No. 22-641

IN THE

Supreme Court of the United States

DAIMLER TRUCKS NORTH AMERICA LLC,
Petitioner,

v.

SUPERIOR COURT OF LOS ANGELES, *ET AL.*,
Respondents.

On Petition for a Writ of Certiorari to the
California Court of Appeal
for the Second Appellate District

BRIEF IN OPPOSITION OF RESPONDENTS YONGQUAN HU AND JINGHUA REN

WILLIAM R. GILMORE
STRASSBURG, GILMORE
& WEI, LLP
1250 E. Walnut Street
#136
Pasadena, CA 91106
(626) 683-9933

ALLISON M. ZIEVE
Counsel of Record
SCOTT L. NELSON
PUBLIC CITIZEN
LITIGATION GROUP
1600 20th Street NW
Washington, DC 20009
(202) 588-1000
azieve@citizen.org

Attorneys for Respondents
Hu and Ren

March 2023

QUESTION PRESENTED

Whether the Court should grant review to consider an intermediate state appellate court's case-specific application of this Court's recent decisions concerning the "related to" element of specific personal jurisdiction to the facts of this case.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

INTRODUCTION

The petition in this case arises from a motion to dismiss for lack of personal jurisdiction filed by one of eight defendants, Daimler Trucks North America LLC (Daimler), in a personal-injury action arising from a truck crash. Daimler's petition, challenging the finding of a state intermediate court that the plaintiffs' claims are "related to" Daimler's contacts with the jurisdiction, fails to show that the decision below warrants review.

Sometimes when a plaintiff sues a defendant, the court in which the plaintiff filed will have personal jurisdiction over the defendant. Sometimes when a plaintiff sues a defendant, the court in which the plaintiff filed will lack personal jurisdiction over the defendant. Although the petition seems to suggest otherwise, those two outcomes are not contradictory when they result from different facts. Neither are the holdings of the various decisions cited in the petition, which apply this Court's recent opinions on specific personal jurisdiction, *Ford Motor Co. v. Montana Eighth Judicial District Court*, 141 S. Ct. 1017 (2021), and *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. 1773 (2017), to the facts of particular cases, sometimes finding that the "related to" element of specific jurisdiction is satisfied and sometimes finding that it is not. Perhaps one day the lower courts' fact-bound applications of these recent decisions will develop into rules of law that conflict with one another. No such conflict has yet developed.

Like the cases cited in the petition, both the decision below and Daimler rely on the same opinions of this Court. Indeed, they quote some of the same sentences. There can therefore be no dispute

that what petitioner asks this Court to review is the application of the law to specific facts. And this case is not one of those "rare[]" instances where review is warranted to reconsider a lower court's application or "misapplication of a properly stated rule of law," S. Ct. R. 10—particularly in the absence of any conflict among the federal courts of appeals and state supreme courts.

Throughout the petition, Daimler works hard to portray a single intermediate appellate decision as proof that California courts are "out of step with the rest of the country," Pet. 5, and are applying "an expansive form of relatedness," *id.* at 3. Yet numerous California state-court decisions contradict Daimler's rhetoric. And the court below carefully compared the facts of this case to the facts and findings in *Bristol-Myers Squibb Co.* and *Ford*—as Daimler seems to agree is proper—and on that basis concluded that the "related to" element of specific jurisdiction was satisfied. Arguing that the court reached the wrong conclusion, the petition errs in two fundamental respects: First, it repeatedly misstates the decision in *Ford* by insisting that the Court stated a rule that specific jurisdiction *requires* that the product malfunctioned in the forum state. *Ford* states no such rule. Second, the petition asks the Court to consider each fact in isolation. The decision below, however, does not turn on any single fact. And the approach suggested in the petition is contrary to *Ford* and *Bristol-Myers*.

The petition should be denied.

STATEMENT

Respondent Yongquan Hu is a long-distance tractor-trailer driver; respondent Jinghua Ren is his

wife. Both reside in California. This case arises from a single-vehicle crash during a trip in which Mr. Hu and a co-worker, Ran Gao, first drove from California to New Jersey and then transported goods from New Jersey to California in a 2016 Freightliner Cascadia truck originally sold by Daimler. The crash occurred on the return leg of the trip, while Mr. Gao was driving and Mr. Hu was sleeping in the sleeping compartment of the vehicle. Despite the bunk restraint, the collision caused Mr. Hu to move laterally, striking his head and rendering him quadriplegic. Complaint 4.

