U.S. 310, 319 (1945)). *Mallory* did not disturb the Supreme Court's jurisprudence on specific and general personal jurisdiction as set forth in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945), and its progeny. Thus, *Mallory* will likely have little bearing on most personal jurisdiction evaluations, with the exception of decisions involving forums with similar personal jurisdiction consent statues, and defendants who registered to do business in those states. *See Mallory*, 600 U.S. at 138. Because *Ford's* effect on the meaning of "sufficient contacts" and "relatedness" are at the heart of the analysis in this Article, *Mallory* is of limited relevance to this Article.

5. Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102 (1987).

6. J. McIntyre Mach., Ltd. v. Nicastro, 564 U.S. 873, 879 (2011).

7. Although we characterize the three most recent decisions as a "Trilogy," it also owes its existence to Justice Ruth Bader Ginsburg's opinion in *Daimler AG v. Bauman*, 571 U.S. 117 (2014), a general jurisdiction case, decided a month before *Walden*, the first case of the Trilogy. Justice Ginsburg's opinion addressed both general and personal jurisdiction and produced a unanimous decision that both opened a pathway for personal jurisdiction in product liability cases and facilitated agreement within the Court that enabled the Justices to accept a common set of criteria without having to deal with the Court's prior failures. *See Daimler*, 571 U.S. at 138–39.

8. *See* Scott Dodson, *Personal Jurisdiction, Comparativism, and* Ford, 51 Stetson L. Rev. 187, 196–97 (2022).

9. *See, e.g.*, *Ford*, 141 S. Ct. at 1031–32.

10. *See, e.g.*, Winn v. Vitesco Techs. GmbH, 878 S.E.2d 785, 789–91 (Ga. App. 2022).

liability cases—have addressed the personal jurisdiction inquiry following the Supreme Court's decision in *Ford*.[11]

II. PERSONAL JURISDICTION AND THE TRILOGY

Constitutional restrictions on personal jurisdiction may arise when a plaintiff seeks to force a defendant from out of state to defend a claim in the plaintiff's chosen venue: "A state court's assertion of jurisdiction exposes defendants to the State's coercive power, and is therefore subject to review for compatibility with the Fourteenth Amendment's Due Process Clause."[12] As the Court stated in *Ford*, "One State's 'sovereign power to try' a suit, we have recognized, may prevent 'sister States' from exercising their like authority."[13]

There are two categories of personal jurisdiction: general jurisdiction and specific jurisdiction.[14] While the Court produced the Trilogy, which clarified the standards for specific jurisdiction, the Court was also clarifying the standards for general jurisdiction.[15] General personal jurisdiction allows a plaintiff to sue on "any and all claims against [the defendant]" and all causes of action.[16] But a court may assert general jurisdiction only when the corporation's affiliations with the State in which the suit is brought are so constant and pervasive "as to render [it] essentially at home in the forum State."[17] General jurisdiction may be asserted where the defendant's contacts with the forum are sufficiently "continuous and systematic," even where there is no such connection between the forum and the suit.[18]

By contrast, specific personal jurisdiction exists over a defendant when there is a connection between the state in which jurisdiction is sought, the

---

11. All the cases, as of late 2022, are listed in the Appendix to this Article, organized by the state in which the decision was rendered.

12. Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 918 (2011); *see, e.g.*, *Daimler*, 571 U.S. at 121–22; BNSF Ry. Co. v. Tyrrell, 581 U.S. 402, 405–06 (2017).

13. *Ford*, 141 S. Ct. at 1025 (citing World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 293 (1980)).

14. *Id.* at 1024.

15. The Court in *Daimler* stated,

> Adjudicatory authority of this order, in which the suit "aris[es] out of or relate[s] to the defendant's contacts with the forum," is today called "specific jurisdiction."
>
> . . . As we have since explained, "[a] court may assert general jurisdiction over foreign (sister-state or foreign-country) corporations to hear any and all claims against them when their affiliations with the State are so 'continuous and systematic' as to render them essentially at home in the forum State."

Daimler, 571 U.S. at 127 (alterations in original) (citations omitted).

16. *See id.*

17. *Id.* at 122 (quoting *Goodyear*, 564 U.S. at 919). The focus of this Article is limited to specific personal jurisdiction. For further understanding of general jurisdiction, see generally D.E. Wagner, Note, *Hertz so Good: Amazon, General Jurisdiction's Principal Place of Business, and Contacts Plus as the Future of the Exceptional Case*, 104 Cornell L. Rev. 1085 (2019); Zoe Niesel, Daimler *and the Jurisdictional Triskelion*, 82 Tenn. L. Rev. 833 (2015).

18. *Daimler*, 571 U.S. at 127; *see also Goodyear*, 564 U.S. at 919 ("A court may assert general jurisdiction over foreign (sister-state or foreign-country) corporations to hear any and all claims against them when their affiliations with the State are so 'continuous and systematic' as to render them essentially at home in the forum State.").

suit, and the defendant.[19] Specific personal jurisdiction permits a defendant to be sued for causes of action that arise out of or relate to the defendant's contacts with the forum.[20]

Because the analyses of specific and general personal jurisdiction both rely on a review of the defendant's "contacts" with the forum, they are often evaluated in conjunction.[21] This Article primarily addresses the Supreme Court's recent case law on *specific* personal jurisdiction, but the Court has also clarified and simplified the meaning of general or "all-purpose" jurisdiction in the last decade.

A. A Short Reminder of How We Got Here

Modern product liability law probably began with Justice Cardozo's opinion in *MacPherson v. Buick Motor Co.* in 1916.[22] But product liability jurisprudence did not rise to prominence until the 1960s with the decisions of Justice Traynor in California,[23] Professor Prosser's *The Fall of the Citadel*,[24] and the Second Restatement § 402A.[25]

As for personal jurisdiction, the "canonical decision"[26] on the due process limits on personal jurisdiction is *International Shoe Co. v. Washington*,[27] which was decided in 1945. In that case, the Court found that a court's authority to exercise jurisdiction is dependent on the defendant's "contacts" with the forum, such that "'the maintenance of the suit' is 'reasonable' . . . and 'does not offend traditional notions of fair play and substantial justice.'"[28] Before and after *International Shoe*, most cases initially focused on contractual disputes.[29] But, as the economy expanded after World War II, new automobiles, commercial aircraft, appliances, and other innovative and complex products appeared.[30] Interstate transportation of products escalated throughout the country, accident rates increased, and tort law expanded accordingly.[31]

The Court did not confront personal jurisdiction in product liability litigation until *World-Wide Volkswagen Corp. v. Woodson* in 1980.[32] As in *Ford*, the vehicle at issue had been sold elsewhere and driven to the state where

19. *See Daimler*, 571 U.S. at 126–27.
20. *Id.* at 127.
21. *See id.*; *Goodyear*, 564 U.S. at 923–24.
22. MacPherson v. Buick Motor Co., 111 N.E. 1050 (N.Y. 1916); *see* Richard A. Epstein, *The Unintended Revolution in Product Liability Law*, 10 Cardozo L. Rev. 2193, 2199 (1989).
23. *See, e.g.*, Greenman v. Yuba Power Prods., Inc., 377 P.2d 897 (Cal. 1963) (en banc).
24. William L. Prosser, *The Fall of the Citadel (Strict Liability to the Consumer)*, 50 Minn. L. Rev. 791 (1966).
25. Restatement (Second) of Torts § 402A (Am. L. Inst. 1965).
26. *See* Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1024 (2021).
27. Int'l Shoe Co. v. Washington, 326 U.S. 310 (1945).
28. *Ford*, 141 S. Ct. at 1024 (quoting *Int'l Shoe*, 326 U.S. at 316–17).
29. For an excellent discussion of the Supreme Court's cases, see Michael Vitiello, *The Supreme Court's Latest Attempt at "Clarifying" Personal Jurisdiction: More Questions Than Answers*, 57 Tulsa L. Rev. 395 (2022).
30. *See* World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 292–93 (1980).
31. *See id.* (citing McGee v. Int'l Life Ins. Co., 355 U.S. 220, 222–23 (1957)).
32. *Id.* at 288, 291.

the accident occurred.[33] The plaintiffs purchased it from a dealer in New York but later moved to Arizona.[34] The plaintiffs were injured in a rear-end collision in Oklahoma, causing a fire that severely burned Kay Robinson and her two children.[35] Relying on Oklahoma's long-arm statute, the plaintiffs asserted design defect claims against multiple parties in the supply chain, including the manufacturer, the importer, the regional distributor (World-Wide Volkswagen Corp.), and the retail dealer (Seaway).[36] Seaway and World-Wide entered special appearances, claiming that Oklahoma's exercise of jurisdiction "would offend limitations on the State's jurisdiction imposed by the Due Process Clause of the Fourteenth Amendment."[37] The Oklahoma court held that it had jurisdiction over these defendants and rejected the special appearances.[38]

The U.S. Supreme Court overruled Oklahoma's decision, holding that Seaway and World-Wide Volkswagen were not subject to personal jurisdiction in Oklahoma.[39] The Court stated, "[a] judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Due process requires that the defendant be given adequate notice of the suit and be subject to the personal jurisdiction of the court."[40]

However, Audi and Volkswagen of America, Inc. did not challenge personal jurisdiction on their own behalf.[41] Consequently, the case did not decide whether other defendants, including major manufacturers, could also have avoided the litigation by challenging personal jurisdiction. The Court did not address that question until *Ford*, more than four decades later.[42] In the interim, the Court took other cases involving personal jurisdiction in product liability suits but failed to establish a set of criteria for personal jurisdiction in such lawsuits.[43]

Instead, the *Asahi* and *Nicastro* decisions, issued in 1987 and 2011, produced more confusion than clarity because of the Court's inability to reach a majority opinion in either case.[44] Meanwhile, other cases addressed different issues, such as general jurisdiction,[45] mass torts, or problems related to specific types of products, such as pharmaceuticals.[46]

Before *Asahi*, the Court had held that a defendant establishes minimum contacts with a forum when it "purposefully avails itself of the privilege

33. *Id.* at 288.
34. *Id.*
35. *Id.*
36. *Id.*
37. *Id.*
38. *Id.* at 289–90.
39. *Id.* at 299.
40. *Id.* at 291 (citations omitted).
41. *See id.* at 288–89.
42. Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1022 (2021).
43. *See, e.g.*, Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 116, 121 (1987); J. McIntyre Mach., Ltd. v. Nicastro, 564 U.S. 873, 890, 908 (2011).
44. *See Asahi*, 480 U.S. at 116, 121; *Nicastro*, 564 U.S. at 879, 890, 908.
45. Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 919 (2011); Daimler AG v. Bauman, 571 U.S. 117, 121 (2014).
46. Bristol-Myers Squibb Co. v. Superior Ct. of Cal., 582 U.S. 255, 258–59 (2017).

of conducting activities within the forum State, thus invoking the benefits and protections of its laws."[47] *Asahi* arose from a motorcycle accident in California, but reached the Supreme Court as a dispute between the Taiwanese tire manufacturer (Cheng Shin Rubber Industrial Co., Ltd.) and the Japanese tire valve manufacturer (Asahi) because the injured plaintiff had settled.[48] The California Supreme Court held that Asahi's intentional act of placing its components into the stream of commerce—that is, by delivering the components to Cheng Shin in Taiwan—coupled with Asahi's awareness that some of the components would eventually find their way into California, was sufficient to form the basis for state court jurisdiction under the Due Process Clause.[49] The Supreme Court reversed but created uncertainty by failing to produce a majority opinion.[50]

One commentator found that because of "the competing views given in *Asahi*, lower courts began taking a variety of approaches when dealing with stream-of-commerce questions."[51] The result, as one scholar commented, was "a mess, typified by significant analytical variations and divergent applications by lower courts."[52] It took the Court a quarter-century to try again when it attempted to resolve the *Asahi* confusion in *Nicastro*.[53] But, like *Asahi*, the *Nicastro* Court also failed to produce a majority consensus.[54] One commentator noted that "[t]he lack of a majority opinion in [*Nicastro*] is certainly disappointing for those who hoped for 'greater clarity' about the permissible scope of jurisdiction in stream of commerce cases."[55]

B. Significance of the New Trilogy

At last, in this decade the Court has, through the Trilogy, overcome the long-standing confusion from *Asahi* and *Nicastro* by issuing three nearly united decisions on personal jurisdiction.[56] Each of the three decisions quoted language from prior cases, harkening back to principles of personal

47. Hanson v. Denckla, 357 U.S. 235, 253 (1958).
48. *Asahi*, 480 U.S. at 106.
49. *Id.* at 108.
50. *See id.* at 105, 108.
51. Greg Saetrum, Note, *Righting the Ship: Implications of* J. McIntyre v. Nicastro *and How to Navigate the Stream of Commerce in Its Wake*, 55 Ariz. L. Rev. 499, 505 (2013).
52. S. Wilson Quick, Comment, *Staying Afloat in the Stream of Commerce:* Goodyear, McIntyre*, and the Ship of Personal Jurisdiction*, 37 N.C. J. Int'l L. & Com. Reg. 547, 572 (2011); *see also* Kaitlyn Findley, Comment, *Paddling Past* Nicastro *in the Stream of Commerce Doctrine: Interpreting Justice Breyer's Concurrence as Implicitly Inviting Lower Courts to Develop Alternative Jurisdictional Standards*, 63 Emory L.J. 695, 700, 713–14 (2014).
53. Findley, *supra* note 52, at 714.
54. *Id.*
55. Adam N. Steinman, *The Lay of the Land: Examining the Three Opinions in* J. McIntyre Machinery, Ltd. v. Nicastro, 63 S.C. L. Rev. 481, 515 (2012). *See* Findley, *supra* note 52, at 746 ("The muddled state of the stream of commerce doctrine produces undesirable, unpredictable, and unjust jurisdictional results based solely on the location of a forum, rather than on traditional notions of fair play and substantial justice.").
56. There was only a single dissent in one of the three cases (*BMS*). *See* Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 582 U.S. 255, 269 (2017) (Sotomayor, J., dissenting). Additionally, Justice Barrett, who had just joined the Court, took no part in the *Ford* decision. *See* Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1021 (2021).

jurisdiction that the Court had articulated previously. Reading these cases together, several enduring tenets of personal jurisdiction can be distilled, rendering the chaos and inconsistency from *Asahi* and *Nicastro* irrelevant. Below are some of the most significant quotations cited in the Trilogy, organized into several overarching principles:

- Specific Personal Jurisdiction Requires an *Intentional* Act *by the Defendant*
  - "For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State."[57]
  - "The defendant, we have said, must take 'some act by which [it] purposefully avails itself of the privilege of conducting activities within the forum State.' The contacts must be the defendant's own choice and not 'random, isolated, or fortuitous.'"[58]
  - "[The] unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction."[59]
- Acts/Contacts of Individuals Other than the Defendant Are Insufficient
  - "[T]he plaintiff cannot be the only link between the defendant and the forum. Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him."[60]
  - "To be sure, a defendant's contacts with the forum State may be intertwined with his transactions or interactions with the plaintiff or other parties. But a defendant's relationship with a plaintiff or third party, standing alone, is an insufficient basis for jurisdiction."[61]

57. Walden v. Fiore, 571 U.S. 277, 284 (2014).

58. *Ford*, 141 S. Ct. at 1024–25 (alteration in original) (quoting Hanson v. Denckla, 357 U.S. 235, 253 (1958); Keeton v. Hustler Mag., Inc., 465 U.S. 770, 774 (1984)).

59. *Walden*, 571 U.S. at 284 (alteration in original) (quoting Helicopteros Nacionales de Colom., S.A. v. Hall, 466 U.S. 408, 417 (1984)).

60. *Id.* at 285 (citing Burger King Corp. v. Rudzewicz, 471 U.S. 462, 478 (1985)).

61. *Id.* at 286 (citing Rush v. Savchuk, 444 U.S. 320, 332 (1980)). Note that *Ford* appears to back away from the emphasis on the acts of the defendant *only* for purposes of the "relatedness" half of the inquiry:

> As to that issue, so what if (as *Walden* held) the place of a plaintiff 's injury and residence cannot create a defendant's contact with the forum State? Those places still may be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit—including its assertions of who was injured where.

Ford, 141 S. Ct. at 1031–32. Regardless, however, *Ford* stands for the proposition that the purposeful availment prong, at least, must be met by the defendant's conduct alone. *See id.* at 1028. This prong was satisfied in that case by Ford Motor Company's "veritable truckload of contacts with Montana and Minnesota." *Id.* at 1031.

- "Put simply, however significant the plaintiff's contacts with the forum may be, those contacts cannot be 'decisive in determining whether the defendant's due process rights are violated.'"[62]
- "Naturally, the parties' relationships with each other may be significant in evaluating their ties to the forum. The requirements of *International Shoe*, however, must be met as to each defendant over whom a state court exercises jurisdiction."[63]

- The Defendant's Contacts Giving Rise to Specific Personal Jurisdictions Must Be *Direct* Contacts with the State Itself
  - "Due process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the 'random, fortuitous, or attenuated' contacts he makes by interacting with other persons affiliated with the State."[64]
  - "[O]ur 'minimum contacts' analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there."[65]
  - "The mere fact that *other* plaintiffs were prescribed, obtained, and ingested [the medication] in [the forum state]—and allegedly sustained the same injuries as did the nonresidents—does not allow the State to assert specific jurisdiction over the nonresidents' claims. As we have explained, 'a defendant's relationship with a . . . third party, standing alone, is an insufficient basis for jurisdiction.'"[66]

- Conduct Giving Rise to Jurisdiction Must Be Related to the Suit
  - "For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State."[67]
  - "In order for a state court to exercise specific jurisdiction, 'the *suit*' must 'aris[e] out of or relat[e] to the defendant's contacts with the *forum*.'"[68]
  - "[T]here must be 'an affiliation between the forum and the underlying controversy, principally, [an] activity or an

62. *Walden*, 571 U.S. at 285 (quoting *Rush*, 444 U.S. at 332).

63. *Id.* at 286 (quoting *Rush*, 444 U.S. at 332). This principle from *Rush* is also quoted and relied upon in *Bristol-Myers*. *See* Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 582 U.S. 255, 268 (2017).

64. *Walden*, 571 U.S. at 286 (quoting *Burger King*, 471 U.S. at 475).

65. *Id.* at 285 (citing Int'l Shoe Co. v. Washington, 326 U.S. 310, 319 (1945)).

66. *Bristol-Myers*, 582 U.S. at 265 (emphasis in original) (quoting *Walden*, 571 U.S. at 286).

67. *Walden*, 571 U.S. at 284.

68. *Bristol-Myers*, 582 U.S. at 262 (alterations in original) (emphasis in original) (quoting Daimler AG v. Bauman, 571 U.S. 117, 127 (2014)); *see also Burger King*, 471 U.S. at 472–73; Helicopteros Nacionales de Colom., S.A. v. Hall, 466 U.S. 408, 414 (1984).

> occurrence that takes place in the forum State and is therefore subject to the State's regulation.'"[69]

- Defendant's Rights Are Central to the Analysis
  - o "[T]he 'primary concern' is 'the burden on the defendant.'"[70]
  - o "Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties."[71]
  - o "However minimal the burden of defending in a foreign tribunal, a defendant may not be called upon to do so unless he has had the 'minimal contacts' with that State that are a prerequisite to its exercise of power over him."[72]
- Federalism is an Important Consideration
  - o "[R]estrictions on personal jurisdiction 'are more than a guarantee of immunity from inconvenient or distant litigation. They are a consequence of territorial limitations on the power of the respective States.'"[73]
  - o "The law of specific jurisdiction thus seeks to ensure that States with 'little legitimate interest' in a suit do not encroach on States more affected by the controversy."[74]

Significantly, none of the Trilogy decisions relied on any of the minority opinions from *Asahi*. Nor did any of the Trilogy opinions address the stream of commerce issues considered in *Asahi*. Instead, they reverted to holdings of established law that clearly contradict the stream of commerce metaphor, which was never adopted by any Supreme Court majority opinion.

