No. 16-466

In the Supreme Court of the United States

BRISTOL-MYERS SQUIBB COMPANY, PETITIONER

v.

SUPERIOR COURT OF CALIFORNIA,
SAN FRANCISCO COUNTY, ET AL.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF CALIFORNIA

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER

NOEL J. FRANCISCO
Acting Solicitor General
Counsel of Record
CHAD A. READLER
Acting Assistant Attorney General
EDWIN S. KNEEDLER
Deputy Solicitor General
RACHEL P. KOVNER
Assistant to the Solicitor General
MICHAEL S. RAAB
LAURA MYRON
Attorneys

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

QUESTION PRESENTED

Whether California courts have specific jurisdiction to adjudicate claims of out-of-state plaintiffs against an out-of-state defendant arising from acts outside of California that are alleged to have resulted in injuries outside of California.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Cases—Continued: Page

Constitution, statutes, regulations, and rules:

Miscellaneous—Continued: Page

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INTEREST OF THE UNITED STATES

This case concerns the limits that the Due Process Clause of the Fourteenth Amendment places on state courts' jurisdiction over out-of-state companies. Congress has generally provided that federal courts may exercise "the jurisdiction of a court of general jurisdiction in the state where the district court is located," Fed. R. Civ. P. 4(k)(1)(A). Accordingly, the Fourteenth Amendment's limitations on state court jurisdiction also often constrain the jurisdiction of federal courts.

The United States has an interest in ensuring the existence of fair and efficient forums to adjudicate claims against foreign and domestic companies, including claims that the United States itself brings in federal court under federal statutes.

The United States also has an interest in avoiding state exercises of jurisdiction that are unduly expansive or unpredictable, because those exercises of jurisdiction pose risks for foreign and interstate commerce. Some companies may be reluctant to undertake or expand commercial activity within the United States when they cannot predict the jurisdictional consequences of their commercial or investment activity. In addition, some enterprises may be reluctant to invest or do business in particular States if participation requires them to answer in the State for conduct that occurs outside the State's boundaries.

STATEMENT

1. "The Due Process Clause of the Fourteenth Amendment sets the outer boundaries of a state tribunal's authority to proceed against a defendant." *Goodyear Dunlop Tires Operations, S.A.* v. *Brown*, 564 U.S. 915, 923 (2011). Those boundaries have changed over time in response to commercial and technological shifts. See *McGee* v. *International Life Ins. Co.*, 355 U.S. 220, 222, 223 (1957) (noting "clearly discernible" trend "toward expanding the permissible scope of state jurisdiction over foreign corporations and other nonresidents" due in part to "th[e] increasing nationalization of commerce"); see also *Kulko* v. *Superior Court*, 436 U.S. 84, 101 (1978) (noting "the extension of *in personam* jurisdiction under evolving standards of due process").

Since the "canonical" decision in *International Shoe Co.* v. *Washington*, 326 U.S. 310 (1945), see *Shaffer* v. *Heitner*, 433 U.S. 186, 204 (1977), whether a State may exercise personal jurisdiction over an out-of-state corporation has turned on whether the corporation established "minimum contacts with the State

such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *Goodyear*, 564 U.S. at 923 (quoting *International Shoe*, 326 U.S. at 316) (brackets and internal quotation marks omitted). In determining whether a defendant has established minimum contacts to permit litigation in a particular forum, this Court has distinguished between two types of jurisdiction—"general or all-purpose jurisdiction," and "specific or case-linked jurisdiction." *Id.* at 919 (citing *Helicopteros Nacionales de Colombia, S.A.* v. *Hall*, 466 U.S. 408, 414 nn.8-9 (1984)). General jurisdiction, which permits a forum to adjudicate matters "arising from dealings entirely distinct from" the defendant's contacts with the forum, exists when a company's contacts with a forum State "are so continuous and systematic as to render [it] essentially at home in the forum state." *Id.* at 919, 924 (citation omitted). Paradigmatic forums of general jurisdiction over a company are its place of incorporation or principal place of business. *Id.* at 919.

Alternatively, when a defendant is not at home in a State, courts in that forum may nevertheless hear some claims through the exercise of specific jurisdiction. Under that head of personal jurisdiction, when a defendant "purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws," *Hanson* v. *Denckla*, 357 U.S. 235, 253 (1958), the defendant has sufficient contacts with the forum to support jurisdiction over "a suit arising out of or related to the defendant's contacts with the forum." *Helicopteros*, 466 U.S. at 414 n.8; see *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462, 472-473 (1985).

Where such minimum contacts exist, specific jurisdiction still may not comport with the Fourteenth Amendment if the defendant can present a "compelling case" that jurisdiction would not "comport with 'fair play and substantial justice,'" in light of considerations such as "'the burden on the defendant,' 'the forum State's interest in adjudicating the dispute,' 'the plaintiff's interest in obtaining convenient and effective relief,' 'the interstate judicial system's interest in obtaining the most efficient resolution of controversies,' and the 'shared interest of the several States in furthering fundamental substantive social policies.'" *Burger King*, 471 U.S. at 476, 477 (citations omitted).

2. a. Petitioner is a global biopharmaceutical company that is incorporated in Delaware and headquartered in New York. It employs about 6475 people in the New York/New Jersey metropolitan area, divided between its headquarters in New York and major research and development facilities in New Jersey. Petitioner maintains smaller operations in California, where it employs 250 sales representatives; runs supplemental research and development facilities; maintains a small government affairs office; and has a registered agent for service of process. Pet. App. 1a, 4a-5a.