Daimler markets Cascadia trucks throughout the country. Pet. App. 2a ("Daimler's website states the Cascadia is an 'on-highway truck' with an interior designed for drivers who may spend more than 100 hours per week in the cab."). Daimler sells and services large numbers of Cascadia trucks in California for use in long-haul interstate trucking. *Id.* at 2a; 27a. Daimler originally sold the truck in which Mr. Hu was riding to Werner Enterprises in Georgia. Werner Enterprises maintains a truck fleet based in Nebraska, with a hub in California where it sells used trucks. *Id.* at 3a. In 2019, Mr. Hu's employer, a California corporation, bought the truck from Werner Enterprises' California hub. *Id.*

Trial court proceedings

After Mr. Hu was injured, he and Ms. Ren filed suit in California against Daimler, Mr. Hu's employer, the driver, and others. As to Daimler, the complaint alleges, among other things, that it designed and manufactured the vehicle with a defective and unsafe bunk restraint, which failed to perform safely during the incident, and that a

warning notice in the owner's manual failed to warn that the bunk restraint offers no protection from lateral movement. *See* Complaint 5–7.

Daimler, arguing that the court lacked personal jurisdiction over it, moved to dismiss and/or to quash service of the summons. The court denied the motion. Pet. App. 26a.

The court began by setting forth the three elements necessary for a finding of specific jurisdiction: "(1) the defendant has purposefully availed itself of forum benefits with respect to the matter in controversy; (2) the controversy is related to or arises out of the defendant's contacts with the forum; and (3) the assertion of jurisdiction would comport with fair play and substantial justice." *Id*. The court cited state-court decisions, but the same three elements are set forth in decisions of this Court, as the petition agrees. *See* Pet. 13 (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985)).

Addressing the first prong, the court recited numerous facts showing that Daimler purposely avails itself of the privilege of conducting business in California: Daimler advertises in California and allows authorized dealerships to use the Freightliner name in advertisements. Pet. App. 27a. Daimler has 32 authorized dealerships selling the Freightliner vehicles in California and has sold thousands of them in that state. *Id*. Daimler sells parts for the Freightliner to 27 "authorized parts/sales locations" in the state, *id*., and it offers a service to California customers to allow them to monitor their vehicle's performance online. *Id*.

Addressing the second prong—whether the controversy is related to or arises out of the

defendant's contacts with the forum—the court began by quoting this court's decision in *Bristol-Myers* for the proposition that "[w]hat is needed [for specific jurisdiction] … is a connection between the forum and the specific claims at issue." *Id.* at 28a (quoting 137 S. Ct. at 1781). In support of its finding that the prong was satisfied, the court noted that both plaintiffs are California residents, that both Mr. Hu and defendant Gao were headed to California, that Mr. Hu's employer purchased the Daimler truck from a business selling used trucks in California, that Daimler intended its Freightliner Cascadia trucks to be driven across state lines, and that the goods being transported were intended for delivery in California. *Id.* "In short, where Daimler knowingly promotes and directs to California residents the sale and servicing of its truck designed to transport goods across multiple states, and where a California resident is injured transporting goods across states lines to California while in one of those trucks (which had been sold in California to a California company), that resident's claims of injury are sufficiently related to Daimler's activities in California, even if the accident causing the injury happened to occur in another State while defendant's truck was en route to California." *Id.* at 28a–29a.

Addressing the third prong—whether jurisdiction would comport with fair play and substantial justice—the court found that this element also supported its exercise of jurisdiction. The court explained that not only the plaintiffs but also the seven other defendants are California residents, and that litigating in one forum would avoid a "multiplicity of suits and conflicting adjudications." *Id.* at 29a (citation omitted). The court also noted that "the

intended interstate purpose of its trucks and Daimler's purposeful availment of the California market supports the reasonableness of Daimler to defend against plaintiffs' claims in California." *Id.*

Court of appeal proceedings

Daimler petitioned for a writ of mandamus, primarily challenging the superior court's holding on the relatedness prong and briefly addressing the fairness prong. The California Court of Appeal denied the writ. *Id.* at 22a.