III. *FORD* AND ITS IMPACT

Despite the *Ford* Court's recognition of the constitutional limitations at play in analyzing personal jurisdiction, some commentators and lower courts have erroneously assumed that the Court's unanimous *Ford* decision constituted a major victory for plaintiffs.[75] As one Texas lawyer summarized Texas's reaction to *Ford*:

> In the span of just over three months—March 5 to July 6, 2021—federal and Texas courts redefined and expanded the right of Texas courts to exercise jurisdiction over foreign manufacturers, giving notice that the

69. Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1025 (2021) (second alteration in original) (quoting *Bristol-Myers*, 582 U.S. at 264).

70. *Bristol-Myers*, 582 U.S. at 263 (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 292 (1980)).

71. *Walden*, 571 U.S. at 284 (citing *World-Wide Volkswagen*, 444 U.S. at 291–92).

72. *Id.* at 285 (quoting Hanson v. Denckla, 357 U.S. 235, 251 (1958)).

73. *Bristol-Myers*, 582 U.S. at 263 (quoting *Hanson*, 357 U.S. at 251).

74. *Ford*, 141 S. Ct. at 1025 (quoting *Bristol-Myers*, 582 U.S. at 263).

75. *See, e.g.*, Lorin M. Subar, *Personal Jurisdiction Landscape: A Look at Three Cases Impacting Texas*, 85 Tex. Bar J. 414, 415 (2022).

> failure to have a literal footprint in Texas will not insulate a company from injuries and damages incurred in the state.[76]

The Texas Supreme Court explicitly stated in *Luciano v. SprayFoam-Polymers.com, LLC* that personal jurisdiction over manufacturers is often premised on "indirect" sales by independent distributors or agents.[77] *Luciano* also characterized the stream of commerce metaphor as a "*useful tool* to conceptualize minimum contacts in product liability cases."[78] This contradicted the clear holdings of the Trilogy: that the relationship between the defendant and the state must arise out of contacts that the "'defendant *himself* ' creates with the forum State."[79]

The core of the *Ford* decision reinforces the federalism of *Walden* and *BMS*.[80] Although *Ford* has been criticized by some,[81] it reinforced defendants' constitutional protections. This Article provides examples of many cases in which courts cite *Ford* to reject plaintiffs' claims for personal jurisdiction, as well as examples of cases that fail to do so.[82]

A. The *Ford* Case

In 2021, the U.S. Supreme Court decided *Ford*, the third case of the Trilogy and an important decision on personal jurisdiction in product liability litigation.[83] Of the numerous product liability cases taken up by the Court over the prior forty years on jurisdictional issues, only *Ford* was decided in favor of the plaintiffs.[84] *Ford* decided that, under certain circumstances, personal jurisdiction could be exercised in the forum state even if the defendant (Ford) manufactured and sold the car elsewhere.[85]

Understandably, some lawyers initially assumed that *Ford's* unanimous decision had to be a major victory for plaintiffs, but a closer reading of *Ford* tells a different story. The Court went to great lengths to describe Ford's unique and extensive control over virtually every aspect of the business operations that moved Ford vehicles from the drawing board, to the assembly line, and into the hands of the consumer.[86] The opinion emphasized

---

76. *Id.*

77. *See* Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1, 9–11 (Tex. 2021) ("[P]urposeful availment of local markets may be indirect 'through affiliates or independent distributors.'" (citation omitted)).

78. *Id.* at 9 (emphasis added).

79. Walden v. Fiore, 571 U.S. 277, 284 (2014) (emphasis in original) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985)). Further discussion of how Texas courts have applied personal jurisdiction since *Ford* is located below. *See infra* Part IV. Texas is an example of such an approach which other courts and states may ultimately follow.

80. *See* Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1030 (2021).

81. *See, e.g.*, Vitiello, *supra* note 29, at 421–22; Karina Sanchez, Note, *We Keep Up with the Kardashians, but Does Jurisdictional Precedent Keep Up with Modern Times?*, 12 Hous. L. Rev. 1, 7–12 (2021).

82. This Article includes an Appendix of personal jurisdiction cases through the Fall of 2022, that applied *Ford*. It is intended to help litigators identify decisions arranged by the states, including federal court decisions.

83. *Ford*, 141 S. Ct. 1017.

84. *See id.* at 1031–32.

85. *Id.* at 1022.

86. *See id.* at 1022–23.

Ford's extraordinary and pervasive activity throughout the United States and around the world, including its control of the vehicle's design and manufacture, and its influence over the mechanics who service Ford vehicles everywhere—both independent businesses as well as Ford dealers.[87] In this way, the Court insinuated that its holding was unlikely to extend to other manufacturers whose products were significantly different from, or whose activities were less pervasive than, the household name that is Ford Motor Company. The Court described Ford's activities this way:

> Ford is a global auto company. It is incorporated in Delaware and headquartered in Michigan. But its business is everywhere. Ford markets, sells, and services its products across the United States and overseas. In this country alone, the company annually distributes over 2.5 million new cars, trucks, and SUVs to over 3,200 licensed dealerships. Ford also encourages a resale market for its products: Almost all its dealerships buy and sell used Fords, as well as selling new ones. To enhance its brand and increase its sales, Ford engages in wide-ranging promotional activities, including television, print, online, and direct-mail advertisements. No matter where you live, you've seen them: "Have you driven a Ford lately?" or "Built Ford Tough." Ford also ensures that consumers can keep their vehicles running long past the date of sale. The company provides original parts to auto supply stores and repair shops across the country. (Goes another slogan: "Keep your Ford a Ford.") And Ford's own network of dealers offers an array of maintenance and repair services, thus fostering an ongoing relationship between Ford and its customers.[88]

The Court noted that Ford had clearly and purposefully availed itself of the forums at issue, a point which Ford conceded.[89] The Court further reasoned that, although Ford had not sold the specific vehicles at issue in the forum, it had marketed and sold the at-issue models there.[90] All of Ford's activities "underscore[d] the aptness of finding jurisdiction [in the forum], even though the cars at issue were first sold out of state."[91] The Court thus concluded that Ford's forum activities were sufficiently related to the suit.[92]

Although the Court unanimously ruled against Ford, it also identified the limits of its decision:

> None of this is to say that any person using any means to sell any good in a State is subject to jurisdiction there if the product malfunctions after arrival. We have long treated isolated or sporadic transactions differently from continuous ones. And we do not here consider internet transactions, which may raise doctrinal questions of their own.[93]

---

87. *See id.*
88. *Id.* at 1022–23 (citation omitted).
89. *Id.* at 1028.
90. *Id.* at 1029.
91. *Id.*
92. *Id.* at 1032.
93. *Id.* at 1028 n.4 (citing World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980); Walden v. Fiore, 571 U.S. 277, 290 n.9 (2014)).

The Court thus left open the likelihood that most manufacturers—which lacked the pervasive control over their products like Ford—would not be subjected to the same fate.[94] Indeed, as shown below, courts in the aftermath of *Ford* have relied on *Ford* more frequently to *reject* personal jurisdiction claims rather than to support plaintiffs' efforts to succeed in their chosen venues.[95] In this manner, *Ford* is generally consistent with *Walden* and *Bristol-Myers* in that it should serve as a barrier to personal jurisdiction claims against out-of-state manufacturers rather than an invitation to file them.

Ford also addressed the meaning of the troublesome phrase, "arise out of or relate to [the defendant's contacts with the forum]," which has produced confusion ever since it showed up as dicta nearly four decades earlier in *Helicopteros Nacionales de Colombia, S.A. v. Hall*.[96] The *Ford* Court reached its decision in part by setting forth an arguably loosened "relatedness" requirement between a defendant's contacts and the suit.[97] *Ford* did emphasize that not only must a defendant generally have sufficient contacts with a forum to be subject to jurisdiction there, but those contacts must also "arise out of or relate to" the suit.[98] However, while some had previously suggested that a causal, or "but-for," connection was necessary to satisfy the "arise out of or relate to" requirement (for example, the defendant sold the product inside of the forum, and that sale ultimately *caused* the harm to the Plaintiff), *Ford* made it clear that such a causal connection is not necessary.[99] *Ford* clarified that the "or" in the middle of the phrase means that a defendant can be subject to suit in a jurisdiction so long as the defendant's contacts to the forum "relate to" the suit.[100] In *Ford*, there was no specific conduct on the part of Ford within the forum that *caused* the harm to the plaintiff.[101] But Ford's in-forum contacts were nonetheless sufficiently *related* to the suit because Ford advertised and sold the same *type* of vehicle in the forum.[102]

Professor Vitiello aptly commented that while the *Ford* opinion "suggests that some sort of but-for test might be satisfied, the parameters of that test are murky at best."[103] It is similarly unclear whether *Ford* "overruled" the but-for standard entirely.[104] However, for the most part, it appears that

94. *See id.*
95. *See infra* Part III.B.
96. Helicopteros Nacionales de Colom., S.A. v. Hall, 466 U.S. 408, 414 (1984); *see Ford*, 141 S. Ct. at 1026; Mark M. Maloney, Note, *Specific Personal Jurisdiction and the "Arise from or Relate to" Requirement . . . What Does it Mean?* 50 Wash. & Lee L. Rev. 1265, 1270–72 (1993).
97. *See Ford*, 141 S. Ct. at 1026.
98. *See id.* at 1025–26.
99. *Id.* at 1026.
100. *Id.*
101. *Id.* at 1029.
102. *Id.* at 1028–29.
103. Vitiello, *supra* note 29, at 397.
104. In *In re: Zantac (Ranitidine) Products Liability Litigation*, 546 F. Supp. 3d 1192 (S.D. Fla. 2021), a multidistrict litigation concerning the drug Zantac, the plaintiffs argued that *Ford* "entirely overruled" the "but for" test. Jeremy Jacobson, Note, *Getting "Arising Out of" Right:* Ford Motor Company *and the Purpose of the "Arising Out of" Prong in the*

courts have been careful in applying the test and they are more likely to apply a loosened but-for requirement than to require no showing of causation whatsoever.[105]

Some commentators complained that *Ford's* analysis offered little guidance about line-drawing in other corporate contact cases.[106] Others criticized *Ford's* interpretations of *Bristol-Myers* and *Walden*.[107] Nevertheless, the Trilogy, including *Ford*, consistently recognizes that the Due Process Clause of the Fourteenth Amendment limits the power of a state court to render a valid personal judgment against a nonresident defendant.[108]

B. How the Courts Have Interpreted Personal Jurisdiction Disputes Since *Ford*

As of the Fall of 2022, over 150 cases had applied *Ford* to determine personal jurisdiction.[109] We have chosen for discussion a sample of significant decisions involving multiple scenarios. In doing so, we note that most courts that tackled personal jurisdiction issues in product liability cases since *Ford* have decided cases based on the holdings of the Trilogy.[110] However, some courts and litigators have failed to recognize that, as a consequence of these decisions, *Asahi* and local cases following it no longer govern personal jurisdiction.[111]

Our survey identified four critical aspects of personal jurisdiction analysis that, in light of *Ford*, litigants and courts should consider:

(1) The characteristics of the defendant as compared to the unique characteristics of Ford Motor Company and the high likelihood of the court limiting personal jurisdiction to a relatively small number of similarly situated manufacturers;
(2) The specifics of the product, how it is manufactured, distributed, marketed, sold, and used before filing or opposing a personal jurisdiction motion;
(3) The factual distinctions between the case at bar and other cases that appear to be similar;
(4) The trend in states such as Texas, where courts appear to be creating their own interpretations of *Ford* and personal jurisdiction law.

Minimum Contacts Analysis, 97 N.Y.U. L. Rev. 315, 353 (2022). "However, the MDL court denied that assertion, quoting Justice Kagan in *Ford* and stating that '[t]he phrase "relate to" incorporates real limits, as it must to adequately protect defendants foreign to a forum.' It is unclear whether the court was simply recasting its 'but for' standard, or making a genuinely new finding under a 'relatedness' test." *Id.* (footnote omitted).

105. *See, e.g.*, *In re: Zantac*, 546 F. Supp. 3d at 1205.

106. *See, e.g.*, Vitiello, *supra* note 29, at 397.

107. Charles W. "Rocky" Rhodes, *The Roberts Court's Jurisdictional Revolution Within* Ford's *Frame*, 51 Stetson L. Rev. 157, 175–79 (2022).

108. *See* Kulko v. Super. Ct. of Cal., 436 U.S. 84, 91 (1978).

109. These cases are listed in the Appendix to this Article, organized by the state in which the decision was rendered.

110. *See, e.g.*, Ditter v. Subaru Corp., No. 20-cv-02908, 2022 WL 889102, at *7–8 (D. Colo. Mar 25, 2022).

111. *See, e.g.*, Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1, 9–10, 13 (Tex. 2021).

Below, we will discuss examples of recent cases addressing each of these critical aspects.

1. Cases Acknowledging Few Manufacturers Are Ford*-Like*

The *Ford* decision recognized its own limitations. Justice Kagan noted that the holding "does not mean anything goes. In the sphere of specific jurisdiction, the phrase 'relate to' incorporates real limits, as it must to adequately protect defendants foreign to a forum."[112] Thus, when deciding whether to challenge personal jurisdiction in a particular case, one must carefully consider the underlying facts, the characteristics of the defendant, and the product at issue. Manufacturers vary widely in the nature of the products they design, the manufacturing processes they use, and the way their goods are distributed and sold.[113] These variations should dictate whether, and how, manufacturers invoke the benefits and protections of the laws of a particular state. As the two cases below illustrate, *Ford* does not dictate that an automobile manufacturer is subject to personal jurisdiction in every instance nor that a large and complex aircraft manufacturer will be treated the same as Ford Motor Company.

a. *Ditter v. Subaru Corp*.

In *Ditter*, the plaintiff brought a product liability lawsuit against both Subaru Corporation, a Japanese company, and Subaru of America.[114] The plaintiff/driver struck another car, causing the airbags to deploy and injure her.[115] Subaru Corporation challenged personal jurisdiction based on the absence of any contacts with the State of Colorado.[116] The court noted that Subaru Corporation was "not incorporated anywhere in the United States, [was] not qualified to do business in the United States, [had] no agent for service of process in the United States, . . . [did] not pay taxes in the United States," nor did it "sell vehicles directly to dealers or to the general public in Colorado."[117] Subaru Corporation also did not "distribute vehicles to dealers or to the general public in Colorado, design or manufacture vehicles in Colorado, maintain a sales force in Colorado, or conduct sales or advertising campaigns in Colorado."[118] Lastly, "Subaru of America, a New Jersey limited liability company, [was] the 'exclusive United States distributor' of new Subaru vehicles in the United States."[119]

The court rejected the plaintiff's argument in favor of personal jurisdiction based on a stream of commerce metaphor, noting that the theory had been rejected in the Tenth Circuit: "[N]ot a single court in the Tenth

112. Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1026 (2021).
113. *See id.* at 1028 n.4.
114. Ditter v. Subaru Corp., No. 20-cv-02908, 2022 WL 889102, at *1 (D. Colo. Mar 25, 2022).
115. *Id.*
116. *Id.* at *6.
117. *Id.* at *5.
118. *Id.*
119. *Id.* (citation omitted).

Circuit has 'applied the most permissive [stream-of-commerce test], which only requires a defendant to put the offending product into the stream of commerce without any action specifically directed at the forum itself.'"[120] The court distinguished *Ford* as well: Ford was solely responsible for every aspect of the development, sale, and support of their vehicles, whereas Subaru Corporation did not maintain that unilateral control.[121] Specifically, the court stated,

> *Ford Motor Co.* is distinguishable from the facts here. Unlike the plaintiffs in that case, plaintiffs here have not provided sufficient jurisdictional allegations regarding the particular defendant for which jurisdiction is contested. As an initial matter, the plaintiffs in both the Minnesota and Montana actions sued only one company, Ford Motor Company, a "global auto company" that is "incorporated in Delaware and headquartered in Michigan," but that its "business is everywhere." The Court described Ford as responsible for all aspects of the distribution of its automobiles. Here, however, plaintiffs have sued both the manufacturer and the distributor. Unlike in *Ford Motor Co.*, where there was a single domestic company that contested jurisdiction, plaintiffs here must provide plausible allegations establishing personal jurisdiction over both defendants. . . . [T]he Court finds that plaintiffs have not done so with respect to Subaru Corporation.
>
> . . . By contrast, the jurisdictional facts here do not show that Subaru Corporation—as opposed to Subaru of America—marketed, sold, or distributed vehicles in Colorado. Although plaintiffs generically allege that "Subaru" distributes cars in Colorado through authorized dealerships, markets its vehicles in Colorado, maintains a parts and service operations in Colorado, and has employees here, plaintiffs do not differentiate Subaru Corporation from Subaru of America, and the uncontested facts establish that Subaru Corporation does not sell or distribute vehicles to dealers or to the general public in Colorado, design or manufacture vehicles in Colorado, maintain a sales force in Colorado, or direct marketing campaigns at Colorado. Rather, Subaru of America controls the distribution of Subarus in the United States. The jurisdictional facts, therefore, do not establish that Subaru Corporation "systematically served a market" in Colorado.
>
> . . . .
>
> . . . However, that there were significant sales of Subarus in the United States and that there are Subaru dealers in Colorado do not establish that Subaru Corporation has sufficient minimum contacts with Colorado, as distribution and sales of Subaru vehicles in the United States are controlled by Subaru of America.[122]

120. *Id.* at *4 (alteration in original) (quoting Lynch v. Olympus Am., Inc., No. 18-cv-00512, 2018 WL 5619327, at *4 n.5 (D. Colo. Oct. 30, 2018)).

121. *Id.* at *7.

122. *Id.* at *7–8 (citations omitted).

The court also rejected the plaintiff's argument that the conduct of Subaru of America should be imputed to Subaru Corporation as a wholly owned subsidiary.[123] "[P]laintiffs [had] offered no allegations or evidence that Subaru Corporation 'specifically targeted Colorado with its distribution efforts.'"[124] Finding that the plaintiff had failed to demonstrate sufficient minimum contacts between Subaru Corporation and Colorado, the court granted the motion to dismiss without reaching whether the lawsuit could be said to "arise out of or *relate to* the defendant[s'] contacts with the forum."[125]

b. *Robinson Helicopter Co., Inc. v. Gangapersaud*

Nor has *Ford* automatically given rise to claims against aircraft manufacturers. A Florida District Court of Appeal differentiated the facts of *Ford* from those relating to the defendant Robinson Helicopter Company.[126] The court succinctly observed that "Robinson Helicopter Company is no Ford Motor Company."[127] Rather, the court explained,

> Ford is a universally acknowledged household name and markets and advertises its products daily throughout the country. Ford has dealers in every state and its products are sold and serviced throughout the United States and beyond. In the United States alone, Ford annually distributes over 2.5 million new vehicles to over 3,200 licensed dealerships. Robinson, on the other hand, is a comparatively small company with a single facility in California which produced fewer than fifty helicopters in 2020. There is no indication that Robinson engages in any targeted advertising in Florida (or any other state), much less the types of "wide-ranging promotional activities" which are commonplace for Ford. Moreover, while Robinson does maintain a list of "authorized" dealers and service centers in various states, including Florida, those businesses are separate entities; Robinson itself has no employees, agents, or representatives in the state.[128]

The court also noted that "the few contacts Robinson had with Florida which could plausibly be said to relate to this case were actually created by [the pilot and the local service company] who, as the record demonstrates, reached out to Robinson for advice in repairing the helicopter."[129] This was deemed "insufficient to establish minimum contacts, as due process requires that the defendant's relationship with the forum state 'must arise out of contacts that the "defendant *himself*" creates with the forum State.'"[130]

---

123. *See id.* at *9–10.
124. *Id.* at *9 (quoting Fischer v. BMW of N. Am., LLC, 376 F. Supp. 3d 1178, 1186 (D. Colo. 2019)).
125. *Id.* at *10 (alteration in original) (quoting Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1026 (2021)).
126. *See* Robinson Helicopter Co., Inc. v. Gangapersaud, 346 So. 3d 134, 143–44 (Fla. Dist. Ct. App. 2022).
127. *Id.* at 143.
128. *Id.* at 143–44 (citations omitted).
129. *Id.* at 144.
130. *Id.* (emphasis in original) (quoting Walden v. Fiore, 571 U.S. 277, 284 (2014)).