Petitioner manufactures and sells Plavix, a prescription drug intended to treat cardiovascular problems by inhibiting blood clots. According to petitioner's declarations below, petitioner performed all of its work relating to development, manufacture, labeling, marketing, and regulatory approval of Plavix from its New York and New Jersey locations—not from its facilities in California. Petitioner did, however, sell

almost 187 million Plavix pills to distributors and wholesalers in California between 2006 and 2012, generating about $918 million in revenue. Pet. App. 2a, 5a.

b. In 2012, 678 plaintiffs filed suits in San Francisco Superior Court, raising Plavix-related claims against petitioner and McKesson Corporation, a pharmaceutical distributor headquartered in California. The plaintiffs came from 34 States. Texas had the largest number of plaintiffs, with 92 plaintiffs, followed by California, with 86 plaintiffs, and Ohio, with 71 plaintiffs. Pet. App. 1a, 2a-3a.

All plaintiffs—whose claims were divided among eight complaints—alleged the same 13 causes of action concerning negligent and wrongful "design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of Plavix." Pet. App. 3a (citation omitted); see *id.* at 2a. The complaints alleged that the defendants had promoted Plavix to consumers and physicians by falsely representing the drug "as providing greater cardiovascular benefits, while being safer and easier on a person's stomach than aspirin," when, in fact, the defendants knew that Plavix actually posed a risk of heart attack and other injury that "far outweighs any potential benefit." *Id.* at 3a, 4a. They alleged that use of Plavix had caused injuries or, in the case of 18 of the individuals whose use of Plavix was at issue, caused death. *Id.* at 4a (citation omitted). The complaints did not allege that the out-of-state plaintiffs had been treated or injured in California. *Ibid.*

Petitioner moved to quash service of summons with respect to the 592 out-of-state plaintiffs, asserting lack of personal jurisdiction. Petitioner contended

that jurisdiction was improper under California Civil Procedure Code § 410.10 (West 2004), which authorizes "jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States," on the ground that the Due Process Clause of the Fourteenth Amendment barred California courts from exercising jurisdiction over the out-of-state plaintiffs' claims. Pet. App. 6a; see *id.* at 4a. Petitioner argued that it was not subject to general jurisdiction in California and that it was not subject to specific jurisdiction for the out-of-state plaintiffs' claims because the claims were not sufficiently linked to petitioner's conduct in California. *Id.* at 4a-5a.

c. The Superior Court denied petitioner's motion, concluding that petitioner's sales and activities in California were "sufficiently extensive to subject it to" general jurisdiction in California. Pet. App. 5a-6a. The California Court of Appeal then denied a petition for a writ of mandate on the same day that this Court issued its decision addressing general jurisdiction in *Daimler AG* v. *Bauman*, 134 S. Ct. 746 (2014). Pet. App. 6a. The California Supreme Court vacated the denial of the writ of mandate and remanded to the Court of Appeal to reconsider the case in light of *Daimler*. *Ibid.*

d. On remand, the California Court of Appeal again denied a writ of mandate. The court agreed that in light of *Daimler*, petitioner's activities in California were insufficient to support general jurisdiction within the State. But it concluded that California courts had specific jurisdiction over petitioner concerning the nonresident plaintiffs' claims, given the nature of the claims and of petitioner's activities in California. Pet. App. 6a.

e. i. The California Supreme Court affirmed in a 4-3 decision. Pet. App. 1a-45a.

At the outset, the California Supreme Court concluded that petitioner's contacts with California "fall far short" of the level required to establish general jurisdiction within the State. Pet. App. 17a. Applying this Court's decisions in *Daimler* and other cases, the court observed that general jurisdiction extends only to forums as to which a defendant's conduct was "so substantial and of such a kind as to render [the defendant] at home there." *Id.* at 18a; see *id.* at 12a. Here, the court wrote, petitioner "may be regarded as being at home in Delaware, where it is incorporated, or perhaps New York and New Jersey, where it maintains its principal business centers." *Id.* at 16a. In contrast, the court concluded, petitioner was not at home in California, because "the company's total California operations are much less extensive than its activities elsewhere in the United States." *Id.* at 17a.

The California Supreme Court held, however, that California courts could exercise specific jurisdiction over petitioner with respect to the out-of-state plaintiffs' Plavix claims. Pet. App. 25a. The court first observed that there was "no question that [petitioner] has purposefully availed itself of the privilege of conducting activities in California" by marketing and advertising Plavix within the State, employing sales representatives there, maintaining research and development facilities within the State, and other conduct. *Id.* at 24a. Indeed, the court observed, petitioner "does not contend otherwise." *Ibid.*

The California Supreme Court next concluded that the out-of-state plaintiffs' claims were properly classified as "arising from or related to" petitioner's forum

contacts. Pet. App. 25a; see *id* at 25a-35a; see also *id.* at 21a n.2. The court rejected the argument that a defendant's forum contacts must be causally related to a plaintiff's injury or cause of action to satisfy this requirement. *Id.* at 22a, 30a. Instead, it reasoned, specific jurisdiction required only a "substantial nexus or connection between the defendant's forum activities and the plaintiff's claim." *Id.* at 21a (citation omitted). To determine whether the requisite nexus existed, the court employed a "sliding scale" of relatedness, *id.* at 32a, treating "the intensity of [the defendant's] forum contacts and the connection of the [plaintiffs'] claim to those contacts a[s] inversely related," *id.* at 25a (quoting *Vons Cos.* v. *Seabest Foods, Inc.*, 926 P.2d 1085, 1096 (Cal. 1996), cert. denied, 522 U.S. 808 (1997)).