The court of appeal—like the trial court and as petitioner agrees is appropriate—first considered whether Daimler purposefully availed itself of forum benefits. To explain that consideration, the court relied on four of this Court's opinions: *Hanson v. Denckla*, 357 U.S. 235 (1958); *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1984); *Walden v. Fiore*, 571 U.S. 277 (2014); and *Ford*. Pet. App. 11a. After a lengthy discussion of *Ford* and recitation of the pertinent facts, *id.* at 11a–13a, the court concluded that the plaintiffs satisfied the first prong. It also noted that "Daimler does not raise much of any argument that Mr. Hu did not satisfy the first element." *Id.* at 13a n.4; *see also* Daimler Pet. for Writ of Mandate at 6 (stating that the "Issue Presented" is whether the superior court erred in its consideration of the relatedness and fairness prongs).

Turning to the "related to" prong, the court relied heavily on this Court's recent opinion in *Ford* to explain the requirements of that element. It then addressed Daimler's argument that the claims do not "relate to" Daimler's activities in California. Daimler made two arguments: It argued that the claims did not relate to its activities because "(1) Daimler 'did

not design, manufacture, assemble, or sell *the subject vehicle in California*' and (2) 'the injuries and accident occurred in Oklahoma.'" Pet. App. 14a (quoting Daimler).

Responding to the first argument, the court of appeal pointed out that in *Ford*, too, the company argued that the state court had jurisdiction "only if the company had designed, manufactured, or—most likely—sold in the State the particular vehicle involved in the accident." *Ford*, 141 S. Ct. at 1023. Quoting *Ford*, the court below explained that this Court "was unconvinced" by that argument.

> [T]hat argument merely restates Ford's demand for an exclusively causal test of connection—which we have already shown is inconsistent with our caselaw." ([*Ford*], at p. 1029.) The systematic contacts in the forum states (including contacts as to the specific types of vehicles at issue) rendered Ford accountable for the in-state accidents despite the out of state sale, even if the contacts in the forum states did not directly cause the injuries. (*Ibid.*) This would remain the case even if, as Ford suggested, … without the company's Montana or Minnesota contacts, the plaintiffs' claims would be the same. (*Ibid.*)

Pet. App. 15a. The court concluded that Daimler's first argument thus failed: "The fact remains that Daimler's Freightliner trucks were manufactured and marketed for precisely this type of intercontinental long haul trip"—that is, "trips that emanate from California to other states and back, exactly the use present here." *Id.*

As for Daimler's argument that the California court lacked jurisdiction because the accident did not occur in state, the court framed its analysis around this Court's decisions in *Ford*, where the Court found that the state court had specific jurisdiction, and *Bristol-Myers*, where the Court concluded that the state court did not. As the court of appeal noted, this Court explained in *Ford* "that jurisdiction was lacking in *Bristol-Myers* 'because the forum State, and the defendant's activities there, lacked any connection to the plaintiffs' claims.'" *Id.* at 17a (quoting *Ford*, 141 S. Ct. at 1031). Instead, the *Bristol-Myers* plaintiffs were "engaged in forum-shopping—suing in California because it was thought plaintiff-friendly, even though their cases had no tie to the State." *Id.* (quoting *Ford*, 141 S. Ct. at 1031). As in *Ford*, the court found "important distinctions between [this] case and *Bristol-Myers*." *Id.*

To begin with, the court noted that Mr. Hu and his wife are both California residents and that, while not dispositive, a "plaintiff's residence can 'be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit.'" *Id.* (quoting *Ford,* 141 S. Ct. at 1031–32); *see also id.* (noting that the plaintiffs' lack of forum residency weighed against personal jurisdiction in *Bristol-Myers,* 137 S. Ct. at 1782). Again looking to *Ford* (where the plaintiffs' use of the vehicles in the forum states supported jurisdiction, *see* 141 S. Ct. at 1031) and *Bristol-Myers* (where the plaintiffs had not used the drugs at issue in the forum state, *see* 137 S. Ct. at 1781), the court considered that "Mr. Hu also used the allegedly defective subject vehicle in California," where the outbound leg of his trip began. Pet. App. 17a. The court of appeal also noted that, whereas in

Bristol-Myers this Court observed that the nonresident plaintiffs did not seek treatment for their injuries in California and did not claim to have suffered harm in that state, *id.* at 18a (citing *Bristol-Myers*, 137 S. Ct. at 1778, 1781, 1782), Mr. Hu and Ms. Ren seek recovery of damages for, among other things, past and future medical expenses and loss of consortium, all of which have been or will be suffered in California. Finally, the court explained, "as in *Ford* (but not *Bristol-Myers*), Daimler has 'systematically served [the California] market' by advertising, selling, and servicing Freightliner trucks (including Cascadias) in California." *Id.* (citing *Ford,* 141 S. Ct. at 1028). Based on all these facts, the court concluded that Mr. Hu's claims "relate to" Daimler's California activities.