These cases both represent lower courts' recognition that the conduct of the actual defendant itself is essential in determining whether they have sufficient contacts to justify the exercise of personal jurisdiction and that this will not be a given in situations involving defendants with less nationwide presences and less significant and relevant relations in the forum.

2. Cases Examining Products Unlike Automobiles

Few manufacturers are as "everywhere" as Ford, even if their products show up nearly everywhere.[131] The *Ditter* case in the previous section demonstrates that Ford is rare even among automobile manufacturers, who make products which, by their nature, travel across state lines.[132] But, manufacturers of other types of products are also often sued in foreign jurisdictions. Distinctions between these products and Ford vehicles may provide additional bases for other manufacturers to challenge personal jurisdiction.

This section discusses personal jurisdiction cases since *Ford* that have involved a product very different from automobiles: lithium-ion batteries. Misuse of lithium-ion batteries has given rise to substantial litigation, most often when the batteries are used in electronic cigarette devices and thereafter catch fire or explode.[133] Unlike alkaline batteries the public buys at Costco and elsewhere, lithium batteries are not typically sold to the public.[134] Instead, the lithium batteries at issue in these cases were mostly manufactured overseas and sold solely to other businesses.[135] They were later

131. *See* Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1022 (2021).

132. *See supra* Part III.B.1.a.

133. *See* Gabriel Sepulveda-Sanchez, *E-Cigarette Litigation: Success Often Hinges on Uncovering the Chain of Distribution*, Advoc. Mag., June 2020, at 108, 108 ("Throughout the country, there has been a rise in litigation against manufacturers of the electronic cigarette."); Izzy Kapnick, *Vape Battery Explosion Lawsuits on the Rise*, Courthouse News Serv. (Dec. 29, 2017), https://www.courthousenews.com/vape-battery-explosion-lawsuits-on-the-rise [https://perma.cc/MP3S-R7TP]; Lisa A. Zakolski, *Cause of Action in Products Liability Against Manufacturer or Seller of Electronic Cigarette or Vape Product*, *in* 102 Causes of Action 2d 477 (2d ed. 2023) (generally describing the types of e-cigarette lithium-ion battery claims that have been brought in the United States); *see also* Erika Edwards, *The Battery Behind Dangerous and Deadly E-Cigarette Explosions*, NBC News (July 24, 2019 4:38 AM), https://www.nbcnews.com/health/health-news/battery-behind-dangerous-deadly-e-cigarette-explosions-n1032901 [https://perma.cc/89QV-K894] (noting that certain types of lithium-ion batteries are intended for "use is in electric vehicles and power tools—not devices that consumers can modify and put into their mouths," but that they are "often used in certain types of electronic cigarettes called mechanical mods, which are specialized vaping devices that do not have an internal safety circuitry," frequently leading to injury); *Battery Industry Begins Public Safety Campaign Against Misuse of Li-Ion Cells in E-Cigarettes*, Portable Rechargeable Battery Ass'n (Oct. 15, 2018), https://www.prba.org/press-releases/battery-industry-begins-public-safety-campaign-against-misuse-of-li-ion-cells-in-e-cigarettes-6396 [https://perma.cc/L3KF-GBFL] ("Manufacturers of these cells, commonly known as '18650' cells, never intended them to be used as stand-alone power sources in e-cigarette and vaping devices or to be handled directly by consumers as loose, replaceable power sources.").

134. *See* Portable Rechargeable Battery Ass'n, *supra* note 133.

135. *See* Allen Bernard, *How China Came to Dominate the Market for Lithium Batteries and Why the U.S. Cannot Copy Their Model*, Material Handling Wholesaler, https://www.mhwmag.com/features/how-china-came-to-dominate-the-market-for-lithium-batteries-and-why-the-u-s-cannot-copy-their-model [https://perma.cc/PB4Z-ZCB5] (explaining that the majority of lithium-ion batteries are manufactured overseas, specifically China, and the United States lags behind other countries in lithium-ion battery production);

installed into various products, including primarily e-cigarette or vaping devices, either by the manufacturers of those devices or by consumers.[136] Typically, these batteries were not designed or approved for use in electronic cigarettes,[137] and this misuse resulted in fire or explosion leading to injuries or damages to potential plaintiffs.[138] In many of these cases, the defendant manufacturers have moved to dismiss based on lack of personal jurisdiction, while injured plaintiffs have relied on *Ford* to challenge these motions.[139] But battery manufacturers are often able to submit evidence showing the battery cells were not designed, manufactured, distributed, advertised, or sold for use as batteries in electronic cigarette devices and that such use was not authorized by the manufacturers.[140] As a result, some

---

Sepulveda-Sanchez, *supra* note 133, at 109 (explaining that these batteries are often sold to manufacturers of e-cigarettes to be incorporated into those products).

136. *See* Sepulveda-Sanchez, *supra* note 133, at 109 ("Battery manufacturers have chosen to sell these defective batteries at a lower cost to distributors of lithium-ion batteries. The new distributor will simply 'rewrap' the battery and distribute them to be used for e-cig manufacturing.").

137. *See* Portable Rechargeable Battery Ass'n, *supra* note 133:

> 18650 lithium-ion battery cells are not intended for use in vaping and e-cigarette devices—they were designed as a power source for products such as building tools (drills, saws, etc.), medical devices, laptop computers, lawnmowers and similar products. . . . But some unauthorized third-parties are selling stand-alone 18650 cells to consumers for use in e-cigarette and vaping devices. In some cases, the 18650 cells being offered for sale were previously used for other applications, or "re-wrapped" with inaccurate and misleading labels.

See also CPSC Issues Consumer Safety Warning: Serious Injury or Death Can Occur if Lithium-Ion Battery Cells Are Separated from Battery Packs and Used to Power Devices, U.S. Consumer Prod. Safety Comm'n (Jan. 8, 2021), https://www.cpsc.gov/Newsroom/News-Releases/2021/CPSC-Issues-Consumer-Safety-Warning-Serious-Injury-or-Death-Can-Occur-if-Lithium-Ion-Battery-Cells-Are-Separated-from-Battery-Packs-and-Used-to-Power-Devices [https://perma.cc/PHK8-6KKB] ("These cells are manufactured as industrial component parts of battery packs and are not intended for individual sale to consumers. However, they are being separated, rewrapped and sold as new consumer batteries, typically on the Internet."); Sepulveda-Sanchez, *supra* note 133, at 109 ("Through the development of litigation across the country, it has been discovered that many of the lithium-ion batteries being used for e-cigarette[s] are low quality batteries which failed to pass quality control standards for other battery manufacturers.").

138. *See* Edwards, *supra* note 133 (noting that there were more than 2,000 emergency room visits due to e-cigarette burns and explosions between 2015 and 2017); Luis Quiroga, Mohammed Asif, Tomer Lagziel, Deepa Bhat & Julie Caffrey, *E-Cigarette Battery Explosions: Review of the Acute Management of the Burns and the Impact on Our Population*, 11 Cureus, Aug. 9, 2019, at 1, 2, 6 (Explaining a process called "thermal runaway" wherein "the internal battery temperature increases to the point where an internal fire or explosion can be started by conditions such as overcharge, puncture, external heat, a short circuit, etc.," and noting that "[i]n the last few years, the medical community has encountered increasing episodes of burn injuries secondary to e-cigarette battery explosion[s]" due to the occurrence of thermal runaway. Also explaining that the danger of explosion is higher when lithium-ion batteries are included in e-cigarettes than when they are included in other products because "e-cigarette batteries seem more prone to failure due to an inherent weakness in their structural design. The cylindrical shape of many of these batteries creates a weak point on the ends where the battery's seal is placed after filling it with electrolyte.").

139. *See, e.g.*, Kasper v. Samsung SDI Co. Ltd., No. cv-21-01191, 2022 WL 294208, at *1, 4 (D. Ariz. Feb. 1, 2022).

140. *Id.* at *3.

post-*Ford* jurisdictional challenges for this category of cases have resulted in dismissals.[141]

Not surprisingly, courts have recognized that lithium batteries are unlike Ford vehicles.[142] The *Ford* Court cautioned parties to recognize the limits of its holding, specifically limits on what it means for a defendant's contacts to "relate to" a suit.[143] The cases in this section demonstrate that *Ford* does not automatically open the gates in any forum for suits involving products unlike Ford vehicles. Specifically, these cases emphasize the contrast between Ford and the manufacturers of lithium-ion batteries, and provide examples of how personal jurisdiction challenges have been handled when brought by manufacturers who are not as omnipresent as Ford. It is essential to understand the product, including how it is manufactured, distributed, and used, before filing or opposing a personal jurisdiction motion.

For example, in *LG Chem, Ltd. v. Superior Court of San Diego County*, a California appellate court found that selling lithium-ion batteries as industrial components to original equipment manufacturers did not support personal jurisdiction in a claim brought by an individual plaintiff who purchased a lithium-ion battery from a vape shop.[144] Distinguishing the circumstances from *Ford*, the court noted that,

> The undisputed facts establish that LG Chem did not advertise, market or solicit buyers—original equipment manufacturers *or* individual consumers—for its 18650 batteries. The business LG Chem regularly conducted in California consisted of sales of 18650 batteries as industrial component parts to three companies in the electric vehicle industry, for use in electric vehicles. More to the point, unlike the Minnesota and Montana markets served by Ford, the market served by LG Chem's California sales was *not* a consumer market. As such, LG Chem did nothing in California to urge, foster, or encourage California consumers like [plaintiff] to buy, or use, individual 18650 batteries as standalone replacements in consumer products. Quite the opposite. LG Chem took steps to prevent precisely [plaintiff's] consumer behavior by placing warning labels on its 18650 batteries and requiring its business customers to sign declarations of commitment promising not to resell its batteries to individual consumers. Thus, unlike *Ford Motor*, it cannot be said (nor is it even alleged) that LG Chem cultivated and "systematically served a market" for consumer purchase or use of its 18650 batteries as standalone replacements.[145]

141. *See, e.g.*, Miller v. LG Chem., Ltd., 868 S.E.2d 896, 901–03 (N.C. Ct. App. 2022), *rev'd and remanded*, 887 S.E.2d 844 (N.C. 2023) (remanded for reconsideration and ruling on plaintiff's discovery motions which requested additional jurisdictional discovery); Kasper v. Samsung SDI Co., No. cv-21-01191, 2022 WL 294208 (D. Ariz. Feb. 1, 2022). For additional cases involving battery claims, see this Article's Appendix.

142. *See, e.g.*, *Miller*, 868 S.E.2d at 903.

143. Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1026 (2021).

144. LG Chem, Ltd. v. Super. Ct. of San Diego Cnty., 295 Cal. Rptr. 3d 661, 682 (Cal. Ct. App. 2022).

145. *Id.* at 676–77 (emphasis in original) (quotations omitted) (citations omitted).

The court found that it was not enough to demonstrate that LG Chem "[s]erves *a* market" and that the product malfunctioned in that market.[146] Further, the court acknowledged the caution shared by the *Ford* majority, in that while specific jurisdiction can attach on a lesser "relate to" showing, "[t]hat does not mean anything goes," and "the phrase 'relate to' incorporates real limits."[147]

The facts of the lithium-ion battery cases are often more complicated than those of *Ford* or the rest of the Trilogy, and courts considering these cases have reached varying outcomes.[148] But these cases provide examples of courts' willingness to sustain personal jurisdiction challenges by defendants who are not as omnipresent as Ford when the facts do not indicate they had sufficient suit-related contacts to the forum. Manufacturers of products, as well as plaintiffs, may find it useful to review other cases before assuming that Ford has opened the gates for all such cases.

3. Case-Specific Factors Unlike Ford

Ford certainly did not address every factual situation, nor did earlier cases. Even when a defendant's contacts with the forum were purposefully established, they are irrelevant unless the suit at hand arises out of, or relates to, those contacts—a determination that will depend on the facts of each individual case. As the Court noted in *Ford*, "Specific jurisdiction is different . . . . The plaintiff's claims, we have often stated, 'must arise out of or relate to the defendant's contacts' with the forum."[149] "Or put . . . differently, 'there must be "an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation."'"[150]

Below, we discuss some examples of cases since *Ford* that involve the five following factually distinguishable scenarios:

(a) The product was manufactured outside the forum and sold to a customer in the forum, but the injury is caused by an accident in another forum;
(b) Neither the product nor similar products were manufactured or sold in the forum, but the injury occurred in the forum;
(c) The product was manufactured outside the forum, but was purchased in the forum through a third party, and the injury occurred in the forum;

---

146. *See id.* at 677 (emphasis in original).
147. *Id.* (alteration in original) (quoting *Ford*, 141 S. Ct. at 1026).
148. Several cases involving foreign manufacturers of lithium-ion batteries have reached the opposite result of *LG Chem, Ltd. v. Superior Court of San Diego County*, finding that personal jurisdiction was proper over such defendants. *See, e.g.*, LG Chem, Ltd. v. Lemmerman, 863 S.E.2d 514 (Ga. Ct. App. 2021), *cert. denied* (Mar. 8, 2022); Lorenzen v. Toshiba Am. Info. Sys., Inc., 569 F. Supp. 3d 109 (D.R.I. 2021).
149. *Ford*, 141 S. Ct. at 1024–25 (quoting Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 582 U.S. 255, 272 (2017)); *see, e.g.*, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472 (1985); Helicopteros Nacionales de Colom., S.A. v. Hall, 466 U.S. 408, 414 (1984); Int'l Shoe Co. v. Washington, 326 U.S. 310, 319 (1945).
150. *Ford*, 141 S. Ct. at 1025 (alteration in original) (quoting *Bristol-Myers*, 582 U.S. at 262).

(d) The specific product at issue was manufactured and sold elsewhere, but the defendant sold or provided similar products to the forum, and the injury occurred in the forum;
(e) The product is one of a modest number that component suppliers sold to customers in the forum.

For a more comprehensive list of cases that address these factors, please consult the Appendix, which identifies other post-*Ford* personal jurisdiction decisions in state and federal courts, organized by the state in which they were decided.

a. The Product was Manufactured Elsewhere, Sold to Customers in the Forum, but the Accident Occurs in Another Forum

i. Martins v. Bridgestone Americas Tire Operations, LLC

In *Martins*, the decedent's representatives brought suit in Rhode Island against tire manufacturer Bridgestone for an accident in Connecticut.[151] The subject tire was manufactured and installed onto a tow truck in Tennessee.[152] The tow truck was purchased by a Massachusetts corporation for which the decedent worked.[153] The sale of the tow truck was brokered by another Massachusetts corporation, and a Connecticut corporation supplied the cab and chassis of the rotator truck, specifically requesting the installation of the subject Bridgestone tire in the final product.[154] The Massachusetts tow trucking company traveled to Tennessee, where the truck had been assembled, picked it up, and drove it back to Massachusetts.[155] The accident occurred while the decedent—a Rhode Island resident—was assisting with a job in Connecticut in the truck.[156]

The court noted that the "Bridgestone defendants had extensive contacts with Rhode Island and their intent was to conduct business in Rhode Island."[157] The Rhode Island Supreme Court assumed, without deciding, that both defendants purposefully availed themselves of the laws of Rhode Island.[158] However, the court concluded that the plaintiff's claims did not "relate to" the Bridgestone defendants' contacts with Rhode Island.[159] The court noted that both the plaintiff's place of injury and place of residence could be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit, but found that, in *Ford*, it was key that the accidents took place within the forum.[160] Because the injury in *Martins* occurred elsewhere, the court rejected the application for specific

151. Martins v. Bridgestone Ams. Tire Operations, LLC, 266 A.3d 753, 756 (R.I. 2022).
152. *Id.*
153. *Id.* at 755.
154. *Id.* 755–56.
155. *Id.* at 756.
156. *Id.*
157. *Id.* at 759 (alterations omitted).
158. *Id.*
159. *Id.*
160. *Id.* at 761 (citing Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1032–33 (2021)).

jurisdiction, notwithstanding the plaintiff's reliance on the stream of commerce theory.[161]

ii. Wallace v. Yamaha Motors Corp., U.S.A.

In *Wallace*, the Fourth Circuit concluded that Yamaha could not be sued in South Carolina by a South Carolina resident for an accident that occurred in Florida.[162] The motorcycle at issue was manufactured elsewhere, distributed elsewhere, and sold elsewhere, but other motorcycles of the same model had been sold in the state.[163] While the first element of jurisdiction—purposeful availment—was satisfied due to Yamaha's other extensive business in the state, the court found that the plaintiff did not meet the second element of the test: "whether [the plaintiff's] claims arise out of the conduct Yamaha has directed at South Carolina."[164] The court noted that the plaintiff did not establish a connection between the forum and the controversy, such as an action by Yamaha in the state that led to the accident, and failed to explain how the motorcycle even made it to South Carolina.[165]

The plaintiff argued that *Ford* "change[d] the balance" for specific jurisdiction, but the court remarked that *Ford* merely found that "specific jurisdiction attaches 'when a company like Ford serves a market for a product in the forum State *and the product malfunctions there*.'"[166] The Fourth Circuit noted that *Ford* might allow Wallace to sue Yamaha in Florida, where the accident occurred, but it does not allow her to sue Yamaha in South Carolina.[167] More of a connection between the forum state and the incident at the heart of the suit is required than general business in the state and the plaintiff's residence there.[168]

iii. Daimler Trucks North America LLC v. Superior Court

In *Daimler Trucks*, Plaintiff Yongquan Hu and another individual (Gao), both California residents and long-distance tractor-trailer drivers, took turns driving a Daimler Cascadia truck from California to New Jersey and back again.[169] The truck was purchased as a used vehicle in California by Mr. Hu's employer after having been brought into the state by a third-party used truck dealership.[170] Mr. Hu was injured while Gao was driving the truck on Interstate 40 in Oklahoma.[171] Hu brought a lawsuit against

161. *Id.* at 762.
162. Wallace v. Yamaha Motors Corp., U.S.A., No. 19-2459, 2022 WL 61430, at *1 (4th Cir. Jan. 6, 2022).
163. *Id.* at *4.
164. *Id.* at *3–4.
165. *Id.* at *4.
166. *Id.* (emphasis in original) (quoting Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1026 (2021)).
167. *Id.*
168. *See id.* at *4–5.
169. Daimler Trucks N. Am. LLC v. Super. Ct. of L.A. Cnty., 296 Cal. Rptr. 3d 564, 567 (Cal. Ct. App. 2022).
170. *Id.* at 568.
171. *Id.* at 567.