Applying that approach, the California Supreme Court found that there was an adequate nexus between petitioner's forum contacts and the claims of the nonresident plaintiffs to support specific jurisdiction over the nonresident plaintiffs' claims. The court principally emphasized that petitioner was alleged to have engaged in "a single, coordinated, nationwide course of conduct"—the "nationwide marketing, promotion, and distribution of Plavix"—that gave rise to both in-state and out-of-state injuries. Pet. App. 28a-30a. "[C]onduct directed out of [petitioner's] New York headquarters and New Jersey operations center and implemented by distributors and salespersons across the country," the court wrote, had given rise to claims of injury in California and elsewhere. *Id.* at 30a. Given that "[b]oth the resident and nonresident plaintiffs' claims are based on the same allegedly defective product and the assertedly misleading marketing and promotion of that product," the court con-

cluded, petitioner's "nationwide marketing, promotion, and distribution of Plavix created a substantial nexus between the nonresident plaintiffs' claims" and the company's California contacts. *Id.* at 28a.

The California Supreme Court also found support for specific jurisdiction in petitioner's research and development activities in California, although there was no allegation that "Plavix itself was designed and developed in [petitioner's California] facilities." Pet. App. 29a. Since the nonresident plaintiffs had alleged negligent design and development of Plavix, and the California facilities engaged in research and development, the court reasoned that petitioner's "research and development activity in California provides an additional connection between the nonresident plaintiffs' claims and the company's activities in California." *Ibid.*

Finally, the California Supreme Court concluded that this is not a case in which, notwithstanding the requisite connection between the nonresident plaintiffs' claims and the defendant's forum contacts, it would be unreasonable for California courts to exercise jurisdiction in light of "traditional notions of fair play and substantial justice." Pet. App. 35a (citation omitted). The court emphasized that petitioner would be in California courts to defend the Plavix-related claims of the resident plaintiffs. While the court stated that "the fact that the nonresident plaintiffs greatly outnumber the California plaintiffs does give us some pause," *id.* at 39a, it concluded that California had an interest in providing a forum for the litigation, and that combining the resident and nonresident plaintiffs' claims in a single suit would promote "fair,

efficient, and speedy administration of justice," *id.* at 43.

ii. Three justices dissented. Pet. App. 46a-87a. The dissenting justices wrote that the claims of the nonresident plaintiffs "in no sense arise from [petitioner's] marketing and sales of Plavix in California, or from any of [petitioner's] other activities" in the State. *Id.* at 55a. Instead, the dissent stated, the out-of-state plaintiffs' "claims arise from activities *similar* to those [petitioner] conducted in California," because petitioner marketed and "sold the same allegedly defective product" in California and the nonresident plaintiffs' States. *Id.* at 48a-49a.

The dissent concluded that "mere similarity of claims is an insufficient basis for specific jurisdiction." Pet. App. 55a. It noted that each of the cases in which this Court had found specific jurisdiction following *International Shoe* had involved "a direct link between forum activities and the litigation"—not merely similarities between in-state and out-of-state conduct. *Id.* at 53a-54a. The dissent explained that when a defendant engaged in conduct *within* a State that gave rise to claims against it, "the forum state's interest in regulating conduct occurring within its borders is implicated." *Id.* at 57a. And when residents of a State sought redress for injuries, "each state has an interest in providing a judicial forum for its injured residents." *Ibid.* In contrast, the dissent reasoned, "California has no discernable sovereign interest in providing an Ohio or South Carolina resident a forum in which to seek redress for injuries in those states caused by conduct occurring outside California." *Id.* at 58a. In interpreting the doctrine of specific jurisdiction to allow California courts to adjudicate such

claims, the dissenters concluded, the court had "blur[red] the distinction between general and specific jurisdiction and impair[ed] the values of reciprocity, predictability, and interstate federalism served by due process limits on personal jurisdiction." *Id.* at 78a.

SUMMARY OF ARGUMENT

The California Supreme Court erred in finding specific personal jurisdiction in California courts over the claims of out-of-state plaintiffs against an out-of-state defendant arising from out-of-state acts alleged to have caused out-of-state injuries. The court's broad approach to specific jurisdiction is at odds with this Court's decisions, and its holding is inconsistent with the principles of fair play and substantial justice that shape the Fourteenth Amendment's constraints.

A. This Court's decisions counsel against the California Supreme Court's approach to specific jurisdiction. Over the seven decades since this Court's seminal decision in *International Shoe Co.* v. *Washington*, 326 U.S. 310 (1945), this Court has never found that a state court could exercise specific personal jurisdiction over a defendant with respect to claims of nonresident plaintiffs that did not arise out of acts or injuries within the forum State.

The California Supreme Court's reasoning in extending specific jurisdiction to the circumstances of this case is also at odds with this Court's decisions. This Court has long treated general and specific jurisdiction as separate categories—with general jurisdiction grounded in the intensity of the defendant's connection to the forum and specific jurisdiction grounded in the relationship between the forum and the claims at issue. Treating intensity of forum contacts and relatedness as two factors to be balanced in

determining whether jurisdiction exists "elid[es] the essential difference between case-specific and all-purpose (general) jurisdiction," *Goodyear Dunlop Tires Operations, S.A.* v. *Brown*, 564 U.S. 915, 927 (2011), and reduces the predictability of the jurisdictional analysis.