The court of appeal then turned to the third element: whether the assertion of jurisdiction comports with fair play and substantial justice. The court began by quoting the standard set forth in *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980). Finding that Daimler's business activities in California make it fair to allow jurisdiction there, the court explained that Daimler, in conducting so much business in California, "'enjoys the benefits and protection of [its] laws'—the enforcement of contracts, the defense of property, the resulting formation of effective markets." Pet. App. 19a (quoting *Ford*, 141 S. Ct. at 1029 (internal quotation marks and citation omitted)). The court's conclusion relied heavily on this Court's analysis in *Ford*, from which it quoted at length.

> All that assistance to Ford's in-state business creates reciprocal obligations—most relevant here, that the car models Ford so extensively

> markets in Montana and Minnesota be safe for their citizens to use there. Thus our repeated conclusion: A state court's enforcement of that commitment, enmeshed as it is with Ford's government-protected in-state business, can "hardly be said to be undue." [Citations.]

Id. (quoting *Ford*, 141 S. Ct. at 1030).

The fact that the state court indisputably had jurisdiction over the seven other defendants in the case also supported jurisdiction on this prong. Daimler argued otherwise, suggesting that the plaintiffs could sue Daimler in Oklahoma. The court responded: "The rights of all the defendants can be adjudicated in one setting, not one part in California and another part in Oklahoma or Oregon or Delaware. A single suit is more economical, avoids the possibility of inconsistent judgments, and places post judgment proceedings, including any enforcement efforts, in one locale." *Id*. at 20a.

Having found that all three elements supported the exercise of jurisdiction, the court of appeal denied the petition for mandamus.

California Supreme Court proceedings

Daimler petitioned the California Supreme Court for review of the finding as to "relatedness." The court denied the petition.

REASONS FOR DENYING THE WRIT

In its petition for certiorari, Daimler does not contest the court of appeal's conclusion as to two of the three considerations for assessing specific jurisdiction. It asks this Court to review only the fact-bound application of this Court's recent precedent to the "related to" prong. Review is not warranted.

I. California courts apply this Court's specific-jurisdiction precedents to the specific facts of each case.

The decision below, coming from an intermediate state court, does not reflect the California Supreme Court's adoption of any rule of law, given "the well established rule in [the] state that the denial of a petition for review is not an expression of opinion of the Supreme Court on the merits of the case." *Camper v. Workers' Comp. Appeals Bd.*, 836 P.2d 888, 894 n.8 (Cal. 1992). The decision is also not binding on other California courts of appeal. *See Jessen v. Mentor Corp.*, 71 Cal. Rptr. 3d 714, 721 n.10 (Cal. Ct. App. 2008).

Nonetheless, Daimler asserts that the decision below shows that California's approach to specific jurisdiction is "expansive," reflecting a "zeal to find relatedness" in order to allow most any plaintiff to sue in that state. Pet. 5. Notably absent from the petition, however, are any examples illustrating this assertion. In fact, Daimler does not cite *even one* California jurisdictional decision other than the decision below and the 2016 state-court decision in *Bristol-Myers*.

Daimler's omission is telling because numerous California appellate court decisions have addressed specific jurisdiction since this Court's 2017 decision in *Bristol-Myers*. These decisions generally include extensive citation to *Bristol-Myers*, and more recently to the 2021 decision in *Ford*, and many find that jurisdiction is lacking, including based on the relatedness prong. *See, e.g.*, *Semanick v. State Auto. Mutual Ins. Cos.*, 2023 WL 383044, *6 (Cal. Ct. App. 2023) (unpublished decision) (finding no specific

personal jurisdiction based on purposeful availment and relatedness prongs, although plaintiff was a resident of California); *LG Chem, Ltd. v. Super. Court of San Diego Cty.*, 295 Cal. Rptr. 3d 661, 676–77 (Cal. Ct. App. 2022) (although purposeful availment prong was satisfied, finding no specific jurisdiction based on the relatedness prong); *Balmuccino, LLC v. Starbucks Corp.*, 2022 WL 3643062, *1 (Cal. Ct. App. 2022) (unpublished decision) (finding no specific personal jurisdiction where, "Starbucks's ubiquitous retail presence in California notwithstanding," the case "is not related to and does not arise out of Starbucks's [forum] contacts"); *Rivelli v. Hemm*, 282 Cal. Rptr. 3d 181, 198 (Cal. Ct. App. 2021) (although the purposeful availment prong was satisfied, finding no specific jurisdiction based on the relatedness prong).[1]

Of course, in some cases, like this one, the California courts find that they can properly exercise specific jurisdiction. That unsurprising fact does not support Daimler's assertion that the California courts do not "follow[] this Court's directives" with respect to the relatedness prong and "instead apply specific jurisdiction without any territorial limit."