Daimler in California, and Daimler argued that California could not exercise personal jurisdiction.[172] The lower court disagreed, finding jurisdiction was proper, and Daimler appealed.[173]

On appeal, the court found that Daimler had purposefully availed itself of forum benefits, comparing it to *Ford*.[174] Although Daimler did not manufacture or assemble vehicles in California, it did conduct considerable business in the state, including selling the same model vehicle to customers there:

> Daimler had 32 authorized dealerships in California that sold Freightliners. Customers can order the vehicles at these dealerships; Daimler then assembles the specified vehicles and delivers them to the dealership. Between 4,000 and 5,000 trucks were sold in California each year from 2014 to 2020. Authorized dealerships advertised Freightliner trucks, and Daimler provides the dealerships with information for display advertising purposes. Daimler also sells and ships truck parts to 27 of these authorized California dealerships. The dealerships offer a variety of specialized maintenance and repair services. Twenty-three of the authorized California dealerships service Freightliner trucks. There are 11 truck "Elite Support" locations in California. These service centers offer customers the services of mechanics who receive "continual training from the experts at Freightliner" and must meet specific criteria. Nine "ServicePoint" locations in California offer 24/7 service, repairs, parts, inspections, and trailer maintenance. Seven "Body Shop" locations in California provide Freightliner crash repair and other repair services not often available in a typical dealership. Hundreds of these service shops are located in the United States.[175]

Given that Daimler also engaged in substantial multimedia advertising in California, the court found Daimler purposefully availed itself of the California market.[176]

The court also concluded that the second element was satisfied.[177] Similar to *Ford*, the plaintiff's claims "related to" Daimler's contacts with California because Daimler had "systematically served a market in California for the very vehicle that the Plaintiffs alleged was defective and injured them" by marketing, selling, and servicing that model within the state.[178] The court also noted that the truck was designed and marketed for interstate transport, which is what Hu was using it for when he was injured.[179] The court also recognized other ties to California:

> Mr. Hu and his wife [were] California residents, Mr. Hu was working for a California company and driving to California at the time of the accident, the subject vehicle was purchased in California, and the bulk

172. *Id.* at 568–69.
173. *Id.* at 569.
174. *Id.* at 572.
175. *Id.* at 568.
176. *Id.* at 572.
177. *Id.* at 574.
178. *Id.* at 569.
179. *Id.* at 570.

> of the damages for pain and suffering and medical expenses occurred and would continue to occur in California.[180]

The court thus concluded that Daimler's contacts were sufficiently related to the suit to allow personal jurisdiction, even in the absence of causation.[181] Finally, the court concluded that subjecting Daimler to suit in California comported with fair play and substantial justice and therefore upheld the trial court's exercise of personal jurisdiction.[182]

The *Martins* and *Wallace* cases indicate that *Ford*'s "relatedness," in the absence of causation, might be limited to situations in which the product malfunctions in the forum state. *Daimler*, on the other hand, is more questionable. Although Daimler conducted substantial business in California, it did not sell the truck at issue in the state, and, unlike *Ford*, the accident did not occur in the forum.[183] The court primarily relied heavily on the plaintiff's connections with the forum.[184] The product malfunctions occurred elsewhere.[185] Daimler had manufactured it elsewhere and sold it elsewhere.[186] The plaintiff was a resident of the forum who was using the product in a manner consistent with in-state advertisements (i.e., for long-haul travel), but there was no indication that whatever advertising Daimler did in California would not have benefited Daimler when a third party sold a used truck in the forum.[187] Arguably, however, the *Daimler* decision also based its conclusion on the application of the third personal jurisdiction factor: the reasonableness of bringing the defendant to court in the forum based on the defendant's overall contacts with the forum.

b. The Product was not Manufactured or Sold in the Forum, but the Injury Occurred in the Forum

i. Andrews v. Shandong Linglong Tyre Co., Ltd.

In *Andrews*, a truck driver who was a citizen of Maryland towed a loaded trailer through Virginia where the front left tire failed.[188] The driver was killed and the suit was brought in Virginia.[189] The tire was manufactured in China by Defendant Shandong, which was incorporated in Ohio but headquartered in China.[190] The defendant that moved to dismiss, Linglong, a corporate affiliate of Shandong, maintained its principal place of business

180. *Id.* at 569.
181. *Id.* at 574.
182. *Id.* at 575–76; *see also* Steve Boranian, *California Courts Are at It Again on Personal Jurisdiction*, Drug & Device L. (July 15, 2022), https://www.druganddevicelawblog.com/2022/07/california-courts-are-at-it-again-on-personal-jurisdiction.html [https://perma.cc/5TF9-YJSG].
183. *Daimler*, 296 Cal. Rptr. 3d at 570–72.
184. *See id.* at 572–74.
185. *See id.* at 570–72.
186. *Id.*
187. *See id.*
188. Andrews v. Shandong Linglong Tyre Co., Ltd., No. 3:21-cv-794, 2022 WL 2484544, at *1 (E.D. Va. July 6, 2022).
189. *Id.*
190. *Id.* at *2.

in Ohio.[191] The defendant did not have any business, property, or offices in Virginia.[192] The plaintiff attempted to rely on the stream of commerce theory to demonstrate Linglong's purposeful availment of Virginia markets.[193] However, this attempt failed because a "prerequisite to the application of the stream of commerce theory is that defendant's product actually be sold, directly or indirectly, in the forum state."[194]

The court also noted *World-Wide Volkswagen's* holding that a court cannot exercise personal jurisdiction "over a nonresident automobile retailer and its wholesale distributor in a products-liability action, when the defendants' only connection with [the forum state] is the fact that an automobile sold [outside of the forum] became involved in an accident [in the forum]."[195] The court reiterated that it is insufficient that a product simply ended up in the forum state: "the defendant must have taken some additional targeted conduct directed at the forum state."[196] Because the plaintiff failed to show that the defendant targeted Virginia, it was unnecessary to consider the remaining elements, and the court concluded that the defendant was not subject to personal jurisdiction in Virginia.[197]

c. The Product was not Manufactured in the Forum, but was Purchased in the Forum Through a Third Party, and the Injury Occurred in the Forum

i. Patterson v. Chiappa Firearms, USA, Ltd.

In *Patterson*, the plaintiff, a resident of Indiana, purchased a Chiappa handgun online from a Kentucky seller and had it delivered to Indy Arms Company in Indianapolis.[198] The plaintiff test fired it twice.[199] The second shot exploded in his hand.[200] The handgun was manufactured in Italy by Chiappa Firearms, S.R.I. ("Chiappa Italy"), and distributed in the U.S. by Chiappa USA.[201] The plaintiff sued both companies, alleging strict liability and negligence.[202]

Chiappa Italy challenged personal jurisdiction in Indiana, arguing that it did not direct any activities toward Indiana or purposefully avail itself of the privilege of conducting business in Indiana.[203] The court concluded that the plaintiff failed to satisfy the "arise out of or relate to" portion of the

191. *Id.*
192. *Id.*
193. *Id.* at *7.
194. *Id.* (*quoting Reynolds & Reynolds Holdings, Inc. v. Data Supplies, Inc.*, 301 F. Supp. 2d 545, 554 (E.D. Va. 2004)).
195. *Id.* at *8 (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 287 (1980)).
196. *Id.* at *7 (citing J. McIntyre Mach., Ltd. v. Nicastro, 564 U.S. 873, 882 (2011)).
197. *Id.* at *10.
198. Patterson v. Chiappa Firearms, USA, Ltd., No. 1:20-cv-01430, 2021 WL 4287431, at *1–2 (S.D. Ind. Sept. 21, 2021).
199. *Id.* at *1.
200. *Id.*
201. *Id.*
202. *Id.*
203. *Id.* at *2.

test, even under *Ford's* arguably easier-to-satisfy articulation (emphasizing that a suit merely needs to "relate to" the defendant's conducts in the forum, and need not have been directly caused by those contacts).[204] The plaintiff failed to show "arise out of" causation because he failed to allege that he saw or used any link from Chiappa Italy's website when choosing where to buy the product or that any of Chiappa Italy's contacts with Indiana otherwise motivated the gun purchase or caused his injury.[205]

Citing *Ford*, the court held that the record did not show causation, so the "arise out of" half of the standard could not support personal jurisdiction.[206] Unlike Ford, the plaintiff failed to demonstrate that Chiappa Italy had "invaded Indiana's market 'by every means imaginable.'"[207] Specifically, the plaintiff did not point to advertisements by Chiappa Italy in Indiana, nor did the Plaintiff allege that Chiappa Italy "work[ed] hard to foster" relationships with its Indiana clients.[208]

The plaintiff's claim was in contrast to *Ford*, where the court noted that Ford's many contacts with the forum states—including in-state advertising efforts and repair shops—may have causally contributed to the plaintiff's decision to purchase a Ford vehicle and certainly "related to" the case.[209] Rather, the court concluded that Chiappa Italy's contacts with Indiana were "isolated or sporadic" and not sufficient such that Chiappa Italy could reasonably expect to be subject to litigation there.[210] Thus, the court concluded that relying on those contacts alone to exercise jurisdiction over Chiappa Italy would go beyond the "real limits" contemplated by the *Ford* court and declined to exercise jurisdiction.[211]

The plaintiff also argued that the court had personal jurisdiction over Chiappa Italy because it placed its products into the stream of commerce, expecting they would be marketed and sold in Indiana, thereby purposefully availing itself of Indiana's market.[212] The court noted that "[t]he Supreme Court 'has twice failed to resolve . . . conclusively' whether

---

204. *Id.* at *3.

205. *Id.*; *see also* Staggs v. Smith & Wesson, No. 21-2535, 2022 WL 2713277, at *4 (D.D.C. July 13, 2022) (holding that evidence of "Defendant's national net sales and gross profits" did not constitute "evidence of its business transactions in the District").

206. *Patterson*, 2022 WL 2485444, at *3 (citing Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1025–26 (2021)).

207. *Id.* (alterations omitted) (quoting *Ford*, 141 S. Ct. at 1028).

208. *Id.* (citing *Ford*, 141 S. Ct. at 1028).

209. *See id.* at *3 (citing *Ford*, 141 S. Ct. at 1025).

210. *Id.* (citing *Ford*, 141 S. Ct. at 1028).

211. *Id.* at *4:

> In short, here there is no "tacit quid pro quo that makes litigation in Indiana reasonably foreseeable." So subjecting Chiappa Italy to personal jurisdiction in Indiana would prevent it from "conducting interstate business with the confidence that 'transactions in one context will not come back to haunt it unexpectedly in another.'" This case is thus beyond the "real limits" that "the phrase 'relate to' incorporates," and the Court does not have personal jurisdiction over Chiappa Italy.

(alterations omitted) (citations omitted).

212. *Id.* at *3.

a stream of commerce theory remains viable,"[213] but that "[e]ven under the broadest stream-of-commerce theory, . . . 'unpredictable currents or eddies'" do not qualify.[214] Here—where the Plaintiff purchased the firearm from an online gun seller in Kentucky and received the firearm from an Indiana gun dealer—the "stream" that brought the product into Indiana was too indirect to constitute purposeful availment of the forum.[215] The court concluded that the case was beyond the "real limits" that "the phrase 'relate to' incorporates."[216]

d. Manufacturer Sold Similar Products or Services in the Forum, but not the Product at Issue

i. Cox v. HP Inc. (TÜV)

Two unrelated defendants in *Cox* filed motions challenging personal jurisdiction.[217] The allegations against both defendants arose from an accident in which the plaintiff was severely injured by the explosion of a new hydrogen generator in Oregon.[218] HP Inc. (HP) had purchased the generator and then altered it during installation.[219] The plaintiff alleged that HP's alterations caused the explosion and that a drain trap installed by the generator manufacturer was defective.[220] HP brought third-party actions against Proton, the manufacturer of the generator, and TÜV, which had inspected and certified Proton's design at the manufacturer's factory in Connecticut.[221] The trial court denied TÜV's challenge to personal jurisdiction in Oregon.[222] In a mandamus proceeding, the Supreme Court of Oregon ordered the trial court to vacate its denial of TÜV's motion to dismiss.[223]

The court described purposeful availment as a threshold requirement, concluding that TÜV had purposefully availed itself of the privilege of conducting business in Oregon and focusing its inquiry instead on the second element—whether there was a sufficient connection between TÜV's Oregon activities and HP's claim against TÜV to satisfy the "relatedness" requirement as set forth in *Ford*.[224] HP argued that TÜV's Oregon contacts were sufficiently related to the suit because TÜV had certified other products in Oregon, had "announced that it had 'expanded the staff at its Portland, Oregon, office' and emphasized that it 'remain[ed] committed to providing a complete menu of compliance and auditing services to [its]

213. *Id.* (alteration in original) (citing J.S.T. Corp. v. Foxconn Interconnect Tech. Ltd., 965 F.3d 571, 576 (7th Cir. 2020)).
214. *Id.* at *4 (quoting Williams v. Romarm, SA, 756 F.3d 777, 785 (D.C. Cir. 2014)).
215. *See id.*
216. *Id.* (citing Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1026 (2021)).
217. Cox v. HP Inc., 492 P.3d 1245, 1247 (Or. 2021).
218. *Id.* at 1249.
219. *Id.*
220. *Id.*
221. *Id.* at 1249–50.
222. *Id.* at 1250.
223. *Id.* at 1248, 1250.
224. *Id.* at 1257.

customers throughout the area.'"[225] TÜV had also obtained approval from the State of Oregon to perform evaluation and testing services in the state and had "regularly conduct[ed] certification of HP products within the State of Oregon."[226] HP further argued that TÜV's Oregon activities were sufficiently related to the litigation because "TÜV 'actively developed, cultivated, and marketed a reputation as a provider of technical expertise and services in the State of Oregon' and, by doing so, TÜV made it foreseeable that any product bearing a TÜV certification mark would be desirable to businesses in Oregon."[227]

The court concluded, however, that the relationship between these Oregon activities and the present litigation was not close enough to permit an Oregon court to exercise specific personal jurisdiction, noting that TÜV had not performed any testing or certification work in Oregon "relating to generators of any kind," nor related to the specific product at issue.[228] The court also described TÜV's activities in Oregon generally as minimal, noting that—aside from two posts on its website—there was no evidence that TÜV marketed its services to potential clients in Oregon.[229] HP's evidence failed to show that TÜV's marketing materials were actually targeted to an Oregon audience or seen by anyone in the state.[230] Nor was there evidence that any consumer other than HP was influenced in its product-purchasing decisions to choose a product that had been certified by TÜV.[231] Unlike Ford, "TÜV's Oregon activities were not directed at, and did not connect it to, prospective Oregon purchasers of products like the Proton hydrogen generator."[232]

HP's "causation" argument—that TÜV's prior work for HP in Oregon caused HP to believe it could rely on TÜV's certification work on the generator at issue—was insufficient for the court to find that the suit arose out of or related to TÜV's contacts with the forum.[233] The court explained that a causal link alone will sometimes be insufficient because "due process demands a close enough relationship between the litigation and the defendant's Oregon activities to make it reasonably foreseeable that the nonresident defendant would be haled into court in Oregon to answer the specific allegations."[234] The court found it was not reasonably foreseeable that TÜV would be haled into court in Oregon based on that contact.[235]

Accordingly, the Oregon Supreme Court vacated the trial court's denial of TÜV's motion to dismiss for lack of personal jurisdiction.[236]

---

225. *Id.* at 1250 (alterations in original).
226. *Id.* (alteration in original).
227. *Id.* at 1259.
228. *Id.* at 1259–61.
229. *Id.* at 1259–60.
230. *Id.* at 1263.
231. *Id.*
232. *See id.* at 1263–64.
233. *Id.*
234. *Id.* (citing Robinson v. Harley-Davidson Motor Co., 316 P.3d 287, 291–92 (Or. 2013)).
235. *See id.*
236. *Id.* at 1264.

e. A Component Part was Included in a Product Ultimately Sold in the Forum and the Product Malfunctioned in the Forum

i. Cox v. HP Inc. (Spirax)

Another personal jurisdiction claim arose from the same *Cox v. HP Inc.* litigation discussed above, in which the plaintiff was injured in Oregon by the explosion of a Proton hydrogen generator.[237] The plaintiff also alleged that the explosion was caused by the failure of a drain trap in the generator.[238] Spirax, the drain trap manufacturer, was a Delaware corporation based in South Carolina.[239] Spirax sold the drain trap to Proton, a company in Connecticut.[240] Proton designed and manufactured the generator and incorporated the drain trap in its design.[241] Proton then sold the generator to HP in Oregon.[242] Spirax had sold drain traps to customers in Oregon but did not sell anything in Oregon for installation on a generator.[243] It challenged personal jurisdiction in Oregon based on an alleged lack of relatedness.[244] The trial court granted Spirax's motion to dismiss, and the Plaintiffs appealed to the Oregon Court of Appeals.[245]

The appellate court noted there was no "but-for" causal connection but explored whether Spirax's contacts with the forum were sufficiently "related to" the plaintiff's claims to support specific jurisdiction.[246] Spirax had sold a modest number of drain traps to other customers in Oregon but none for use in generators.[247] There was no other evidence of Spirax's systemic marketing/sales to the Oregon market.[248] The court explained that Spirax's limited presence in Oregon and attempts at general growth did not create a sufficient nexus to the instant litigation to support personal jurisdiction.[249] The court categorized Spirax's advertising efforts as "global" rather than as directed at the forum because the advertising occurred via Spirax's website and there was no evidence that the advertising effort was actually received by anyone in Oregon.[250]

Noting that the plaintiff's claims were based on Spirax's sale of drain traps outside the forum, and "the path of this litigation [was] not dependent on, nor related to, the benefits that Spirax received from Oregon law based on its in-state activity," the court found:

> Any link that plaintiffs attempt to suggest between Spirax's nontargeted internet presence and the possibility that a customer in Oregon

237. Cox v. HP Inc., 504 P.3d 52, 54 (Or. Ct. App. 2022).
238. *Id.* at 55.
239. *Id.* at 54.
240. *Id.*
241. *Id.*
242. *Id.*
243. *See id.* at 55.
244. *Id.* at 55–56.
245. *Id.* at 55.
246. *Id.* at 56.
247. *Id.* at 55, 59.
248. *See id.* at 59.
249. *Id.* at 60.
250. *Id.* at 59.

> would purchase any type of drain trap from Spirax is too tenuous to help support a nexus between that advertising and this litigation.[251]

Thus, the court concluded that it did not have personal jurisdiction over Spirax.[252]

This decision appears to merge the elements of purposeful availment and relatedness rather than considering them separately. The court was ultimately unwilling to find relatedness, at least in part because of a lack of evidence that Spirax directed its actions to the forum/purposefully availed itself of the forum.[253] While it perpetuates a lack of clarity regarding the proper relationship between the purposeful availment and relatedness elements, this case otherwise represents good news for products liability defendants who are *not* similarly positioned to Ford in terms of activities that could be considered to be "directed" to the forum state.

ii. Safeco Insurance Company of America v. Air Vent, Inc.