The California Supreme Court also departed from this Court's decisions in concluding that a state court may exercise specific jurisdiction over an out-of-state company with respect to its out-of-state acts because the company is engaged in a nationwide course of conduct that gives rise to claims both inside and outside the State. This Court has twice indicated that, to the contrary, specific jurisdiction does not exist when entirely out-of-forum events give rise to out-of-forum injuries. See *Daimler AG* v. *Bauman*, 134 S. Ct. 746, 754 n.5 (2014); *Goodyear*, 564 U.S. at 920.

B. The California Supreme Court's expansive approach also is not consistent with the principles of "fair play and substantial justice," protected by the Fourteenth Amendment, *International Shoe*, 326 U.S. at 316 (citation omitted).

1. The Fourteenth Amendment ensures that individuals are subject only to legitimate adjudicatory authority, by "ensur[ing] that the States, through their courts, do not reach out beyond the limits imposed on them by their status as coequal sovereigns in a federal system." *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286, 292 (1980). In the situations in which specific jurisdiction has been sustained by this Court, that jurisdiction enables a State to adjudicate claims arising from activity that occurs within its borders and is "therefore subject to the State's regulation." *Goodyear*, 564 U.S. at 919. But a State does

not ordinarily have a legitimate interest in exercising control over conduct of an out-of-state company *outside* the State's borders—merely because the company in question also engages in similar conduct within the forum State. Indeed, this Court has consistently rejected approaches that would enable States to routinely adjudicate claims regarding out-of-state companies' out-of-state conduct.

2. The Fourteenth Amendment also requires that defendants receive "fair warning that a particular activity may subject [them] to the jurisdiction of" forums in which they are not at home. *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462, 472 (1985) (citation omitted; brackets in original). The California Supreme Court's approach fails to satisfy that requirement. By effectively replacing the bifurcated categories of specific and general jurisdiction with a "sliding scale," Pet. App. 32a, that court's approach would substantially reduce the ability of businesses to predict the jurisdictional consequences of their activities. And the court's conclusion that a company's out-of-state conduct can give rise to specific jurisdiction so long as it bears a "substantial nexus" to the company's in-state activities likewise does not give clear guidance to "allow[] potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit," *World-Wide Volkswagen*, 444 U.S. at 297.

3. The California Supreme Court's broad conception of jurisdiction may have repercussions for foreign relations and trade. The court's approach may be understood to expose foreign companies to suit in state courts for acts occurring outside of the United States, so long as the foreign acts are part of a course

of commercial conduct that also reached into the forum State. That understanding of adjudicatory authority could impair the United States' trade interests by creating disincentives to commercial activity on the part of foreign companies.

C. The California Supreme Court's expansive approach is not justified by other considerations. Interests of litigation efficiency do not justify an approach that could routinely expose companies to suit in all 50 States for claims arising anywhere in the country, based on nationwide courses of conduct. Existing jurisdictional principles—most notably rules of general jurisdiction—already enable plaintiffs from multiple States to bring claims against a U.S. company together in a single forum. And Congress can create additional mechanisms for combining claims and reducing duplicative proceedings, as it has done through measures such as the multidistrict litigation statute, 28 U.S.C. 1407.

These mechanisms are better suited to promoting efficiency than the California Supreme Court's approach. That approach would open companies to suit in myriad state courts for claims arising from their conduct nationwide. But it would not ensure that plaintiffs bring their claims in forums where they could be consolidated with existing lawsuits or in the forums where litigation would be most convenient and efficient.

ARGUMENT

The California Supreme Court concluded that California courts may exercise specific personal jurisdiction to hear the claims of out-of-state plaintiffs against an out-of-state defendant arising from out-of-state acts alleged to have caused out-of-state injuries. This

Court's decisions have sustained state courts' exercises of specific jurisdiction over the claims of nonresident plaintiffs only when acts that gave rise to the plaintiffs' claims occurred in the State—when there is, in that sense, some causal connection between the defendant's activities in the forum State and the plaintiffs' claims. The California Supreme Court's far broader conception of specific jurisdiction is not consistent with those decisions, and it is inconsistent with the guiding principles of fair play and substantial justice that shape the Fourteenth Amendment's constraints.

A. This Court's Decisions Do Not Support The California Supreme Court's Approach

This Court's decisions concerning personal jurisdiction do not support the California Supreme Court's conclusion that California courts have specific jurisdiction over claims by out-of-state plaintiffs that out-of-state acts caused them injury outside the State. None of the Court's decisions has found specific jurisdiction under similar circumstances. And this Court's precedents are at odds with both the California Supreme Court's sliding-scale framework and its conclusion that similar in-state conduct may support specific jurisdiction over nonresidents' out-of-state injuries from out-of-state conduct.

1. No decision of this Court supports personal jurisdiction within a state court over claims by out-of-state plaintiffs alleging out-of-state injuries from acts committed outside the forum State. In the more than 70 years since this Court's "pathmarking" decision in *International Shoe Co.* v. *Washington*, 326 U.S. 310 (1945), see *Goodyear Dunlop Tires Operations, S.A.* v. *Brown*, 564 U.S. 915, 919 (2011), the classes of cases in

which the Court has held that the Fourteenth Amendment permitted state courts to exercise jurisdiction over out-of-state defendants have fallen within two groups. First, under principles of "general jurisdiction," when a defendant has contacts with a forum state that are so continuous and systematic as to make the defendant essentially at home in the State, the forum State may adjudicate any and all claims against the defendant. *Goodyear*, 564 U.S. at 919.