---

[1] In other cases, California courts of appeal have found no personal jurisdiction based on the other two prongs. *See, e.g.*, *Smith-Bey v. Riviera Operating LLC*, 2022 WL 17840308, *3 (Cal. Ct. App. 2022) (unpublished decision) (finding no specific personal jurisdiction over out-of-state company based on purposeful availment prong); *Basketry, Inc. v. Super. Court of Alameda Cty.*, 2021 WL 5118787, *9 (Cal. Ct. App. 2021) (unpublished decision) (finding that "the assertion of personal jurisdiction in this particular case would not comport with fair play and substantial justice").

Pet. 3, 5. And the many California cases finding otherwise, including but not limited to the above examples, make plain that Daimler's rhetoric is flatly incorrect.

Daimler repeatedly states that trial courts in California are required to follow state court of appeal decisions. *See* Pet. 2, 21, 27. In the two years since *Ford*, what the body of those appellate decisions shows with respect to specific jurisdiction is consistent application of *Ford* and *Bristol-Myers* to the particular facts in each case. The decision below, striking no new ground, does the same.

II. The cases cited in the petition do not evince a conflict with respect to application of this Court's precedent to the relatedness prong of specific personal jurisdiction.

Daimler's assertion of a conflict begins with the point that, since *Ford*, seven state supreme courts have addressed specific personal jurisdiction to align their precedent with that recent decision. Pet. 18.[2] Daimler also cites three federal courts of appeals decisions affirming district court rulings finding a lack of specific personal jurisdiction. *Id.* at 19. While Daimler's citations do not demonstrate a conflict, they do show that the lower courts are exploring the implications of the 2021 decision in *Ford*. As the case law develops in response to *Ford*, it is possible that courts' fact-bound applications may develop into

---

[2] The petition cites eight cases in total, but one does not address specific jurisdiction. *See Aybar v. Aybar*, 177 N.E.3d 1257, 1260 (N.Y. 2021) ("The sole issue before us, as presented by the parties, is whether Ford and Goodyear consented to general jurisdiction in New York[.]").

rules of law regarding specific fact patterns that could conceivably come into conflict; to date, that possible development has not occurred.

A. Daimler's primary attempt to show a conflict is its assertion that the decision below conflicts with the decision of the Connecticut Supreme Court in *Adams v. Aircraft Spruce & Specialty Co.*, 284 A.3d 600 (Conn. 2022). In *Adams*, the family of a Connecticut resident sued a manufacturer of airplane parts after the man died in the crash of an intra-state flight in New York. *Id.* at 605–06 & n.4. Daimler's sole basis for the assertion of a conflict is that *Adams* found that the man's residence in Connecticut, "*without more*, does not establish the required case linkage on this record." *Id.* at 619 (emphasis added); *see* Pet. 18. Below, however, the court did not hold that the plaintiffs' residence, "without more," satisfied the relatedness prong. Rather, the court—while considering the plaintiffs' residence and quoting this Court in *Ford* for the point that a plaintiff's residence "can 'be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit,'" Pet. App. 17a (quoting *Ford*, 141 S. Ct. at 1031–32)—identified a range of facts supporting the finding of relatedness. For example, "Daimler's Freightliner trucks were manufactured and marketed for precisely this type of intercontinental long haul trip." *Id.* at 15a. "Mr. Hu also used the allegedly defective subject vehicle in California, as the outbound leg of his travel that resulted in his injuries began in California"—similar to the facts in *Ford* and unlike the facts in *Bristol-*

Myers. *Id*. at 17a.[3] And "Daimler has 'systematically served [the California] market' by advertising, selling, and servicing Freightliner trucks (including Cascadias) in California." *Id*. at 18a (quoting *Ford*, 141 S. Ct. 1028).