A Nevada homeowner's insurer brought a subrogation claim against the manufacturer of an attic cooling fan that caused a fire.[254] The manufacturer brought a third-party complaint against three component manufacturers, including Powermax, the Chinese manufacturer of the fan's motor.[255] Powermax moved to dismiss, arguing that Nevada did not have specific personal jurisdiction over Powermax.[256] Together with its American co-defendant, Powermax had a supplier-buyer agreement with Home Depot, the retailer who sold the fan to the homeowner, and that agreement listed "Nevada as a state in which it [was] effective."[257] Powermax argued that the case was similar to *Asahi*; the plaintiff argued that it was closer to *Ford*.[258] The court concluded it was not analogous to either one and that "Powermax's conduct [was] not as extensive as Ford's in Montana and Minnesota nor as lacking as Asahi's in California," but it ultimately decided that Powermax purposely targeted the American market, including by entering into "contracts with nationwide retailers that explicitly contemplate entry into the Nevada market."[259] The court further determined that Powermax's intentional "entry sufficiently relates to the claim in this case" and therefore concluded that exercising personal jurisdiction over Powermax was proper.[260]

---

251. *Id.* at 59–60.
252. *Id.* at 60–61.
253. *See id.* at 60.
254. Safeco Ins. Co. of Am. v. Air Vent, Inc., 616 F. Supp. 3d 1079, 1083 (D. Nev. 2022).
255. *Id.*
256. *Id.*
257. *Id.* at 1088–89.
258. *Id.*
259. *Id.* at 1090.
260. *Id.*

iii. Foscato v. Chaparral Boats, Inc.

Defendant Lajuene's boat injured passengers when he caused the underside of the boat to strike a bridge pillar in Missouri.[261] "The collision destabilized the boat's hard top tower, which then fell and injured Plaintiffs."[262] Defendant Xtreme designed and manufactured the hard top towers in Tennessee and sold them exclusively to defendant Chaparral Boats in Georgia.[263] Chaparral Boats then installed the towers and sold the boats through its own sales and distribution channels.[264] Chapparal attached the tower at issue to a boat then sold to a dealer, Premier 54 Motorsports, who in turn sold the boat to Lajuene.[265]

Xtreme moved to dismiss for lack of personal jurisdiction, arguing it had no connections with Missouri.[266] It did not sell its tower through a distributor; it made kits in Tennessee and sent them to Chaparral in Georgia.[267] Xtreme had no role in determining where the completed boats were sold.[268] Plaintiffs argued that there were sufficient contacts to support jurisdiction primarily because Xtreme designed the tower for the U.S. market generally, then sold it through Chaparral dealers in Missouri, and because Xtreme sent a replacement tower with installation instructions to Missouri after the original tower broke.[269]

The court discussed the appropriate forum to sue a manufacturer of a component product at length, rejecting the argument that a component part manufacturer should expect to be haled into court in every state where the final product is sold, where the component part manufacturer played no role in determining where the finished product was sold.[270]

The court also found insufficient evidence that Xtreme sent the replacement tower at issue to Missouri or directed it to be sent there.[271] The court concluded plaintiffs had "failed to show Xtreme purposefully availed itself of the privilege of conducting business in Missouri."[272] The court granted Xtreme's personal jurisdiction motion.[273]

Read together, these three cases demonstrate the powerful protections for component parts manufacturers that can be found in the purposeful availment prong. It appears courts will be willing, after *Ford*, to find personal jurisdiction is proper when component parts manufacturers take

261. Foscato v. Chaparral Boats, Inc., No. 2:21-4240, 2022 WL 1322642, at *1 (W.D. Mo. May 3, 2022).
262. *Id.*
263. *Id.*
264. *Id.*
265. *Id.*
266. *Id.*
267. *Id.*
268. *Id.*
269. *Id.* at *3.
270. *See id.*
271. *See id.* at *5.
272. *Id.* at *3 (citing Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1025 (2021) (holding that a party must deliberately reach out beyond its border for a court to exercise personal jurisdiction over it)).
273. *Id.* at *7.

some action that is specifically directed at the forum state's market. But even where there is a modest number of sales of the same component product to other customers in the forum, courts seem unwilling to find personal jurisdiction without evidence of some specific activity directed at the forum's market and also seem unwilling to allow purposeful availment to be demonstrated against component parts manufacturers via reliance on the stream of commerce metaphor.

4. Similar Products, Different Results

Following *Ford*, two courts have addressed similar personal jurisdiction challenges involving aircraft crashes yet reached different conclusions: *LNS Enterprises LLC v. Continental Motors, Inc.*[274] and *Downing v. Losvar*.[275] The different outcomes in these two cases emphasize the importance of considering the case-specific facts at play when analyzing whether personal jurisdiction is likely to be found over a defendant.

a. *LNS Enterprises LLC v. Continental Motors, Inc*.

In *LNS Enterprises*, the plaintiffs purchased a used "2006 Cessna Columbia" airplane equipped with a Continental engine.[276] The plaintiffs used the Cessna solely to fly within Arizona for work.[277] On one such flight in 2017, the plaintiff was forced to make an emergency landing, resulting in damage to the aircraft and the engine.[278] The plaintiffs sued Continental and Cessna (and Textron, the parent company of Cessna).[279] Continental and Textron moved to dismiss the complaint for lack of personal jurisdiction, each attaching an affidavit or declaration regarding their lack of contacts with Arizona.[280] The plaintiffs did not file affidavits in response to the defendant's allegations, and the court concluded that Arizona lacked personal jurisdiction over the defendants.[281]

On appeal, the Ninth Circuit determined that Continental had not purposefully availed itself of the Arizona market due to Continental's uncontroverted affidavit stating that it did not have an Arizona-specific marketing strategy and did not market specifically to Arizona residents.[282]

274. LNS Enters. LLC v. Cont'l Motors, Inc., 22 F.4th 852 (9th Cir. 2022).
275. Downing v. Losvar, 507 P.3d 894 (Wash. Ct. App. 2022).
276. *LNS*, 22 F.4th at 856.
277. *Id.*
278. *Id.* at 856–57.
279. *Id.*
280. *Id.* at 857.
281. *Id.*
282. *Id.* at 863–64.

> Placing "a product into the stream of commerce"—even if the defendant is aware "that the stream of commerce may or will sweep the product into the forum state"—"does not convert the mere act of placing the product into the stream of commerce into an act" of purposeful availment. Supreme Court jurisprudence instead "requires 'something more' than the mere placement of a product into a stream of commerce."

Id. at 860 (quoting Holland Am. Line Inc. v. Wartsila N. Am., Inc., 485 F.3d 450, 459 (9th Cir. 2007); Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 111 (1987)).

Though Continental operated a website listing Arizona repair and installation shops, the court was persuaded that these were actually "unaffiliated" third-party mechanics.[283] Thus, the court concluded that plaintiffs failed to show that Continental purposefully availed itself of the Arizona market.[284] The court also reasoned that the plaintiffs could not demonstrate relatedness, even if Continental did directly operate the repair centers in Arizona, because "Plaintiffs do not allege that any of these repair shops worked on the engine in Plaintiffs' aircraft or the type of engine at issue in this case," nor did plaintiffs allege that Continental advertised, sold, or serviced the type of Continental engine at issue within Arizona.[285] The court contrasted this situation with *Ford*, in that Ford "advertised, sold, and serviced its vehicles in Montana and Minnesota," including the specific models at issue.[286]

As to Textron, the plaintiffs pointed to one contact with Arizona—the maintenance of a single service center.[287] However, the plaintiffs did not allege that the service center ever serviced the plaintiffs' aircraft, nor that the Arizona service center even maintained the same type of aircraft at issue.[288] The court determined that the plaintiff had not shown that the litigation related to this one contact.[289] Thus, it could not decide whether this contact would be sufficient to conclude that Textron had purposefully availed itself of the forum.[290] Moreover, Textron and Columbia were not directly related entities, and therefore, Textron had no fair warning that it could be subject to suit in Arizona because of its potential capacity to service certain types of planes with which it had no other connection.[291]

Citing *Ford*, the court explained that litigation was sufficiently related to conduct in a forum when a defendant "systematically served a market . . . for the very vehicles that the plaintiffs allege malfunctioned and injured them in those States."[292] Thus, for a suit to "arise out of or relate to" a defendant's contacts in the forum, in a product liability case, the *LNS* court believed the defendant's contacts in the forum needed to involve the actual product at issue or the same model of product.[293]

b. *Downing v. Losvar*

In *Downing*, an appellate court in the state of Washington reached a holding opposite to the Ninth Circuit in *LNS*.[294] In a case also arising from

283. *Id.* at 863.
284. *Id.* at 863–64.
285. *Id.* at 863.
286. *Id.*
287. *Id.* at 864.
288. *Id.*
289. *Id.*
290. *Id.*
291. *Id.*
292. *Id.* at 861–62 (quoting Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1028 (2021)).
293. *See id.* at 863.
294. *See* Downing v. Losvar, 507 P.3d 894, 919 (Wash. Ct. App. 2022).

a Cessna crash within the state that killed the plane's pilot and his passenger, the Washington court concluded that Textron and Cessna were subject to personal jurisdiction based on contacts with Washington that it described as falling somewhere between those in *World-Wide Volkswagen* and those in *Ford*.[295] Specifically, Cessna housed over 3,000 Cessna aircraft in Washington, communicated with aircraft owners in the state, and maintained a mobile response team that traveled throughout the state to perform maintenance and repairs (although Cessna stated that the mobile team's activities were limited to more expensive Cessna aircraft).[296] Cessna also knowingly sold aircrafts to Washington residents (though they had to travel to Kansas to accept delivery).[297] Though Cessna's business within the state was not as extensive as Ford's in Minnesota and Montana, the court stated, "[a] defendant need not have Ford's staggering number of contacts with the forum state to sustain the requirement of purposeful availment. More importantly, the quality of Textron Aviation's contacts with Washington echoes the quality of contacts that Ford maintains with all states."[298]

Having established purposeful availment, the court considered whether Cessna's contacts with the state were sufficiently related to the suit.[299] Relying on the relaxed "related to" requirement under *Ford*, without providing much additional analysis, the court concluded that the suit was sufficiently related to Cessna's contacts with the forum state, noting merely that the Cessna plane was originally sold elsewhere, then resold by Mr. Losvar, who brought the plane into Washington, where it crashed.[300]

The Court recognized the Ninth Circuit's contrary *LNS* decision but found it unpersuasive.[301] It stated, "Textron Aviation argues that we should assess its contacts with Washington State by limiting our review only to the model of airplane relevant to this suit, the Cessna T182T Skylane. In other words, Textron Aviation advocates a product-specific test. We reject such a test."[302] The court ridiculed Textron's argument that *Ford* adopted and applied a specific product or "kind of product test" and disagreed with its "narrow" view of the relationship between the lawsuit and the forum state.[303] Accordingly, Textron's sales of any other aircraft in the state were deemed justified under *Ford*.[304] Thus, the Court concluded that Cessna was subject to personal jurisdiction in Washington.[305]

295. *Id.* at 900, 909–13.
296. *Id.* at 913.
297. *Id.*
298. *Id.* (citation omitted).
299. *Id.* at 915.
300. *Id.* at 917.
301. *Id.* at 914.
302. *Id.* at 909.
303. *Id.* at 909, 914.
304. *See id.*
305. *Id.* at 919.

IV. TEXAS: A LENIENT EXAMPLE

While most courts have applied variations of the "purposeful availment + sufficient related contacts" analysis in the wake of the Trilogy, some courts appear to have developed their own theories of personal jurisdiction instead or followed traditional methods that are no longer consistent with the Trilogy of recent Supreme Court decisions.

The Supremacy Clause states, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."[306] Therefore, the Fourteenth Amendment, and the Supreme Court's interpretations thereof, take precedence over state law.[307] Federal law protects the rights of defendants and limits the power of lower courts that seek to usurp the rights of other states and their citizens.[308] Regardless of case law or long-arm statutes in a given state, the Fourteenth Amendment's requirements must always prevail over local rules.[309]

Specifically, "[t]he Due Process Clause of the Fourteenth Amendment constrains a State's authority to bind a nonresident defendant to a judgment of its courts."[310] The Supreme Court has repeatedly stated that the "primary focus of our personal jurisdiction inquiry is the defendant's relationship to the forum State."[311] Because "[a] state court's assertion of jurisdiction exposes defendants to the State's coercive power," it is "subject to review for compatibility with the Fourteenth Amendment's Due Process Clause."[312] Tilting the rules against a nonresident defendant is flatly contrary to the Fourteenth Amendment's guarantee that constrains the powers of states described above.[313]

But some courts have apparently taken it upon themselves to set forth generous and more lenient paths for plaintiffs that circumvent constitutional standards. Some decisions arising out of Texas courts present examples of this, as they have misinterpreted or bypassed the Supreme Court's recent decisions in at least three ways:

(1) Failing to comply with the Court's holding that defendants from out of state do not have the burden of proof on personal jurisdiction,
(2) Continuing to rely upon the stream of commerce metaphor,
(3) Misusing the "arise out of or relate to" standard.

---

306. U.S. Const. art. VI, cl. 2.
307. *See id.*
308. *See, e.g.*, Hamm v. City of Rock Hill, 379 U.S. 306, 311–12 (1964).
309. *See, e.g.*, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472–78 (1985) (addressing Fourteenth Amendment Due Process considerations despite clear application of personal jurisdiction under long-arm statute).
310. Walden v. Fiore, 571 U.S. 277, 283 (2014).
311. *E.g.*, Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 582 U.S. 255, 262 (2017).
312. Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 918 (2011).
313. *See Walden*, 571 U.S. at 283–84.

A. Burden of Proof

The Trilogy cases make clear that the burden of proof in personal jurisdiction litigation should not automatically be placed on the out-of-state defendant. "Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties."[314] However, the rules in Texas, as in some other states, continue to put the burden of proof onto the defendant.

The Texas Supreme Court's *Luciano* decision, which was decided shortly after *Ford*, stated that "[t]he plaintiff bears the initial burden of pleading allegations sufficient to confer jurisdiction."[315] "The burden then shifts to the defendant to negate all bases of jurisdiction in the allegations."[316]

In addition, one commentator summed up Texas's reaction to *Ford*:

> In the span of just over three months—March 5 to July 6, 2021—federal and Texas courts redefined and expanded the right of Texas courts to exercise jurisdiction over foreign manufacturers, giving notice that the failure to have a literal footprint in Texas will not insulate a company from injuries and damages incurred in the state.[317]

The foreign defendant must negate all bases of jurisdiction in the plaintiff's allegations.[318] Thus, if the plaintiff includes any false allegations that the defendant is unable to refute, the defendant cannot avoid jurisdiction in the state. This seems inconsistent with the Supreme Court's clear statement that the burden should be placed on the plaintiff, not the foreign defendant.

B. Stream of Commerce

The stream of commerce metaphor was the primary method for plaintiffs to force a foreign defendant into a Texas court even if the defendant had no connection with the forum. As soon as the Supreme Court decided *Ford*, the Texas Supreme Court stated in *Luciano*, "The stream-of-commerce doctrine is a useful tool to conceptualize minimum contacts in product liability cases. Its utility derives from the recognition that specific jurisdiction over nonresident manufacturers is often premised on 'indirect' sales by independent distributors or agents."[319] It was an odd comment in a state

---

314. *Id.* at 284 (citing World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291–92 (1980)); *see also Bristol Myers*, 582 U.S. at 263.

315. Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1, 8 (Tex. 2021) (citing Moki Mac River Expeditions v. Drugg, 221 S.W.3d 569, 574 (Tex. 2007)).

316. *Id.*; *see also* Kelly v. Gen. Interior Constr., Inc., 301 S.W.3d 653, 658 (Tex. 2010) ("Once the plaintiff has pleaded sufficient jurisdictional allegations, the defendant filing a special appearance bears the burden to negate all bases of personal jurisdiction alleged by the plaintiff."); BMC Software Belg., N.V. v. Marchand, 83 S.W.3d 789, 793 (Tex. 2002) ("A defendant challenging a Texas court's personal jurisdiction over it must negate all jurisdictional bases." (citing *Kawasaki Steel Corp. v. Middleton*, 699 S.W.2d 199, 203 (Tex. 1985))).

317. Subar, *supra* note 75, at 415.

318. *BMC*, 83 S.W.3d at 793; Moncrief Oil Int'l Inc. v. OAO Gazprom, 414 S.W.3d 142, 149 (Tex. 2013).

319. *Luciano*, 625 S.W.3d at 9.

that had adopted Justice O'Connor's plurality opinion in *Asahi*.[320] Moreover, the stream of commerce metaphor is contrary to the Court's holding that the relationship between the defendant and the state "must arise out of contacts that the 'defendant *himself*' creates with the forum State," and not merely with people or entities who live there.[321]

Yet, some Texas courts continue to defeat challenges of personal jurisdiction based in part on the idea that "[f]or products-liability suits . . . in which a manufacturer or designer sold its product 'indirectly' to an ultimate Texas consumer through an independent distributor, the 'stream of commerce' doctrine is useful when gauging the defendant's Texas contacts."[322]

The Fourteenth Amendment "protects the defendant against the burdens of litigating in a distant or inconvenient forum."[323] "[T]here must be 'an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation.'"[324] "[I]t is essential in each case that there be some act by which the *defendant purposefully avails* itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws."[325]

The stream of commerce metaphor is, therefore, inconsistent with the Supreme Court's interpretation of the Fourteenth Amendment. The stream of commerce metaphor is used to circumvent the *absence* of the manufacturer's purposeful invocation of an affiliation with the forum.[326] Thus, it deprives defendants of their Fourteenth Amendment protections by subjecting them to litigation in states with which they have not purposely availed the privileges of conducting activities in the state. It thereby subjects them to litigation based on the conduct of others, preventing defendants' right to defend themselves in a state in which they are affiliated.[327] The stream of commerce metaphor is inconsistent with the Court's holding that the relationship between the defendant and the state "must arise out of contacts that the 'defendant *himself*' creates with the forum State," and not merely with people or entities who live there.[328] The Supreme Court Trilogy

320. *See* Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 112 (1987); LG Chem, Ltd. v. Granger, 14-19-00814-cv, 2021 WL 2153761, at *3 (Tex. App.—Houston [14th Dist.] May 27, 2021, no pet.); *see Moki Mac*, 221 S.W.3d at 577; Michiana Easy Livin' Country, Inc. v. Holten, 168 S.W.3d 777, 786 (Tex. 2005).

321. Walden v. Fiore, 571 U.S. 277, 284 (2014) (emphasis in original) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985)).

322. Vertex Indus., Inc. v. State Farm Lloyds, No. 03-20-00574-cv, 2021 WL 3684263, at *4 (Tex. App.—Austin Aug. 20, 2021, no pet.) (citing *Luciano*, 625 S.W.3d at 9).

323. World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 292 (1980).

324. Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1025 (2021) (quoting Bristol-Myers Squibb v. Super. Ct. of Cal., 582 U.S. 255, 262 (2017)).

325. Hanson v. Denckla, 357 U.S. 235, 253 (1958) (emphasis added) (citing Int'l Shoe Co. v. Washington, 326 U.S. 310, 319 (1945)).

326. *See generally* Kathleen Ingram Carrington & Derek Rajavuori, *Navigating the Stream of Commerce: "Purposeful Availment" in the Wake of* Ford, JDSUPRA (Apr. 28, 2021), https://www.jdsupra.com/legalnews/navigating-the-stream-of-commerce-9958431 [https://perma.cc/FTN6-8ZFE].

327. *See id.*

328. Walden v. Fiore, 571 U.S. 277, 284 (2014) (emphasis in original) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985)).

decisions on personal jurisdiction indicate that the stream of commerce metaphor is irrelevant.