Second, when a defendant is not at home in the State, this Court has recognized specific personal jurisdiction only in cases in which acts that gave rise to a plaintiff's claims occurred within the forum State. *International Shoe*, for instance, held that a state court could hear claims that a nonresident company had employed salesmen within the forum State but failed to make the unemployment-fund payments due as a result of those in-state activities. 326 U.S. at 321. *McGee* v. *International Life Insurance Co.*, 355 U.S. 220 (1957), upheld the exercise of personal jurisdiction in California over a California plaintiff's suit against an out-of-state insurer for benefits allegedly owed to a California beneficiary under a policy that was "delivered in California" to a resident of California who paid premiums from California. *Id.* at 223; see *id.* at 221-224. *Keeton* v. *Hustler Magazine, Inc.*, 465 U.S. 770 (1984), sustained personal jurisdiction to address libel allegedly committed (in part) by the out-of-state defendant's circulation of magazines within the forum State. *Id.* at 773-777. *Calder* v. *Jones*, 465 U.S. 783 (1984), similarly upheld a California court's exercise of jurisdiction in a libel case concerning an article "drawn from California sources" about "the California activities of a California resident" that had been circu-

lated in California and caused reputational harm in California. *Id.* at 788-789. And *Burger King Corp.* v. *Rudzewicz*, 471 U.S. 462 (1985), sustained the exercise of personal jurisdiction under a Florida statute over a claim for breach of "a contract which had a substantial connection with that State," when the out-of-state defendant's "refusal to make the contractually required payments in" Florida and other alleged breaches "caused foreseeable injuries" to the plaintiff in Florida. *Id.* at 479, 480 (citation and emphasis omitted). Thus, as the dissent below noted, "[o]f the post-*International Shoe* decisions in which the high court actually found a factual basis for specific jurisdiction, each featured a direct link between forum activities and the litigation." Pet. App. 53a-54a.

2. This Court's decisions indicate that the California Supreme Court erred in extending specific jurisdiction well beyond those categories to reach claims of out-of-state plaintiffs for out-of-state injuries from acts occurring outside the forum State.

a. First, this Court's decisions are inconsistent with the "sliding scale" approach that the California Supreme Court utilized to find specific jurisdiction despite the absence of a link between petitioner's conduct in California and the out-of-state plaintiffs' claims. Pet. App. 32a; see *id.* at 25a (describing "the intensity of [the defendant's] forum contacts and the connection of the [plaintiffs'] claim to those contacts a[s] inversely related," so that "the more wide ranging the defendant's forum contacts, the more readily is shown a connection between the forum contacts and the claim") (citation omitted).

This Court's decisions following *International Shoe* have treated specific and general jurisdiction as

distinct heads of jurisdictional authority, with distinct requirements. See, *e.g.*, *Goodyear*, 564 U.S. at 919 ("Opinions in the wake of the pathmarking *International Shoe* decision have differentiated between general or all-purpose jurisdiction, and specific or case-linked jurisdiction"); see also *Daimler AG* v. *Bauman*, 134 S. Ct. 746, 754 (2014). General jurisdiction looks to the intensity of a defendant's forum contacts. *Goodyear*, 564 U.S. at 919. If those contacts are systematic and continuous enough to make the defendant "essentially at home in the forum State," they support personal jurisdiction—without regard to the relationship between the plaintiff's claim and the forum. *Ibid.* In contrast, specific jurisdiction requires a particular connection between the plaintiff's claims and the defendant's forum-state activities—demanding that the claims be ones "arising out of or relating to" the defendant's forum contacts, see, *e.g.*, *Helicopteros Nacionales de Colombia, S.A.* v. *Hall*, 466 U.S. 408, 414 n.8 (1984). But "even a single act" by a defendant within the forum State can support specific jurisdiction, so long as the act is one that creates a "substantial" connection to the forum, rather than an attenuated one. *Burger King*, 471 U.S. at 475 n.18 (citation omitted). By merging intensity of contacts and relatedness of contacts onto a single spectrum, Pet. App. 24a-25a, the California Supreme Court's approach conflicts with this Court's decisions establishing specific and general jurisdiction as two separate categories. It thereby undermines the predictability that this Court's bifurcated approach affords.

The Court's decision in *Goodyear* makes plain that the considerations relevant to specific and general jurisdiction are not appropriately understood in this

manner as "inversely related" matters, Pet. App. 25a (citation omitted), to be balanced "on a case-by-case basis," *id.* at 35a, using a "sliding scale," *id.* at 32a. The appellate decision that this Court reviewed in *Goodyear* had found general jurisdiction over a manufacturer based on the "[f]low of [the] manufacturer's products into the forum"—a consideration usually reserved for the specific-jurisdiction context, where the court inquires whether a plaintiff's claims resulted from conduct by a defendant that amounted to the defendant purposefully availing itself of the forum State. 564 U.S. at 927; see *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286, 299 (1980). Rather than finding that the relatedness and intensity of the defendant's forum contacts were insufficient, when taken together, to support jurisdiction—as a sliding-scale approach would suggest—this Court faulted the lower court for "[c]onfusing or blending general and specific jurisdictional inquiries." *Goodyear*, 564 U.S. at 919. The Court explained that the decision below had "elided the essential difference" between specific and general jurisdiction by considering "an affiliation germane to specific jurisdiction" as bearing on general jurisdiction. *Id.* at 927 (emphasis omitted). The California Supreme Court committed a comparable error here: It concluded that the "intensity of [petitioner's] forum contacts" as a general matter authorized the court to find "minimum contacts based on a less direct connection between [petitioner's] forum activities and plaintiffs' claims than might otherwise be required." Pet. App. 25a, 32a (citation omitted).[1]