The consistency between this case and *Adams* is further evidenced by the approach of the two courts to the question of relatedness: *Both* rely heavily on *Bristol-Myers* and *Ford*, quoting extensively from those decisions and identifying the same principles. *Compare Adams*, 284 A.3d at 612–20, *with* Pet. App.13a–18a. And *both* reject the rule of law that Daimler advocates, under which the place of the accident is decisive. *See Adams*, 284 A.2d at 621 (stating that "we do not interpret *Bristol-Myers* and *Ford Motor Co.* to mean that the activity or occurrence will be sufficiently related and material only when the injury occurs in the forum state. The principles articulated in these cases and their predecessors could support the exercise of specific jurisdiction if other material activities or occurrences relating to the litigation took place in the forum," and citing cases).

To be sure, *Adams* finds that the plaintiff there failed to allege *any* "activity or occurrence in the forum that is material to the *specific* litigation," *Adams*, 284 A.2d at 619, whereas the court below found the relatedness prong satisfied. A difference in

---

[3] By contrast, in *Adams*, there was no indication that the decedent had ever used the defective product, an airplane part that allegedly caused the crash of the airplane during a recreational flight in which he was a passenger. 284 A.2d at 605–06 & n.4.

outcome based on the application of the same law to different facts, however, does not create a conflict. *See also Int'l Shoe Co. v. State of Wash.*, 326 U.S. 310, 319 (1945) ("It is evident that the criteria by which we mark the boundary line between those activities which justify the subjection of a corporation to suit, and those which do not, cannot be simply mechanical or quantitative.").

B. Daimler contends that the decision below stands out from decisions of three federal courts of appeals because, it claims, "[e]ach of [those cases], unlike *Hu*, recognized that the location of the injury matters." Pet. 19. That contention misrepresents both those three opinions and the decision in this case.

To begin with, the court of appeal in this case *did* recognize that the location of injury matters. The decision below quotes *Ford* for the precise point that "the place of injury [is] something that 'may be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit.'" Pet. App. 15a (quoting *Ford*, 141 S. Ct. at 1031–32). The three cited cases similarly recognize that the location of injury is relevant. Notably, none of the decisions turns on the location of the injury, and the two published decisions find that the relatedness prong is not satisfied although the injury *occurred in the forum state*. *See Vapotherm, Inc. v. Santiago*, 38 F.4th 252, 261 (1st Cir. 2022); *LNS Enters. LLC v. Cont'l Motors*, 22 F.4th 852, 864 (9th Cir. 2022) (comparing facts concerning the defendant's in-state activity to the facts in *Ford*); *see also Wallace v. Yamaha Motors Corp.*, 2022 WL 61430, *4 (4th Cir. 2022) (nonprecedential decision finding the relatedness prong not met where "neither the injury

in this case nor Yamaha's conduct related to the product that allegedly caused the injury took place in" the forum state).

In short, each of the three cases cited by Daimler, like the decision below, reviews all the facts—including but not limited to the location of the injury—to assess whether the relatedness prong is satisfied.

C. Returning to location of injury later in the petition and taking it a step further, Daimler asserts that the decision below conflicts with this Court's case law and two recent lower-court cases holding, according to Daimler, that specific personal jurisdiction exists *only* in the state of "the injury or accident." *See* Pet. 32–34. Again, Daimler is mistaken.

As many of this Court's decisions reflect, forum-state injury, while "relevant," *Ford*, 141 S. Ct. at 1031, is not a prerequisite to the exercise of specific jurisdiction. For example, in *World-Wide Volkswagen*, where the Oklahoma court lacked jurisdiction over a lawsuit that arose from a car accident that occurred in that state, the Court's opinion suggests that suit in New York or perhaps New Jersey would have been proper. 444 U.S. at 295–96. Under Daimler's rule, however, no court could exercise specific jurisdiction in the large number of cases, like *World-Wide Volkswagen*, in which courts—this Court, federal courts, and state courts including in California—have found that forum-state injury is insufficient to confer jurisdiction. *See, e.g.*, *Vapotherm*, 38 F.4th at 261, *cited in* Pet. 19; *LNS Enters.*, 22 F.4th at 864, *cited in* Pet. 19; *LG Chem*, 80 Cal. App. 5th at 364–65.

Misstating the decision in *Ford*, Daimler repeatedly asserts that, to satisfy the relatedness prong, *Ford* "requires" that the forum state be the state of the accident. *See, e.g.*, Pet. 16, 26. That assertion finds no support in *Ford*. Although *Ford* found relatedness satisfied where a forum resident was injured in an incident in the forum state caused by a product sold for use in the forum state, the Court did not hold that any one of these facts was "required." Instead, after describing the defendant's forum-state activities, the Court considered "how all this [forum]-based conduct relates to the claims in these cases, brought by state residents in [their states'] courts." *Ford*, 141 S. Ct. at 1028.