Some courts might continue to apply the stream of commerce metaphor because of stare decisis, but it is an error when such an approach is contrary to constitutional law. A court's reliance upon erroneous stare decisis is analogous to the treatment of the *Frye* rule on expert evidence, in effect for decades, which was held to be superseded after the Supreme Court interpreted the Federal Rules of Evidence to require more rigorous standards for expert testimony.[329]

Some Texas courts continue to apply and bend the stream of commerce metaphor to circumvent constitutional limitations.[330] This makes it easier for local plaintiffs to prevail in their home courts. The Texas Supreme Court in *Luciano* characterized the stream of commerce metaphor as a "*useful tool* to conceptualize minimum contacts in product liability cases."[331] *Luciano* also stated that personal jurisdiction is often premised on "indirect" sales by independent distributors or agents.[332] Although Texas law adopted the "stream of commerce plus" theory, based on Justice O'Connor's plurality approach in *Asahi*,[333] *Luciano* inspired some lower Texas courts to toss away the "plus." "Directly on the heels" of *Ford*,[334] the Texas Supreme Court offered its interpretation of *Ford* in *Luciano* and *Vertex*—two examples of how the stream of commerce metaphor was misapplied in Texas.[335]

---

329. *See* Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579, 588–89 (1993); *see generally* Frye v. United States, 293 F. 1013 (D.C. Cir. 1923).

330. Interestingly, however, some of the Texas courts' misdeeds arise from following its case law that predates *Ford*. *See, e.g.,* BMC Software Belg., N.V. v. Marchand, 83 S.W.3d 789, 793 (Tex. 2002) ("A defendant challenging a Texas court's personal jurisdiction over it must negate all jurisdictional bases." (citing Kawasaki Steel Corp. v. Middleton, 699 S.W.2d 199, 203 (Tex. 1985))). The Texas Supreme Court went on to note that it "has never clearly articulated the standard for reviewing a trial court's order denying a special appearance." *Id.* The *Luciano* court also relied on *BMC*. *See* Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1, 8 (2021). Notably, the *Luciano* court stated,

> In *Spir Star*, we said that "[w]hen an out-of-state manufacturer . . . specifically targets Texas as a market for its products, that manufacturer is subject to a product liability suit in Texas based on a product sold here, even if the sales are conducted through a Texas distributor or affiliate." There, the manufacturer utilized an independent distributor who "agreed to serve as the sales agent" in Texas, thus satisfying *Asahi's* "additional conduct" standard.

Id. at 11–12 (alterations in original) (quoting Spir Star AG v. Kimich, 310 S.W.3d 868, 874–75 (Tex. 2010)).

331. *Luciano*, 625 S.W.3d at 9 (emphasis added).

332. *Id.* at 9 (stating that "purposeful availment of local markets may be indirect 'through affiliates or independent distributors'" (quoting *Spir Star*, 310 S.W.3d at 874)).

333. *See* Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 112 (1987); LG Chem, Ltd. v. Granger, 14-19-00814-cv, 2021 WL 2153761, at *3 (Tex. App.—Hous. [14th Dist.] May 27, 2021, no pet.); Moki Mac River Expeditions v. Drugg, 221 S.W.3d 569, 576–77 (Tex. 2007); Michiana Easy Livin' Country, Inc. v. Holten, 168 S.W.3d 777, 784–86 (Tex. 2005).

334. Subar, *supra* note 75, at 414.

335. *See* Vertex Indus., Inc. v. State Farm Lloyds, No. 03-20-574-cv, 2021 WL 3684263 (Tex. App.—Austin Aug. 20, 2021, no pet.); *Luciano*, 625 S.W.3d 1.

1. Vertex Industrial, Inc. v. State Farm Lloyds

In *Vertex*, the plaintiffs bought a reverse-osmosis filtration system for their house.[336] They claimed it was defective and sued Vertex (the manufacturer) in Texas.[337] Vertex, which was based in California, challenged personal jurisdiction, arguing that "'the product was not designed, manufactured, or distributed' by Vertex in Texas."[338] Vertex had no property in Texas, no employees, no registered agent, and never sent any of its products to customers in Texas, or elsewhere in the U.S.[339] Rather, it sold the units to independent dealers and did not service them after they were sold.[340] However, the court held that "a nonresident need not have offices or employees in Texas to purposefully avail of the state," and "directing marketing efforts to Texas in hopes of soliciting sales may make the nonresident subject to Texas jurisdiction in suits arising from that business."[341]

2. Southwire Co. v. Sparks

In *Southwire*, following *Luciano*, the defendant "had an independent contractor sales representative in Texas."[342] The court explained, "*Luciano* noted the [Texas] supreme court's prior holding in *Spir Star* . . . emphasized [that] a defendant may be targeting the Texas market even if it is using an independent distributor to accomplishes the sales . . . ."[343] The fact that the representative was independent did not, in the Texas appellate court's view, preclude the conclusion that "the company was using the representative to effect sales to Texas residents."[344] This approach contradicts the Supreme Court's holding that the relationship between the defendant and the state must arise out of contacts that the "defendant *himself* " creates with the forum State.

In contrast to Texas, a number of other jurisdictions that previously applied the stream of commerce metaphor are moving away from it. Some examples follow.

North Carolina: The North Carolina Court of Appeals stated: "The mere introduction of a product into the 'stream of commerce' without 'purposeful availment' is insufficient to establish jurisdiction."[345]

Nebraska: The U.S. District Court in Nebraska stated:

> [Plaintiff's] reliance on the "stream of commerce" theory as demonstrating personal jurisdiction in this case is also unavailing. This Court

336. *Vertex*, 2021 WL 3684263, at *1.
337. *See id.*
338. *Id.* at *3.
339. *Id.*
340. *Id.*
341. *Id.* at *4 (citing Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1, 10 (2021)).
342. Southwire Co. v. Sparks, No. 02-21-00126-cv, 2021 WL 5368692, at *6 (Tex. App.—Fort Worth Nov. 18, 2021, no pet.).
343. *Id.* (citing Spir Star AG v. Kimich, 310 S.W.3d 868, 874 (Tex. 2010)).
344. *See id.* (citing *Luciano*, 625 S.W.3d at 12).
345. Bartlett v. *In re* Estate of Burke, 877 S.E.2d 432, 444 (N.C. Ct. App. 2022) (citing Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474–75 (1985)).

> concludes that [Plaintiff's] "stream of commerce" theory purports to attach specific personal jurisdiction on the basis of mere foreseeability related to Amneal Pharmaceuticals LLC's relationships with third parties. It does not pay any attention to whether Amneal Pharmaceuticals LLC made its own efforts to target this forum. Under these circumstances, a "stream of commerce" theory is inapplicable in light of the Supreme Court's decision in *Bristol-Myers Squibb Co.*[346]

Tenth Circuit: The Tenth Circuit has not decided the issue, but recent cases in the Circuit suggest rejection of the stream of commerce metaphor.[347]

California: In *Mendoza v. Electrolux Home Products, Inc.*, the court noted: "Although the Microwaves tested by SMCA were ultimately sold in California, '[t]he placement of a product into the stream of commerce, without more, is *not* an act purposefully directed toward a forum state.'"[348]

Georgia: Georgia takes a more limited approach to the stream of commerce metaphor: "[T]he 'stream of commerce test' confers personal jurisdiction if a defendant corporation 'delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum [s]tate.'"[349] Moreover, "[t]he 'stream of commerce plus' test imposes the additional requirement that the defendant target the forum state in some manner."[350]

C. "Arise Out of or Relate To"

There is a vast difference between the *Ford* opinion and that of *Luciano* from the Texas Supreme Court. The U.S. Supreme Court stated in *Ford* that there must be an "affiliation between the forum and the underlying controversy. . . . As just noted, our most common formulation of the rule demands that the suit 'arise out of *or relate to* the defendant's contacts with the forum.'"[351]

---

346. Bishop v. Amneal Pharms. Pvt. Ltd., 8:22-cv-11, 2022 WL 4000544, at *1 (D. Neb. Sept. 1, 2022) (citation omitted); *see also* Steve Boranian, *Stream of Commerce Jurisdiction Runs Shallow in Nebraska*, Drug & Device L. (Sept. 23, 2022), https://www.drugandde-vicelawblog.com/2022/09/stream-of-commerce-jurisdiction-runs-shallow-in-nebraska.html [https://perma.cc/2VG2-KJ48].

347. *See Lynch v. Olympus Am., Inc.*, No. 18-cv-00512, 2018 WL 5619327, at *4 n.5 (D. Colo. Oct. 30, 2018) (noting, after survey of cases applying stream of commerce theory following *Nicastro*, that not a single court in the Tenth Circuit has "applied the most permissive [stream of commerce] test, which only requires a defendant to put the offending product into the stream of commerce without any action specifically directed at the forum itself"); *see also* Fischer v. BMW of N. Am., LLC, 376 F. Supp. 3d 1178, 1184 (D. Colo. 2019).

348. Mendoza v. Electrolux Home Prods., Inc., 120-cv-01133, 2022 WL 4082200, at *14 (E.D. Cal. Sept. 6, 2022) (alteration in original) (emphasis in original) (citing Holland Am. Line, Inc. v. Wartsila N. Am., Inc., 485 F.3d 450, 459 (9th Cir. 2007)).

349. Winn v. Vitesco Techs. GmbH, 878 S.E.2d 785, 789 (Ga. Ct. App. 2022) (second alteration in original) (quoting Vibratech, Inc. v. Frost, 661 S.E.2d 185, 190 (Ga. Ct. App. 2008)).

350. *Id.* at 789–90 (citing Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 112 (1987)).

351. Kirsten M. Casteñeda, *Personal Jurisdiction on the Move*, 87 J. Air L. & Com. 683, 688 (2022) (emphasis in original) (quoting Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1026 (2021)); *Ford*, 141 S. Ct. at 1026.

> In *Luciano*, the Texas Supreme Court announced that it "appl[ies] the Supreme Court's precedent to determine" whether a suit arises out of or relates to the defendant's Texas contacts so as to establish specific jurisdiction. More specifically, the Texas Supreme Court confirmed that its *Luciano* holding "rests on the Supreme Court's analysis in *Ford Motor Co.* . . . to determine whether a product liability lawsuit 'arise[s] out of or relate[s] to' a nonresident defendant's contacts with the forum state." The personal availment prong—which the *Ford Motor Co.* parties agreed was met—continues to be governed by the same standards that are based on federal jurisprudence.[352]

Despite the Texas court's claim that its decisions rest on *Ford's* analysis, it has failed to do so. An excellent article by Kirsten Casteñeda sets forth the significant differences between the massive forum connections in *Ford* and those relied upon in the Texas court's opinion, i.e., (1) the retention of a single independent contractor sales representative in the state, and (2) the defendant's use of one warehouse space in Texas.[353]

As Casteñeda stated:

> Whereas the facts in *Ford Motor Co.* exemplify a situation in which a company has served a market for a product "[b]y every means imaginable," the facts in *Luciano* demonstrate that the "arise out of or relate to" prong of specific jurisdiction can be established by contacts with the forum state that are far fewer and by no means pervasive. It is useful to compare *Ford Motor Co.* and *Luciano* as disparate examples of facts that meet the specific jurisdiction standards and also to examine two other situations the U.S. Supreme Court used as examples of facts that fall short.[354]

---

352. Casteñeda, *supra* note 351, at 689 (alterations in original) (quoting Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1, 9, 16, 16 n.5 (Tex. 2021); *Ford*, 141 S. Ct. at 1026)).

353. *Id.* at 688–91.

354. *Id.* at 689 (alterations in original) (footnote omitted). *Compare Luciano*, 625 S.W.3d at 17 (finding the "arise out of or relate to" prong satisfied by the defendant's sales of the same type product in the forum, though not the exact product that caused the injury, and the presence of a distribution center in the forum, based on a conclusion that "SprayFoam intended to serve a Texas market for the insulation that the Lucianos allege injured them in this lawsuit," even though the plaintiffs could not prove that the company which installed the product was authorized to do so by SprayFoam), *with* LNS Enters. v. Cont'l Motors, Inc., 22 F.4th 852, 861–62, 864 (9th Cir. 2022) (finding that the "arise out of or relate to" prong was not satisfied by the presence of a service center located within the forum state, where there was no indication that the service center serviced the aircraft at issue in the case, or even the same type of aircraft at issue, and where the defendant was "unrelated" to the company that designed, manufactured, and sold the at-issue product). The Ninth Circuit in *LNS* noted that the Supreme Court in *Ford* had "repeatedly emphasized . . . that Ford had advertised, sold, and maintained the precise vehicles at issue in the case—the Ford Crown Victoria and Ford Explorer—in the relevant jurisdictions" in reaching its conclusion that jurisdiction over Textron was not proper in Arizona. *See LNS*, 22 F.4th at 864. By contrast, the Texas Supreme Court in *Luciano* found it sufficient that SprayFoam's sale of the product to a Texas-based company that later installed it in the plaintiff's home was not an "isolated occurrence" in Texas. *See Luciano*, 625 S.W.3d at 6, 17.

V. *FORD* AND PERSONAL JURISDICTION, IN SHORT. . .

The Supreme Court has consistently held that personal jurisdiction over a non-resident defendant must arise out of contacts that the "defendant *himself*" creates with the forum state.[355] "Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties."[356] The Supreme Court has "consistently rejected attempts to satisfy the defendant-focused 'minimum contacts' inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State."[357]

A few commentators have predicted that *Ford* will revive the stream of commerce metaphor, as has occurred in Texas.[358] They point to *Ford's* treatment of *World-Wide Volkswagen*, noting that the Supreme Court of Idaho "took note of the unanimity of the Court's decision in *Ford* and its strong reliance on *World-Wide Volkswagen*: 'In short, rumors of *World-Wide Volkswagen's* imminent demise may be greatly exaggerated.'"[359]

However, we believe it is more likely that the opposite will occur. From *World-Wide Volkswagen* in 1980 through *Nicastro* in 2011, the Court was able to produce only pluralities, with no clear and consistent set of standards for personal jurisdiction. Only after *Nicastro* in 2011 and *Daimler AG* in 2014 did the Court's Trilogy define consistent standards, with clear majorities in the Court.[360] The prior guesswork in the lower courts is likely behind us because the lack of consensus for decades, in *Asahi* and *Nicastro*, is now gone. No longer do courts need to decide personal jurisdiction based on theories previously proposed by plurality decisions. The Trilogy of unanimous and nearly unanimous decisions in this decade have replaced them. *Ford*, like the other two cases in the Trilogy, defined the criteria for personal jurisdiction:

> [The plaintiff] must show that the defendant deliberately "reached out beyond" its home—by, for example, "exploi[ting] a market" in the forum State or entering a contractual relationship centered there. Yet even then—because the defendant is not "at home"—the forum State may exercise jurisdiction in only certain cases. The plaintiff's claims, we have often stated, "must arise out of or relate to the defendant's contacts" with the forum. Or put just a bit differently, "there must be 'an affiliation between the forum and the underlying controversy,

355. *E.g.*, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985) (emphasis in original).

356. Walden v. Fiore, 571 U.S. 277, 284 (2014) (citing World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291–92 (1980)).

357. *Id.* (citing Helicopteros Nacionales de Colom., S.A. v. Hall, 466 U.S. 408, 417 (1984) ("[The] unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction.")).

358. *See, e.g.*, Todd A. Smith & Allyson C. Cox, *Where Might* Ford *Take Us*, 58 TRIAL 18, 22–24 (2022).

359. *Id.* at 21 (citing *World-Wide Volkswagen*, 444 U.S. at 297).

360. *See Walden*, 571 U.S. 277; Bristol-Myers Squibb v. Super. Ct. of Cal., 582 U.S. 255 (2017); Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017 (2021).

> principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation.'"[361]

None of these criteria include *Asahi* theories that never produced a majority decision. None rely upon the stream of commerce metaphor. Neither should be surprising. *Asahi* and *Nicastro* both failed to articulate a theory clearly enough to produce a majority. Likewise, the stream of commerce metaphor is inconsistent with the fundamental elements of the Fourteenth Amendment because it enables a plaintiff to establish personal jurisdiction even though the defendant has no direct affiliation with the forum. To rely on the stream of commerce metaphor merely enables a plaintiff to establish personal jurisdiction in her local court despite the absence of any affiliation between the defendant, the forum, and the litigation. It would impose jurisdiction even though the only affiliations with the forum are those of a third-party distributor and the plaintiff. This is flatly inconsistent with the Supreme Court's decisions that state: "For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State . . . . First, the relationship must arise out of contacts that the 'defendant *himself*' creates with the forum State."[362] A stream of commerce connection between the forum and a foreign corporation "is an inadequate basis for the exercise of general jurisdiction over the corporation as such a connection does not establish the 'continuous and systematic' affiliation necessary to empower the forum to entertain claims unrelated to the foreign corporation's contacts with the state."[363]

Kathleen Ingram Carrington and Derek Rajavuori of the Butler Snow law firm published an excellent discussion about the effect *Ford* on April 28, 2021, shortly after the decision was decided.[364] They suggested that *Ford* may protect manufacturers of component parts—car starters, motorhome chassis, etc.—that typically have little-to-no direct contact with the state where the final product ends up and where a plaintiff files suit, but that the Court arguably "created a new type of personal jurisdiction for companies like Ford—pseudo general jurisdiction (where a large company can be subject to jurisdiction on any claims that resemble its activities in the forum state)."[365] Time will tell.

The rationale of *Ford* is consistent with the Court's prior decisions of *Walden* and *BMS*. The Court unanimously rejected Ford's argument, but few cases are likely to match Ford's unique and pervasive activity throughout the country. The majority of product liability cases are simply not *Ford*-like, and the decision was clear in identifying the limits—both factual and legal—that distinguish Ford from most defendants. Many courts have

361. *Ford*, 141 S. Ct. at 1025 (alterations in original) (citations omitted).

362. *Walden*, 571 U.S. at 284 (emphasis in original) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985)).

363. David M. Holliday, *Stream of Commerce Theory*, *in* American Law of Products Liability § 48:85 (3d ed. 2023).

364. *See* Carrington & Rajavuori, *supra* note 326.

365. *Id.*

already relied upon the *Ford* decision to support defendants' motions to dismiss based on personal jurisdiction more often than it has provided support for plaintiffs seeking to establish jurisdiction. The bigger concern now is that some lawyers and judges may try to justify the denial of personal jurisdiction motions based on *Asahi* and other cases that no longer align with the Supreme Court's recent decisions.

But ultimately, the Trilogy is likely to render *Asahi*, the stream of commerce metaphor, and perhaps similar theories of yesteryear as irrelevant, as merely memories in history.