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[1] This Court's bifurcated approach makes sense, moreover, because specific and general jurisdiction under the Fourteenth Amendment rest on distinct rationales. General jurisdiction rests

b. This Court's decisions also indicate that, contrary to the approach of the California Supreme Court, specific jurisdiction ordinarily requires that some act giving rise to a nonresident plaintiff's claim or injuries have occurred within the forum State. This Court in *Helicopteros* reserved the questions "(1) whether the terms 'arising out of' and 'related to' describe different connections between a cause of action and a defendant's contacts with a forum, and (2) what sort of tie between a cause of action and a defendant's contacts with a forum is necessary to a determination that either connection exists." 466 U.S. at 408 n.10. But the Court has since then twice indicated that—no matter how the "related to" category is construed—a State does not have specific jurisdiction over a nonresident defendant when entirely out-of-state events give rise to a nonresident plaintiff's claim for out-of-state injuries.

Thus, *Daimler* explained, as an "illustrat[ion of] the respective provinces of general and specific jurisdiction," that while "a California plaintiff, injured in a California accident involving a Daimler-manufactured vehicle" could bring suit in California based "on specific jurisdiction," if "a similar accident took place in

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on the principle that a State may exercise plenary adjudicatory authority over a defendant who is effectively a citizen of the State. See note 2, *infra*. By contrast, the core rationale for specific jurisdiction is that a defendant may reasonably expect to be sued within a State where it is not at home for harms tied to activities undertaken in that State. See pp. 21-23, *infra*. Because "[t]hese two bases are independent threshold tests, * * * a greater quantum of unrelated activity does not compensate for attenuated related contacts." Lea Brilmayer, *How Contacts Count: Due Process Limitations on State Court Jurisdiction*, 1980 Sup. Ct. Rev. 77, 88.

Poland and injured Polish plaintiffs," the question of jurisdiction in California courts "would be one of general jurisdiction." 134 S. Ct. at 754 n.5. And *Goodyear* stated that "[b]ecause the episode-in-suit, the bus accident, occurred in France, and the tire alleged to have caused the accident was manufactured and sold abroad, North Carolina courts lacked specific jurisdiction to adjudicate" tort claims alleging that the tire had been defective. 564 U.S. at 919. Neither of those descriptions of specific jurisdiction is consistent with the California Supreme Court's approach, under which specific jurisdiction might well have existed over the nonresident plaintiffs' claims in *Daimler* and *Goodyear* if the corporate defendant had engaged in a similar course of conduct within the forum State.

B. The California Supreme Court's Expansive Approach Is Inconsistent With The Principles Underlying Personal Jurisdiction

The California Supreme Court's expansive conception of specific jurisdiction is also not consonant with the principles of "fair play and substantial justice" that the Fourteenth Amendment's limitations on personal jurisdiction safeguard, *International Shoe*, 326 U.S. at 316 (citation omitted).

1. The limitations on personal jurisdiction imposed by the Fourteenth Amendment ensure that persons are subject only to legitimate exercises of state adjudicatory power. As this Court has put it, the Due Process Clause "ensures that the States, through their courts, do not reach out beyond the limits imposed on them by their status as coequal sovereigns in a federal system." *World-Wide Volkswagen*, 444 U.S. at 292. Those jurisdictional "restriction[s] on state sovereign power" vindicate "the individual liberty

interest preserved by the Due Process Clause," *Insurance Corp. of Ir., Ltd.* v. *Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 n.10 (1982), by ensuring that a person is "deprived of life, liberty, or property only by the exercise of lawful power," *J. McIntyre Mach., Ltd.* v. *Nicastro*, 564 U.S. 873, 879 (2011) (plurality opinion).

The California Supreme Court's broad conception of specific jurisdiction would undercut that important function of the Due Process Clause. Limited to the contours within which the Court has sustained the exercise of specific jurisdiction, that adjudicatory authority serves significant sovereign interests. It enables state courts to adjudicate claims that arise from an "activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation." *Goodyear*, 564 U.S. at 919 (citing Lea Brilmayer et al., *A General Look at General Jurisdiction*, 66 Tex. L. Rev. 721, 782 (1988) (*General Look*); Arthur T. von Mehren & Donald T. Trautman, *Jurisdiction to Adjudicate: A Suggested Analysis*, 79 Harv. L. Rev. 1121, 1136 (1966)). As Professor Brilmayer has put it, "[a]djudication of a dispute is a means toward the legitimate end of regulating local conduct or prescribing its legal consequences." Lea Brilmayer, *Related Contacts and Personal Jurisdiction*, 101 Harv. L. Rev. 1444, 1457 (1988) (*Related Contacts*); see *General Look* 739-740. In addition, when a State provides a forum to adjudicate claims by its own residents, it serves its "manifest interest" in providing state residents "with a convenient forum for redressing injuries" caused by "out-of-state actors." *Burger*

King, 471 U.S. at 473 (citation omitted); see *McGee*, 355 U.S. at 223.[2]