Daimler is also incorrect that *Wallace* and *Martins v. Bridgestone Americas Tire Operations*, 266 A.3d 753 (R.I. 2022), "spelled out" an in-state injury rule. Pet. 32. In *Wallace*—an unpublished, non-precedential opinion—the Fourth Circuit concluded that the relatedness prong was not met where "neither the injury in [the] case *nor Yamaha's conduct related to the product* that allegedly caused the injury took place in" the forum state. 2022 WL 61430, at *4 (emphasis added).

Likewise, *Martins* held that the relatedness prong was not satisfied where "there are insufficient indicia in the record to support plaintiff's assertion that her claims arise out of or relate to the Bridgestone defendants' contacts with Rhode Island." 266 A.3d at 761. Although the court identified the fact that the accident occurred outside Rhode Island as an important distinction with *Ford*, *id.*, that fact was not the end of the inquiry. The court went on to explain that, "[f]urthermore, the allegedly defective tire was manufactured and installed in Tennessee,

not in Rhode Island, and the rotator truck was later brought to Massachusetts by" the plaintiff's company. *Id*. The court's consideration of these additional facts, after noting that the accident occurred out of state, belies Daimler's claim that the court adopted a forum-state injury "rule." In any event, an arguable inconsistency on different facts between a supreme court decision in one state and an intermediate court decision in another state is not a basis for granting certiorari, particularly where neither opinion expressly adopts any contradictory rules of law.

Notably, while Daimler argues that a forum-state injury is required for the exercise of jurisdiction, Pet. 32, the defendant in *Ford* argued the opposite—that the "place of injury can never support jurisdiction." 141 S. Ct. at 1031 (emphasis added). The Court's cases do not support either extreme. Rather, the Court's cases consistently make clear that the relatedness inquiry does not turn on the presence or absence of any one fact. *See, e.g*., *Bristol-Myers*, 137 S. Ct. at 1778, 1781 (specific jurisdiction lacking where, among other things, the "nonresident plaintiffs did not allege that they obtained Plavix through California physicians or from any other California source; nor did they claim that they were injured by Plavix or were treated for their injuries in California").[4]

---

[4] Daimler's insistence that the actions of others are never relevant to specific personal jurisdiction would, taken seriously, suggest that the presence of the truck in Oklahoma and the occurrence of an accident there—which resulted from the actions of Mr. Hu's employer and his fellow driver—would be irrelevant to the exercise of specific-personal jurisdiction over

(*Footnote continued*)

III. The application of this Court's precedents to the specific facts of this case was correct and does not warrant review.

Relying heavily on *Ford* and *Bristol-Myers*, the decision below looked at all the pertinent facts presented by the parties to determine whether Daimler's in-state activities were sufficient to support the exercise of jurisdiction in this case. *See supra* pp. 6–9; Pet. App. 2a–4a, 12a, 17a–18a. Based on the totality of the facts, the court concluded that Daimler "systematically served [the California] market" by advertising, selling, and servicing Freightliner trucks (including Cascadias) in California, Pet. App. 18a (quoting *Ford*, 141 S. Ct. at 1028), and that those Daimler activities, along with "the other facts that we have discussed," such as that the trip originated in California, *id.* at 17a, and that Mr. Hu and Ms. Ren incurred medical expenses and suffered other harm in California, *id.* at 18a, demonstrated that the claims in the case "'relate to' those very California activities," *id.*

A. In contrast to this Court's decisions, Daimler looks at facts one by one, arguing that some facts, in isolation, are not sufficient to support jurisdiction. Daimler took a similar approach below. *See* Pet. App. 14a. The points it identifies, however, do not support review in this case.

Daimler in that state. Yet Daimler has argued that Oklahoma would have personal jurisdiction over it based on those facts. *See, e.g.*, Pet. App. 20a. Thus, a categorical rule that in-state injury is determinative is not only contrary to the precedents Daimler invokes, but inconsistent with the specific-jurisdiction principles for which Daimler itself advocates.

To begin with, Daimler faults the decision below for considering the plaintiffs' residence, which Daimler asserts is not relevant to the relatedness prong. Pet. 15, 27. Daimler's assertion is at odds with this Court's statement in *Ford* that the plaintiff's residence and the place of the plaintiff's injury "may be relevant":

> [S]o 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. And indeed, that relevance is a key part of *Bristol-Myers*' reasoning.