APPENDIX

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Bayne v. Taishan Gypsum Co., No. 4:17-cv-1286, 2021 WL 3603451 (N.D. Ala. Aug. 13, 2021).	N.D. Ala.	Motion re Lack of PJ Granted/ Court found no PJ	13-Aug-21	Drywall	Yes (slip opinion)
Nat'l Union Fire Ins. Co. v. Aspen Custom Trailers, Inc., 587 F. Supp. 3d 904 (D. Alaska 2022).	D. Alaska	Motion re Lack of PJ Granted/ Court found no PJ	28-Feb-22	Trailer assembly	Yes
Specialized Transp. & Rigging, LLC v. Nat'l Union Fire Ins. Co., No. 3:20-cv-00188, 2022 WL 603034 (D. Alaska Feb. 28, 2022).	D. Alaska	Motion re Lack of PJ Granted/ Court found no PJ	28-Feb-22	Trailers	Yes (slip opinion)
Kasper v. Samsung SDI Co., No. cv-21-01191, 2022 WL 294208 (D. Ariz. Feb. 1, 2022).	D. Ariz.	Motion re Lack of PJ Granted/ Court found no PJ	1-Feb-22	Battery	Yes (slip opinion)
LG Chem, Ltd. v. Super. Ct. of San Diego Cnty., 295 Cal. Rptr. 3d 661 (Cal. Ct. App. 2022).	California Court of Appeal	Motion re Lack of PJ Granted/ Court found no PJ	27-Jun-22	Battery	Yes
Daimler Trucks N. Am. LLC v. Super. Ct. of L.A. Cnty., 296 Cal. Rptr. 3d 564 (Cal. Ct. App. 2022), *as modified* (July 22, 2022), *cert. denied*, 143 S. Ct. 1780 (2023).	California Court of Appeal	Motion re Lack of PJ Denied/ Court found PJ existed	7-Jul-22	Truck	Yes

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Macias v. LG Chem, No. cv-20-02416, 2021 WL 2953162 (C.D. Cal. May 7, 2021).	C.D. Cal.	Motion re Lack of PJ Granted/ Court found no PJ	28-Feb-21	Battery	Yes (slip opinion)
Burchfield v. Prestige Consumer Healthcare, Inc., 534 F. Supp. 3d 1192 (C.D. Cal. 2021).	C.D. Cal.	Class Action only requires specific personal jurisdiction over the named plaintiff	16-Apr-21	Pharmaceuticals	Yes
Evergreen Marine Corp Taiwain Ltd. v. Master Int'l Logistics China Co., No. cv-20-08725, 2021 WL 3914052 (C.D. Cal. May 26, 2021).	C.D. Cal.	Ruling deferred	26-May-21	N/A	Yes (slip opinion)
Choi v. Gen. Motors LLC, No. cv-21-5925, 2021 WL 4133735 (C.D. Cal. Sept. 9, 2021).	C.D. Cal.	Motion re Lack of PJ Denied/ Court found PJ existed	9-Sep-21	Vehicle	Yes (slip opinion)
Mendoza v. Electrolux Home Prods., Inc., 1:20-cv-01133, 2022 WL 4082200 (E.D. Cal. Sept. 6, 2022).	E.D. Cal.	Motion re Lack of PJ Granted/ Court found no PJ	6-Sep-22	Microwave	Yes (slip opinion)
Foran v. Ulthera, Inc., No. 1:20-cv-00267, 2022 WL 507271 (E.D. Cal. Feb. 18, 2022).	E.D. Cal.	Motion re Lack of PJ Granted/ Court found no PJ (as to defendant Merz)	18-Feb-22	Medical Equipment	Yes (slip opinion)
Cal. Cap. Ins. Co. v. Broan-Nutone LLC, No. 1:21-cv-0388, 2022 WL 463244 (E.D. Cal. Feb. 15, 2022).	E.D. Cal.	Motion re Lack of PJ Granted/ Court found no PJ	15-Feb-22	Fan motor	Yes (slip opinion)
Massie v. Gen. Motors Co., No. 1:20-cv-01560, 2021 WL 2142728 (E.D. Cal. May 26, 2021).	E.D. Cal.	Motion re Lack of PJ Granted/ Court found no PJ, transferred case	26-May-21	Vehicles	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Lin v. Solta Med., Inc., No. 21-cv-05062, 2022 WL 2222987 (N.D. Cal. June 21, 2022).	N.D. Cal.	Motion re Lack of PJ Denied in part, Granted in part	21-Jun-22	Skin treatment	Yes (slip opinion)
In re JUUL Labs, Inc., Mktg., Sales Pracs., & Prods. Liab. Litig., 533 F. Supp. 3d 858 (N.D. Cal. 2021).	N.D. Cal.	Motion re Lack of PJ Denied/ Court found PJ existed	13-Apr-21	E-cigarettes	Yes
Whaley v. Merck & Co., No. 3:21-cv-01985, 2022 WL 1153151 (S.D. Cal. Apr. 12, 2022).	S.D. Cal.	Motion re Lack of PJ Denied/ Court found PJ existed	12-Apr-22	Pharma-ceuticals	Yes (slip opinion)
Ditter v. Subaru Corp., No. 20-cv-02908, 2022 WL 889102 (D. Colo. Mar. 25, 2022).	D. Colo.	Motion re Lack of PJ Granted/ Court found no PJ	25-Mar-22	Airbag	Yes (slip opinion)
N. Sails Grp., LLC v. Bds. & More GmbH, 264 A.3d 1 (Conn. 2021).	Connecticut Supreme Court	Motion re Lack of PJ Granted/ Court found no PJ	20-Aug-21	N/A	Yes
Bonomo v. Kurtz Truck Equip., Inc., No. cv-206133424, 2021 WL 6426120 (Conn. Super. Ct. Dec. 21, 2021).	Connecticut Superior Court	Motion re Lack of PJ Denied/ Court found PJ existed	21-Dec-21	Vehicle component part	No
Perry v. Mod House LLC, No. cv-20-6096373, 2022 WL 1032795 (Conn. Super. Ct. Feb. 9, 2022).	Connecticut Superior Court	Motion re Lack of PJ Granted/ Court found no PJ	9-Feb-22	Battery	No
Staggs v. Smith & Wesson, No. cv-21-2535, 2022 WL 2713277 (D.D.C. July 13, 2022).	D.D.C.	Motion re Lack of PJ Granted/ Court found no PJ	13-Jul-22	Firearm	Yes (slip opinion)
Robinson Helicopter Co. v. Gangapersaud, 346 So. 3d 134 (Fla. Dist. Ct. App. 2022).	Florida Second District Court of Appeal	Motion re Lack of PJ Granted/ Court found no PJ	22-Jun-22	Helicopter	Yes

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Connor v. Permanent Gen. Assurance Corp., No. 9:20-cv-81979, 2021 WL 6135155 (S.D. Fla. Nov. 18, 2021).	S.D. Fla.	Motion re Lack of PJ Granted/ Court found no PJ	18-Nov-21	N/A	Yes (slip opinion)
Carter v. Ford Motor Co., No. 19-62646-cv, 2021 WL 1165248 (S.D. Fla. Mar. 26, 2021).	S.D. Fla.	Motion re Lack of PJ Granted/ Court found no PJ	26-Mar-21	Vehicle	Yes (slip opinion)
Lewis v. Mercedes-Benz USA, LLC, 530 F. Supp. 3d 1183 (S.D. Fla. 2021).	S.D. Fla.	Motion re Lack of PJ Granted except for Florida claims	30-Mar-21	Vehicle headrests	Yes
Heissenberg v. Doe, No. 21-80716-cv, 2021 WL 2621100 (S.D. Fla. June 24, 2021).	S.D. Fla.	Motion re Lack of PJ Granted/ Court found no PJ	24-Jun-21	N/A	Yes (slip opinion)
Euclid Fish Co. v. Cape Fla. Seafood, No. 21-22310, 2021 WL 4145207 (S.D. Fla. Sept. 13, 2021).	S.D. Fla.	Motion re Lack of PJ Granted/ Court found no PJ	13-Sep-21	N/A	Yes (slip opinion)
Rogers v. Coloplast Corp., No. 6:20-cv-1551, 2022 WL 252420 (M.D. Fla. Jan. 27, 2022).	M.D. Fla.	Motion re Lack of PJ Granted/ Court found no PJ	27-Jan-22	Medical Equipment	Yes (slip opinion)
Cooper Tire & Rubber Co. v. McCall, 863 S.E.2d 81 (Ga. 2021).	Georgia Supreme Court	Motion re Lack of PJ Denied/ Court found PJ existed (based on general PJ)	21-Sep-21	Tires	Yes
Winn v. Vitesco Techs. GmbH, 878 S.E.2d 785 (Ga. Ct. App. 2022).	Georgia Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	26-Sep-22	Water pump	Yes
LG Chem, Ltd. v. Lemmerman, 863 S.E.2d 514 (Ga. Ct. App. 2021), *cert. denied* (Mar. 8, 2022).	Georgia Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	16-Sep-21	Battery	Yes

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Brantley v. Tiffin Motor Homes, Inc., No. 1:21-cv-02228, 2022 WL 444474 (N.D. Ga. Feb. 14, 2022).	N.D. Ga.	Motion re Lack of PJ Granted/ Court found no PJ, but plaintiff entitled to amend complaint	14-Feb-22	Motor home	Yes (slip opinion)
Thomas v. Amer Sports Co., No. 4:20-cv-00565, 2022 WL 1063721 (D. Idaho Apr. 8, 2022).	D. Idaho	Motion re Lack of PJ Denied/ Court found PJ existed	8-Apr-22	Ski boots	Yes
Davis v. Cranfield Aerospace Sols. Ltd., No. 2:20-cv-00536, 2022 WL 36488 (D. Idaho Jan. 4, 2022).	D. Idaho	Motion re Lack of PJ Granted/ Court found no PJ	4-Jan-22	Plane	Yes (slip opinion)
McHugh v. Vertical Partners W., LLC, No. 2:20-cv-00581, 2021 WL 1554065 (D. Idaho Apr. 19, 2021).	D. Idaho	Motion re Lack of PJ Denied/ Court found PJ existed	19-Apr-21	Battery	Yes (slip opinion)
Harding v. Cordis Corp., 196 N.E.3d 514 (Ill. App. Ct. 2021).	Illinois Appellate Court	Motion re Lack of PJ Denied/ Court found PJ existed	3-Dec-21	Medical device	Yes
Lishman v. Air & Liquid Sys. Corp., No. 21-cv-001570, 2022 WL 1085163 (N.D. Ill. Apr. 11, 2022).	N.D. Ill.	Motion re Lack of PJ Granted/ Court found no PJ	11-Apr-22	Asbestos	Yes (slip opinion)
Baity v. Johnson & Johnson, No. 3:20-cv-01367, 2021 WL 1401460 (S.D. Ill. Apr. 14, 2021).	S.D. Ill.	Motion re Lack of PJ Granted/ Court found no PJ	14-Apr-21	Medical device	Yes (slip opinion)
Sweet v. BJC Health Sys., No. 3:20-cv-00947, 2021 WL 2661569 (S.D. Ill. June 29, 2021).	S.D. Ill.	Motion re Lack of PJ Denied/ Court found PJ existed	29-Jun-21	N/A	Yes (slip opinion)
Zimmer, Inc. v. Zimmer Elektromedizin GmbH, No. 3:19-cv-405, 2022 WL 1154835 (N.D. Ind. Apr. 18, 2022).	N.D. Ind.	Motion re Lack of PJ Denied in Part, Granted in part	18-Apr-22	N/A	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Patterson v. Chiappa Firearms, USA, Ltd., No. 1:20-cv-01430, 2021 WL 4287431 (S.D. Ind. Sept. 21, 2021).	S.D. Ind.	Motion re Lack of PJ Granted/ Court found no PJ	21-Sep-21	Handgun	Yes (slip opinion)
Geico Gen. Ins. Co. v. M.O., No. 21-2164, 2021 WL 4892918 (D. Kan. Oct. 20, 2021).	D. Kan.	Motion re Lack of PJ Granted/ Court found no PJ	20-Oct-21	N/A	No
Bullock v. Otto Imports, LLC, No. 4:19-cv-149, 2022 WL 949914 (W.D. Ky. Mar. 29, 2022).	W.D. Ky.	Motion re Lack of PJ Granted/ Court found no PJ	29-Mar-22	Battery	Yes (slip opinion)
Simmons v. Cardinal Health, Inc., No. 20-2174, 2021 WL 1577843 (E.D. La. Apr. 22, 2021).	E.D. La.	Motion re Lack of PJ Granted/ Court found no PJ	22-Apr-21	Medical Product (bone cement)	Yes (slip opinion)
CAM Logistics, L.L.C. v. Pratt Indus., Inc., No. 1:20-cv-00445, 2021 WL 4485890 (W.D. La. Aug. 11, 2021), *report and recommendation adopted*, No. 1:20-cv-00445, 2021 WL 4483853 (W.D. La. Sept. 29, 2021).	W.D. La.	Motion re Lack of PJ Granted in Part, Denied in Part	29-Sep-21	N/A	Yes (slip opinion)
Rivera v. Altec, Inc., No. 21-0681, 2021 WL 2784265 (D. Md. July 2, 2021).	D. Md.	Motion re Lack of PJ Granted/ Court found no PJ	2-Jul-21	Bucket truck	Yes (slip opinion)
Chouinard v. Marigot Beach Club & Dive Resort, No. 20-10863, 2021 WL 2256318 (D. Mass. June 3, 2021).	D. Mass.	Motion re Lack of PJ Denied without prejudice	3-Jun-21	Hot tub	Yes (slip opinion)
Murphy v. Viad Corp., No. 21-10897, 2021 WL 4504229 (E.D. Mich. Oct. 1, 2021).	E.D. Mich.	Motion re Lack of PJ Granted/ Court found no PJ, transferred case	1-Oct-21	Asbestos	No

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Thompson v. Ford Motor Co., No. 20-12044, 2022 WL 633311 (E.D. Mich. Mar. 4, 2022).	E.D. Mich.	Motion re Lack of PJ Granted/ Court found no PJ, transferred after Ford	4-Mar-22	Vehicle	Yes (slip opinion)
Coates v. Ford Motor Co., No. 20-11509, 2021 WL 2207367 (E.D. Mich. June 1, 2021).	E.D. Mich.	Motion re Lack of PJ Granted/ Court found no PJ, transferred after Ford	1-Jun-21	Vehicles	Yes (slip opinion)
Sadeghi-A v. Daimler Trucks N. Am. LLC, No. 19-2373, 2022 WL 769975 (D. Minn. Mar. 14, 2022), *amended on reconsideration*, No. 19-cv-2373, 2022 WL 16554615 (D. Minn. Oct. 31, 2022) (but note that the holding as to personal jurisdiction was undisturbed).	D. Minn.	Defendant Waived Personal Jurisdiction Objection by Failing to Assert in Answer or Motion to Dismiss	14-Mar-22	Motor home	Yes (slip opinion)
In re Estate of Logan v. Busch, 574 F. Supp. 3d 660 (W.D. Mo. 2021).	W.D. Mo.	Motion re Lack of PJ Denied/ Court found PJ existed	6-Dec-21	N/A	Yes
Dack v. Volkswagen Grp. of Am., 565 F. Supp. 3d 1135 (W.D. Mo. 2021).	W.D. Mo.	Motion re Lack of PJ Granted/ Court found no PJ	30-Sep-21	Vehicles	Yes
Foscato v. Chaparral Boats, Inc., No. 2:21-4240, 2022 WL 1322642 (W.D. Mo. May 3, 2022).	W.D. Mo.	Motion re Lack of PJ Granted/ Court found no PJ	3-May-22	Boat	Yes (slip opinion)
Kostedt v. C.R. Bard, Inc., No. 4:21-cv-671, 2022 WL 292963 (E.D. Mo. Feb. 1, 2022), *appeal dismissed*, No. 22-1457, 2022 WL 3970928 (8th Cir. May 13, 2022).	E.D. Mo.	Motion re Lack of PJ Granted/ Court found no PJ	1-Feb-22	Medical device	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Doverspike v. Murphy, No. cv-21-29, 2021 WL 3604813 (D. Mont. Aug. 13, 2021).	D. Mont.	Motion re Lack of PJ Denied/ Court found PJ existed	13-Aug-21	N/A	Yes (slip opinion)
Nomad Glob. Commc'n Sols., Inc. v. Hoseline, Inc., No. cv-20-138, 2021 WL 1400983 (D. Mont. Apr. 14, 2021).	D. Mont.	Motion re Lack of PJ Granted/ Court found no PJ	14-Apr-21	HVAC Unit	Yes (slip opinion)
Pers. v. Tannerite Sports LLC, No. cv-21-93, 2022 WL 1442853 (D. Mont. May 6, 2022).	D. Mont.	Motion re Lack of PJ Denied/ Court found PJ existed	6-May-22	Exploding Targets	Yes (slip opinion)
Cameron v. Thomson Int'l, Inc., No. cv-21-17, 2021 WL 3409999 (D. Mont. July 19, 2021), *report and recommendation adopted*, No. cv-21-17, 2021 WL 3406352 (D. Mont. Aug. 4, 2021).	D. Mont.	Motion re Lack of PJ Granted/ Court found no PJ	19-Jul-21	Produce	Yes (slip opinion)
Duffy v. Kaman Aerospace Corp., 590 F. Supp. 3d 1317 (D. Mont. 2022).	D. Mont.	Motion re Lack of PJ Denied/ Court found PJ existed	10-Mar-22	Helicopter	Yes
Bishop v. Amneal Pharm. Pvt. Ltd., 8:22-cv-11, 2022 WL 4000544 (D. Neb. Sept. 1, 2022).	D. Neb.	Motion re Lack of PJ Granted/ Court found no PJ	1-Sep-22	Pharmaceuticals	Yes (slip opinion)
Safeco Ins. Co. of Am. v. Air Vent, Inc., No. 2:20-cv-01579, 2022 WL 2918940 (D. Nev. July 25, 2022).	D. Nev.	Motion re Lack of PJ Denied/ Court found PJ existed	25-Jul-22	Fan	Yes
O'Neil v. Somatics, LLC, No. 20-cv-175, 2021 WL 4395115 (D.N.H. Sept. 24, 2021).	D.N.H.	Motion re Lack of PJ Granted/ Court found no PJ, after jurisdictional discovery	24-Sep-21	Medical Equipment	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Crespi v. Zeppy, No. 2044-20, 2022 WL 815429 (N.J. Super. Ct. App. Div. Mar. 18, 2022).	New Jersey Superior Court Appellate Division	Record Insufficient, Reversed and Remanded for Reconsideration	18-Mar-22	Battery	No
Rickman v. BMW of N. Am. LLC, 538 F. Supp. 3d 429 (D.N.J. 2021).	D.N.J.	Motion re Lack of PJ Granted/ Court found no PJ	11-May-21	Auto Parts	Yes
Wade v. Kenan Advantage Grp., Inc., No. 20-18155, 2021 WL 4704962 (D.N.J. Oct. 8, 2021).	D.N.J.	Motion re Lack of PJ Granted/ Court found no PJ	8-Oct-21	Trailers	Yes (slip opinion)
Beaton v. LG Chem, Ltd., No. 2:20-cv06806, 2021 WL 3828835 (D.N.J. Aug. 26, 2021).	D.N.J.	Motion re Lack of PJ Granted/ Court found no PJ	6-Aug-21	Battery	Yes (slip opinion)
Guzman v. Union Officine Meccaniche S.p.A., No. 20-7327, 2022 WL 279846 (D.N.J. Jan. 31, 2022).	D.N.J.	Motion re Lack of PJ Granted/ Court found no PJ	31-Jan-22	Pellet machine	Yes (slip opinion)
Barber v. DePuy Synthes Prods., Inc., No. 21-00923, 2021 WL 3076933 (D.N.J. July 21, 2021).	D.N.J.	Motion re Lack of PJ Granted/ Court found no PJ, case transferred	21-Jul-21	Medical device	Yes (slip opinion)
In re Metformin Mktg. & Sales Prac. Litig., No. 20-2324, 2022 WL 970281 (D.N.J. Mar. 30, 2022).	D.N.J.	Motion re Lack of PJ Granted in Part, Denied in Part	30-Mar-22	Pharma-ceuticals	Yes (slip opinion)
Chavez v. Bridgestone Ams. Tire Operations, LLC, 503 P.3d 332 (N.M. 2021).	New Mexico Supreme Court	PJ Issue Remanded to Court of Appeals	15-Nov-21	Tires	Yes
Snelling v. Tribal Vapors, No. 19-0686, 2021 WL 1227836 (D.N.M. Mar. 31, 2021).	D.N.M.	Motion re Lack of PJ Granted in Part, Denied in Part	31-Mar-21	Battery	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Coffin v. Magellan HRSC, Inc., No. 20-0144, 2021 WL 2589732 (D.N.M. June 24, 2021).	D.N.M.	Motion re Lack of PJ Denied/ Court found PJ existed	24-Jun-21	N/A	Yes (slip opinion)
Aybar v. Aybar, 177 N.E.3d 1257 (N.Y. 2021).	New York Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ (but note, decision dealt primarily with general personal jurisdiction)	7-Oct-21	Vehicle and tire	Yes
Mattheos v. JLG Indus., Inc., No. 20-cv-02356, 2022 WL 17361124 (E.D.N.Y. Dec. 1, 2022).	E.D.N.Y.	Motion re Lack of PJ Denied/ Court found PJ existed	1-Dec-22	Lift	Yes (slip opinion)
SUEZ Water N.Y. Inc. v. E.I. du Pont de Nemours & Co., 578 F. Supp. 3d 511 (S.D.N.Y. 2022).	S.D.N.Y.	Motion re Lack of PJ Denied in part, Granted in part	4-Jan-22	PFAs	Yes
Zurich Am. Life Ins. Co. v. Nagel, 571 F. Supp. 3d 168 (S.D.N.Y. 2021).	S.D.N.Y.	Motion re Lack of PJ Granted/ Court found no PJ	10-Nov-21	Insurance policies	Yes
Paroni v. Gen. Elec. UK Holdings Ltd., No. 19-cv-1034, 2021 WL 3501234 (S.D.N.Y. Aug. 9, 2021).	S.D.N.Y.	Motion re Lack of PJ Granted/ Court found no PJ, court willing to consider transfer.	9-Aug-21	Asbestos	Yes (slip opinion)
Piotrowicz v. Techtronic Indus. N. Am., Inc., No. 19-cv-11522, 2022 WL 2870811 (S.D.N.Y. July 21, 2022).	S.D.N.Y.	Motion re Lack of PJ Granted/ Court found no PJ	21-Jul-22	Saw	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
In re Klein, 20-mc-203, 2022 WL 1567584 (S.D.N.Y. May 18, 2022).	S.D.N.Y.	Motion re Lack of PJ Denied/ Court found PJ existed (but note this case considered personal jurisdiction as it relates to whether an individual is "found" in a jurisdiction for purposes of serving a subpoena)	18-May-22	N/A	Yes (slip opinion)
Bartosiewicz v. Nelsen, 564 F. Supp. 3d 287 (W.D.N.Y. 2021).	W.D.N.Y.	Motion re Lack of PJ Granted/ Court found no PJ	29-Sep-21	Antique car	Yes
Bartlett v. *In re* Estate of Burke, 877 S.E.2d 432 (N.C. Ct. App. 2022).	North Carolina Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	6-Sep-22	Helicopter	Yes
Miller v. LG Chem, Ltd., 887 S.E.2d 844 (N.C. 2023).	Supreme Court of North Carolina	Remanded to Trial Court for reconsideration of PJ-related discovery disputes (overturning North Carolina Court of Appeals which Granted Motion re Lack of PJ)	16-Jun-23	Battery	Yes
Schaeffer v. SingleCare Holdings, LLC, 858 S.E.2d 631 (N.C. Ct. App. 2021).	North Carolina Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	15-Jun-21	N/A	Yes
Cohen v. Cont'l Motors, Inc., 864 S.E.2d 816 (N.C. Ct. App. 2021).	North Carolina Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	7-Sep-21	Aircraft Engine	Yes