The California Supreme Court's reliance on a company's nationwide course of commercial activity as a ground to exercise adjudicatory authority over not simply in-state activities but also out-of-state conduct, in contrast, does not fit comfortably with "the principles of interstate federalism embodied in the Constitution." *World-Wide Volkswagen*, 444 U.S. at 293. While an "activity or an occurrence that takes place *in* the forum State * * * is therefore subject to the State's regulation," *Goodyear*, 564 U.S. at 919 (emphasis added), a State has no comparable regulatory interest in exercising control over activities such as advertising and distribution of products in its sister States, see *World-Wide Volkswagen*, 444 U.S. at 293 (stating that "[t]he sovereignty of each State * * * implie[s] a limitation on the sovereignty of all its sister States" that is safeguarded by the Fourteenth Amendment); see also *Nicastro*, 564 U.S. at 884 (plurality opinion) (stating that in "the federal balance * * * each State has a sovereignty that is not subject to unlawful intrusion by other States").

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[2] Principles of general jurisdiction are based on distinct sovereign interests. They reflect the understanding that a defendant may have ties with a forum State that are so pervasive as to make it reasonable for the sovereign to exercise adjudicatory supervision over all of the entity's activities. See, *e.g.*, *Nicastro*, 564 U.S. at 880 (plurality opinion) ("Citizenship or domicile—or, by analogy, incorporation or principal place of business for corporations— * * * indicates general submission to a State's powers."); *Helicopteros*, 466 U.S. at 414 & n.9. General jurisdiction also ensures that plaintiffs have "recourse to at least one clear and certain forum in which a corporate defendant may be sued on any and all claims." *Daimler*, 134 S. Ct. at 760.

Indeed, this Court has consistently rejected approaches that would enable States to routinely adjudicate claims regarding out-of-state companies' out-of-state conduct, finding such approaches inconsistent with the "territorial limitations on the power of the respective States" that the Fourteenth Amendment safeguards, *World-Wide Volkswagen*, 444 U.S. at 294 (citation omitted); see *International Shoe*, 326 U.S. at 317 (explaining that the reasonableness of a State's exercise of jurisdiction must be assessed "in the context of our federal system of government"). *Goodyear*, for instance, held that due process principles did not support the "sprawling view of general jurisdiction urged by respondents," emphasizing that under the respondents' view, "any substantial manufacturer or seller of goods would be amenable to suit, on any claim for relief, wherever its products are distributed." 564 U.S. at 929. And *Daimler* similarly rejected the argument that California could exercise jurisdiction over a company based on its subsidiary's substantial commercial activities within the State, reasoning that if that "exorbitant" and "unacceptably grasping" view were accepted, "the same global reach would presumably be available in every other State in which [the subsidiary's] sales are sizable." 134 S. Ct. at 761. The same analysis holds here. If a company's "nationwide course of conduct," Pet. App. 30a, enabled every State to exercise jurisdiction over all claims tied to that course of conduct, every State would be able to exercise adjudicatory authority over a huge spectrum of economic activity occurring outside its own borders.[3]

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[3] It is hardly unusual for businesses to engage in "nationwide course[s] of conduct" regarding the advertising, manufacturing, or

2. The requirements of due process under the Fourteenth Amendment also demand that individuals and businesses receive "fair warning that a particular activity may subject [them] to the jurisdiction of" a forum in which they are not at home. *Burger King*, 471 U.S. at 472 (citation omitted; brackets in original); see *World-Wide Volkswagen*, 444 U.S. at 297 (requiring jurisdictional rules to afford "a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit"); cf. *Hertz Corp.* v. *Friend*, 559 U.S. 77, 94 (2010) (explaining that "[s]imple jurisdictional rules * * * promote greater predictability").

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sale of products, Pet. App. 30a. Not only can nationwide approaches produce economic efficiencies, cf. *World-Wide Volkswagen*, 444 U.S. at 293 (noting "increasing nationalization of commerce") (citation omitted), but federal regulatory requirements can constrain companies' ability to adopt manufacturing or advertising approaches that differ substantially from State to State. Manufacturing and marketing of prescription drugs like Plavix, for instance, are strictly regulated by the Food and Drug Administration (FDA). See 21 C.F.R. Pt. 211 (regulation of drug manufacturing); 21 C.F.R. 202.1 (specifying material that must be included in advertisements); 21 C.F.R. 314.81(b)(3)(i) (requiring advertisers to submit promotional materials concerning prescription drugs for FDA review). Other types of consumer products, from cars, see, 49 C.F.R. Pt. 571 (regulations of the National Highway Traffic Safety Administration), to cribs, see 16 C.F.R. 1219.2 (regulations of the Consumer Product Safety Commission), to bicycle helmets, see 16 C.F.R. Pt. 1203, also must conform to nationwide federal requirements. Cf. *Goodyear*, 564 U.S. at 922 n.2 (noting federal efforts to encourage compliance with particular manufacturing and marking requirements even with respect to goods that were not "destined for sale in the United States").