Ford, 141 S. Ct. at 1031–32 (emphasis added) (citing *Bristol-Myers*, 137 S. Ct. at 1782, for the point that the Court "[found] a lack of 'connection' in part because the 'plaintiffs are not California residents and do not claim to have suffered harm in that State'").

Moreover, contrary to Daimler's suggestion, Pet. 27, the court of appeal did not hold that a plaintiff's residence in the forum state satisfies relatedness. The court of appeal, like the Court in *Ford*, held that "residence can 'be relevant in assessing the link between the defendant's forum contacts and the plaintiff's suit.'" Pet. App. 17a (quoting *Ford*, 141 S. Ct. at 1031–32).

Likewise, the court did *not* hold that "third parties' conduct," Pet. 28, supports specific jurisdiction. The court "concluded that *Daimler*'s activities" demonstrated that the "claims 'relate to'

these very activities." Pet. App. 18a (emphasis added).

Daimler's suggestion that this case would be an appropriate vehicle to consider "how websites factor into the specific jurisdiction analysis," Pet. 31, is absurd. The court's finding as to relatedness cannot plausibly be read to turn in any way on Daimler's website. The opinion references the website only three times—twice for undisputed facts about Daimler and its trucks. *See* Pet. App. 3a ("Daimler's website states the Cascadia is an 'on-highway truck' with an interior designed for drivers who may spend more than 100 hours per week in the cab."); *id.* at 4a (stating that Daimler's "website claims that 'no matter where you are, we've got you covered'"). The third reference is in the description of an evidentiary ruling that Daimler appealed: The trial court overruled Daimler's objection to a declarant's statement that "Daimler markets the Cascadia on its website, which details its features as well as the parts, servicing, and support offered." *Id.* at 21a. Holding that any error in the rulings "was harmless," the court of appeal explained that the trial court "did not rely on" that statement "in reaching its decision, so admitting [it] had no effect on the correctness of the motion to quash ruling." *Id.* Because the court of appeal was explicit that, "[e]ven if we were to disregard this evidence, we would affirm the trial court's decision," *id.*, the suggestion that this case would allow the Court to consider any issue concerning websites can be quickly dismissed.

In addition, Daimler argues that the "mobility of the product" should have no role in the relatedness analysis. Pet. 31. Notably, Daimler fails to cite any portion of the court of appeal's relatedness analysis

that relies on the mobility of the product, citing only to the court of appeal's recitation of facts and to its description of the trial court's holding as to the substantial justice prong. *Id.* (citing Pet. App. 2a, 8a). Although the court of appeal's relatedness discussion notes that the trip that culminated in the injury began in California, Pet. App. 17a—a fact that relates to the truck's "mobility"—the court stated that fact to describe a forum-related fact. It did not suggest that relatedness is satisfied whenever a product is "used for journeys across multiple states." Pet. 31 (quoting Pet. App. 2a, "Factual and Procedural Background").

B. In *Ford*, the defendant suggested that the two lawsuits at issue should be channeled to Washington and North Dakota, where the only connection to each case was that a former owner once bought the car there. This Court rejected that suggestion, stating that "Ford's regime would undermine, rather than promote," due process. 141 S. Ct. at 1030. Similarly, Daimler suggests that Oklahoma would be an appropriate forum, where the only connection in the record is that the crash occurred there. But here, as in *Ford*, the forum state has "significant interests at stake—'providing [its] residents with a convenient forum for redressing injuries inflicted by out-of-state actors,' as well as enforcing [its] own safety regulations." *Id.* (quoting *Burger King*, 471 U.S. at 473). And given "Daimler's activities supporting the sale and service of the Freightliner Cascadia in [the forum] state, and the other facts that [the court of appeal] discussed," the court properly concluded "that Hu's claims 'relate to' those very California activities." Pet. App. 18a.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

WILLIAM R. GILMORE
STRASSBURG, GILMORE
& WEI, LLP
1250 E. Walnut St., #136
Pasadena, CA 91106
(626) 683-9933

ALLISON M. ZIEVE
Counsel of Record
SCOTT L. NELSON
PUBLIC CITIZEN
LITIGATION GROUP
1600 20th Street NW
Washington, DC 20009
(202) 588-1000
azieve@citizen.org

Attorneys for Respondents
Hu and Ren

March 2023