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Frost v. AmSafe Com. Prods., Inc., No. 1:21-cv-156, 2022 WL 826931 (W.D.N.C. Mar. 18, 2022).	W.D.N.C.	Motion re Lack of PJ Denied/ Court found PJ existed	28-Mar-22	Car seat	Yes (slip opinion)
Brinson v. Brosnan, No. 5:21-cv-00151, 2022 WL 325455 (E.D.N.C. Feb. 2, 2022).	E.D.N.C.	Motion re Lack of PJ Granted	2-Feb-22	N/A	Yes (slip opinion)
Ricker v. Mercedes-Benz of Georgetown, 191 N.E.3d 1179 (Ohio Ct. App. 2022).	Ohio Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	2-Jun-22	N/A	Yes
Nottingham-Spirk Design Assocs., Inc. v. Halo Innovations, Inc., No. 1:21-cv-00341, 2022 WL 1572077 (N.D. Ohio May 19, 2022).	N.D. Ohio	Motion re Lack of PJ Granted/ Court found no PJ	19-May-22	Baby blanket	Yes (slip opinion)
Olin-Marquez v. Arrow Senior Living Mgmt., LLC, 586 F. Supp. 3d 759 (S.D. Ohio 2022).	S.D. Ohio	Motion re Lack of PJ Denied/ Court found PJ existed	17-Feb-22	N/A	Yes
Cooper Res., LLC v. Alldredge, No. 20-cv-457, 2021 WL 3640704 (E.D. Okla. Aug. 17, 2021).	E.D. Okla.	Court found PJ existed, on default judgment	17-Aug-21	Construction equipment	Yes (slip opinion)
Cox v. HP Inc., 504 P.3d 52 (Or. Ct. App. 2022), *review denied*, 509 P.3d 114 (Or. 2022).	Oregon Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	12-Jan-22	Generator	Yes
Cox v. HP Inc., 492 P.3d 1245 (Or. 2021).	Oregon Supreme Court	Motion re Lack of PJ Granted/ Court found no PJ	5-Aug-21	Generator	Yes

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Ristenbatt v. W. Glass Supply, Inc., No. 1:20-cv-01634, 2021 WL 5867435 (M.D. Pa. Aug. 9, 2021).	M.D. Pa.	Motion re Lack of PJ Granted/ Court found no PJ as to one product defendant, Denied as to other	9-Aug-21	Construction Equipment and component parts	Yes (slip opinion)
Cote v. U.S. Silica Co., 572 F. Supp. 3d 84 (M.D. Pa. 2021).	M.D. Pa.	Motion re Lack of PJ Denied/ Court found PJ existed	16-Nov-21	Industrial machine	Yes
Am. Fam. Home Ins. v. McLaren Auto., Inc., No. 2:21-cv-04016, 2022 WL 558350 (E.D. Pa. Feb. 24, 2022).	E.D. Pa.	Motion re Lack of PJ Granted/ Court found no PJ	24-Feb-22	Vehicle	Yes (slip opinion)
Avicolli v. BJ's Wholesale Club, Inc., No. 21-1119, 2021 WL 2454454 (E.D. Pa. June 16, 2021).	E.D. Pa.	Motion re Lack of PJ Granted/ Court found no PJ	16-Jun-21	Hand sanitizer	Yes (slip opinion)
Ziencik v. Snap, Inc., No. 21-49, 2021 WL 4076997 (W.D. Pa. Sept. 8, 2021).	W.D. Pa.	Motion re Lack of PJ Granted/ Court found no PJ	8-Sep-21	Mobile phone application	Yes (slip opinion)
Martins v. Bridgestone Ams. Tire Operations, LLC, 266 A.3d 753 (R.I. 2022).	Rhode Island Supreme Court	Motion re Lack of PJ Granted/ Court found no PJ	20-Jan-22	Tire	Yes
Lorenzen v. Toshiba Am. Info. Sys., Inc., 569 F. Supp. 3d 109 (D.R.I. 2021).	D.R.I.	Motion re Lack of PJ Denied/ Court found PJ existed	1-Nov-21	Computer and battery	Yes
Oaks v. Largo Bioscience, Inc., No. 3:21-cv-00541, 2022 WL 765506 (M.D. Tenn. Mar. 11, 2022).	M.D. Tenn.	Motion re Lack of PJ Granted/ Court found no PJ	11-Mar-22	Pharma-ceuticals	Yes (slip opinion)
Luciano v. SprayFoamPolymers.com, LLC, 625 S.W.3d 1 (Tex. 2021).	Texas Supreme Court	Motion re Lack of PJ Denied/ Court found PJ existed	25-Jun-21	Insulation	Yes

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Fitzgerald Truck Parts & Sales, LLC v. Advanced Freight Dynamics, LLC, No. 14-19-00397-cv, 2021 WL 1685353 (Tex. App.—Houston [14th Dist.] Apr. 29, 2021, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	29-Apr-21	Refurbished vehicles	No
Facebook, Inc. v. Doe, 650 S.W.3d 748 (Tex. App.—Houston [14th Dist.] 2022, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	12-Apr-22	Social Media Platform	Yes
AIKG, LLC v. CSP Consultants Grp., LLC, No. 04-21-00213-cv, 2022 WL 947197 (Tex. App.—San Antonio Mar. 30, 2022, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	30-Mar-22	N/A	No
BDTP, LLC v. United Structures of Am., Inc., No. 01-20-00464-cv, 2022 WL 710087 (Tex. App.—Houston [1st Dist.] Mar. 10, 2022, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	10-Mar-22	N/A	No
In re Skadden, Arps, Slate, Meagher & Flom LLP, No. 02-21-00393-cv, 2022 WL 500036 (Tex. App.—Fort Worth Feb. 18, 2022, no pet.), *mandamus dismissed* (Aug. 12, 2022).	Texas Court of Appeals	Motion to Compel Discovery was improper while Special Appearance based on alleged lack of PJ was pending	18-Feb-22	N/A	No
Ford Motor Co. v. Lopez, No. 13-19-00480-cv, 2021 WL 3869733 (Tex. App.—Corpus Christi–Edinburg Aug. 31, 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	31-Aug-21	Ford Vehicles	No

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Vertex Indus., Inc. v. State Farm Lloyds, No. 03-20-00574-cv, 2021 WL 3684263 (Tex. App.—Austin Aug. 20, 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	20-Aug-21	Water filtration systems	No
Steward Health Care Sys. LLC v. Saidara, 633 S.W.3d 120 (Tex. App.—Dallas 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	20-Aug-21	N/A	Yes
Fed. Corp. v. Truhlar, 632 S.W.3d 697 (Tex. App.—El Paso 2021, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	10-Aug-21	Tires	Yes
Devon Energy Corp. v. Moreno, No. 01-21-00084-cv, 2022 WL 547641 (Tex. App.—Houston [1st Dist.] Feb. 24, 2022, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	24-Feb-22	N/A	No
Weeks Marine, Inc. v. Carlos, No. 01-21-00015-cv, 2021 WL 4897714 (Tex. App.—Houston [1st Dist.] Oct. 21, 2021, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	21-Oct-21	N/A	No
Southwire Co., LLC v. Sparks, No. 02-21-00126-cv, 2021 WL 5368692 (Tex. App.—Fort Worth Nov. 18, 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	18-Nov-21	RV	No
Cirrus Design Corp. v. Berra, 633 S.W.3d 640 (Tex. App.—San Antonio 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	25-Aug-21	Aircraft	Yes
Schrader v. Roach, No. 01-20-00183-cv, 2022 WL 2203210 (Tex. App.—Houston [1st Dist.] June 21, 2022, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied in part, Granted in part	21-Jun-22	N/A	No

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Forever Living Prod. Int'l, LLC v. AV Eur. GmbH, 638 S.W.3d 719 (Tex. App.—Dallas 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	30-Jul-21	Aloe Vera Products	Yes
Tenace v. Thurman Health Holdings, LLC, No. 09-21-00199-cv, 2022 WL 2719478 (Tex. App.—Beaumont July 14, 2022, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	14-Jul-22	N/A	No
LG Chem, Ltd. v. Turner, No. 14-19-00326-cv, 2021 WL 2154075 (Tex. App.—Houston [14th Dist.] May 27, 2021, no pet.).	Texas Court of Appeals	Remanded to Trial Court to Reconsider Question of Jurisdictional Discovery	27-May-21	Battery	No
Broussard v. IPSCO Tubulars, Inc., 641 S.W.3d 805 (Tex. App.—Eastland 2022, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	3-Feb-22	N/A	Yes
Wadi Petroleum, Inc. v. Miller, No. 13-21-00014-cv, 2021 WL 4466320 (Tex. App.—Corpus Christi–Edinburg Sept. 30, 2021, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied in part, Granted in part	30-Sep-21	N/A	No
ShockTheory DLV, Inc. v. Tava Ventures, Inc., No. 05-21-00182-cv, 2021 WL 4304643 (Tex. App.—Dallas Sept. 22, 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	22-Sep-21	N/A	No
LG Chem, Ltd. v. Granger, No. 14-19-00814-cv, 2021 WL 2153761 (Tex. App.—Houston [14th Dist.] May 27, 2021, no pet.).	Texas Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	27-May-21	Battery	No

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Wadi Petroleum, Inc. v. Miller, No. 13-21-00014-cv, 2021 WL 4466320 (Tex. App.—Corpus Christi–Edinburg Sept. 30, 2021, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Denied in part, Granted in part	30-Sep-21	N/A	No
Far E. Mach. Co. v. Aranzamendi, No. 05-21-00267-cv, 2022 WL 4180472 (Tex. App.—Dallas Sept. 13, 2022, pet. denied).	Texas Court of Appeals	Motion re Lack of PJ Granted/ Court found no PJ	13-Sep-22	Steel pipe	No
Seagen Inc. v. Daiichi Sankyo Co., 546 F. Supp. 3d 515 (E.D. Tex. 2021).	E.D. Tex.	Motion re Lack of PJ Denied/ Court found PJ existed	28-Jun-21	Pharma-ceuticals	Yes
In re Toyota Hybrid Brake Litig., No. 4:20-cv-127, 2021 WL 2805455 (E.D. Tex. July 6, 2021).	E.D. Tex.	Motion re Lack of PJ Denied/ Court found PJ existed	6-Jul-21	Brakes	Yes (slip opinion)
Sambrano v. United Airlines, Inc., No. 4:21-cv-1074, 2021 WL 5178829 (N.D. Tex. Nov. 8, 2021).	N.D. Tex.	Motion re Lack of PJ Denied in part, Granted in part	8-Nov-21	N/A	Yes (slip opinion)
Nat'l Union Fire Ins. Co. of Pittsburgh v. Bacarella Transp. Servs., Inc., No. 3:19-cv-01364, 2021 WL 3372263 (N.D. Tex. Aug. 3, 2021).	N.D. Tex.	Motion re Lack of PJ Granted/ Court found no PJ	3-Aug-21	N/A	Yes (slip opinion)
Gomez v. ALN Int'l, Inc., No. 19-3852, 2021 WL 3774221 (S.D. Tex. Mar. 24, 2021).	S.D. Tex.	Motion re Lack of PJ Granted/ Court found no PJ	24-Mar-21	Medical device	Yes (slip opinion)
Scheaffer v. Albertson's LLC, No. 21-2326, 2021 WL 4822159 (S.D. Tex. Oct. 15, 2021).	S.D. Tex.	Motion re Lack of PJ Granted/ Court found no PJ	15-Oct-21	Refrigerator	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
Ethridge v. Samsung SDI Co., No. 3:21-cv-306, 2022 WL 2920429 (S.D. Tex. July 26, 2022).	S.D. Tex.	Motion re Lack of PJ Granted/ Court found no PJ	26-Jul-22	Battery	Yes
Maxell Holdings, Ltd. v. Amperex Tech. Ltd., No. 6:21-cv-347, 2022 WL 1176723 (W.D. Tex. Apr. 20, 2022).	W.D. Tex.	Motion re Lack of PJ Denied/ Court found PJ existed	20-Apr-22	N/A	Yes (slip opinion)
Metro Equip. & Rental Co. v. Tsurumi Mfg. Co., No. 21-cv-00030, 2022 WL 1491099 (W.D. Tex. May 11, 2022).	W.D. Tex.	Motion re Lack of PJ Denied/ Court found PJ existed	11-May-22	Oil Pump	Yes (slip opinion)
DJ's Tree Serv. & Logging, Inc. v. Bandit Indus., Inc., 557 F. Supp. 3d 511 (D. Vt. 2021).	D. Vt.	Motion re Lack of PJ Denied/ Court found PJ existed	31-Aug-21	Horizontal grinder	Yes
Andrews v. Shandong Linglong Tyre Co., No. 3:21-cv-794, 2022 WL 2484544 (E.D. Va. July 6, 2022).	E.D. Va.	Motion re Lack of PJ Granted/ Court found no PJ	6-Jul-22	Tire	Yes (slip opinion)
Downing v. Losvar, 507 P.3d 894 (Wash. Ct. App. 2022), *review denied sub nom.* Downing v. Textron Aviation, Inc., 516 P.3d 384 (Wash. 2022).	Washington Court of Appeals	Motion re Lack of PJ Denied/ Court found PJ existed	14-Apr-22	Aircraft	Yes
Dodd v. Textron, Inc., No. 3:21-cv-5177, 2022 WL 392442 (W.D. Wash. Feb. 9, 2022).	W.D. Wash.	Motion re Lack of PJ Granted/ Court found no PJ, and court willing to consider transfer.	9-Feb-22	Off-road vehicles	Yes (slip opinion)

Case Citation	**Court**	**Outcome as to PJ (Personal Jurisdiction)**	**Date Decided**	**Product**	**Reported?**
State *ex rel.* Historic Arms Corp. v. Williams, No. 22-0217, 2022 WL 14813171 (W. Va. Oct. 26, 2022).	West Virginia Supreme Court	Motion re Lack of PJ Denied/ Court found PJ may have existed, on writ of prohibition	26-Oct-22	Explosive device	No
Philips N. Am. LLC v. Radon Med. Imaging Corp.-WV, No. 2:21-cv-00298, 2022 WL 804094 (S.D. W. Va. Mar. 15, 2022).	S.D. W.Va.	Motion re Lack of PJ Denied/ Court found PJ existed	15-Mar-22	N/A	Yes (slip opinion)
Kreuziger Drainage LLC v. Inter-Drain Sales BV, No. 21-cv-0908, 2022 WL 1136761 (E.D. Wis. Apr. 18, 2022).	E.D. Wis.	Motion re Lack of PJ Denied/ Court found PJ existed	18-Apr-22	Construction Equipment	Yes (slip opinion)
Rogers v. City of Hobart, 996 F.3d 812 (7th Cir. 2021).	7th Cir.	Motion re Lack of PJ Granted/ Court found no PJ	7-May-21	N/A	Yes
Canaday v. Anthem Companies, 9 F.4th 392 (6th Cir. 2021).	6th Cir.	Motion re Lack of PJ Granted/ Court found no PJ	17-Aug-21	N/A	Yes
Sullivan v. LG Chem, Ltd., 79 F.4th 651 (6th Cir. 2023).	6th Cir.	Motion re Lack of PJ Denied/ Court found PJ, on appeal (overturning E.D. Mich. which Granted Motion re Lack of PJ)	3-May-23	Battery	Yes
Wallace v. Yamaha Motors Corp, U.S.A., No. 19-2459, 2022 WL 61430 (4th Cir. Jan. 6, 2022).	4th Cir.	Motion re Lack of PJ Granted/ Court found no PJ	6-Jan-22	Motorcycle	No
LNS Enterprises LLC v. Cont'l Motors, Inc., 22 F.4th 852 (9th Cir. 2022).	9th Cir.	Motion re Lack of PJ Granted/ Court found no PJ	12-Jan-22	Aircraft Engine	Yes