The California Supreme Court's approach fails to satisfy that requirement. By replacing the bifurcated categories of specific and general jurisdiction with an approach that balances "the intensity of [the defendant's] forum contacts and the connection of the [plaintiffs'] claims," Pet. App. 25a (citation omitted), "on a case-by-case basis," *id.* at 35a, using a "sliding scale," *id.* at 32a, the court would substantially reduce businesses' ability to predict the extent to which activities within a forum State will subject them to the jurisdiction of that State's courts. And the court's suggestion that courts will often have specific jurisdiction over claims concerning out-of-state activities that bear a "substantial connection," *id.* at 27a, or "substantial nexus," *id.* at 33a, to the defendant's forum activities would introduce still further unpredictability, by making jurisdiction turn on an "amorphous concept of relatedness" of uncertain scope. *General Look* 738; see *ibid.* ("Practically any contact might appear to be related to a cause of action and thus support specific jurisdiction"); see also *Related Contacts* 1460. Because the court's approach does not "allow[] potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit," *World-Wide Volkswagen*, 444 U.S. at 297, it "offend[s] traditional notions of fair play and substantial justice," *International Shoe*, 326 U.S. at 316 (citation and internal quotation marks omitted).

3. Finally, the California Supreme Court's approach could have implications for the United States' international relations and trade interests. See *Daimler*, 134 S. Ct. at 763 (concluding that the Ninth Circuit's "expansive view of general jurisdiction" was

disfavored in part because of "the risks to international comity," because "[o]ther nations do not share the uninhibited approach to personal jurisdiction advanced by the Court of Appeals" in that case); see also *Asahi Metal Indus. Co.* v. *Superior Court*, 480 U.S. 102, 115 (1987).

In particular, the California Supreme Court's interpretation of the "arising out of or related to" requirement for specific jurisdiction would be especially problematic if it were applied to expose foreign corporations to suit in California state court for conduct outside the United States' borders—simply because the company in question was engaged in a multijurisdictional course of conduct that gave rise to at least some claims of injury within that forum State. That understanding of adjudicatory authority could exceed what some other nations would regard as reasonable. For example, as this Court has noted, in the European Union, corporations may be subject to suit at their place of incorporation or headquarters. See *Daimler*, 134 S. Ct. at 763. And European Union rules also recognize "the occurrence of events in the forum," such as "the place of the commission of the tortious act or the effect of injury in a tort case," as supporting specific or "special" jurisdiction, because those locations "offer a litigation-convenient forum and because the state may have a regulatory interest in asserting its authority." Linda J. Silberman, Goodyear *and* Nicastro*: Observations from a Transnational and Comparative Perspective*, 63 S.C. L. Rev. 591, 608, 609 (2012); see Parliament and Council Regulation 1215/2012, Arts. 4(1), 63(1), 2012 O.J. (L 351), 1, 7, 18 (EU)). But those rules do not provide for adjudicatory jurisdiction over nonresidents' claims arising from

out-of-forum conduct based on the defendant's similar commercial conduct within the forum State.

Broad assertions of adjudicatory authority can have repercussions for trade and international relations. Here, California's assertion of jurisdiction to hear claims against an out-of-state company arising from out-of-state conduct may create undesirable uncertainty for foreign enterprises considering the ramifications of commercial activities in the United States. It could therefore impair American trade and investment interests by chilling economic activity by foreign companies.

C. Efficiency Considerations Do Not Justify The California Supreme Court's Approach

The California Supreme Court's broad assertion of adjudicatory authority is not justified by considerations of litigation efficiency. This Court has adjusted personal jurisdiction rules over time to accommodate changes in commerce and technology, see, *e.g.*, *McGee*, 355 U.S. at 222-223, and considerations of efficiency and convenience, see *Burger King*, 471 U.S. at 477. In particular, the determination of whether jurisdiction over a class of claims comports with "fair play and substantial justice," *International Shoe*, 326 U.S. at 320, properly takes into account "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," *Burger King*, 471 U.S. at 477 (citation omitted). Such interests may "sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required." *Ibid.*; see *Asahi*, 480 U.S. at 115 (noting that the Court had "admonished courts to take into consideration the interests of the 'several States,' in addition to the forum State, in the

efficient judicial resolution of the dispute and the advancement of substantive policies").

Considerations of litigation efficiency, however, do not justify an approach to specific jurisdiction that would routinely open companies to suit in the courts of all 50 States for claims arising anywhere in the country, based on the companies' nationwide course of commercial conduct. Traditional jurisdictional doctrines already ensure that litigants pursuing similar claims against a U.S. company may bring their claims together in a single court. Under principles of general jurisdiction, such plaintiffs may bring claims against a domestic corporation in a State where the business is at home, such as its State of incorporation or headquarters. Indeed, providing "at least one clear and certain forum in which a corporate defendant may be sued on any and all claims" is a central objective of general jurisdiction. *Daimler*, 134 S. Ct. at 760. Numerous plaintiffs have availed themselves of that basis for jurisdiction in litigation concerning Plavix by filing suits in New York, where petitioner is headquartered. See Pet. Br. 50 (citing 2012 coordination order pertaining to more than 40 Plavix lawsuits filed in New York state courts in the prior year).

Plaintiffs from multiple States who assert injuries from a "single, coordinated, nationwide course of conduct," Pet. App. 29a-30a, will also often be able to invoke specific jurisdiction to bring their claims together in a single forum, by filing complaints in the forum where the company's nationwide approach was developed or directed. Here, for instance, because petitioner directed the development, distribution, and marketing of Plavix from New York and New Jersey, *ibid.*; see Pet. Br. 50, California and non-California

plaintiffs could have filed complaints together in those forums based on principles of specific jurisdiction.

Moreover, Congress can provide additional mechanisms for consolidating related claims—as it has done through legislation such as the multidistrict litigation (MDL) statute, 28 U.S.C. 1407. Under the MDL statute, when claims that were brought in (or removed to) federal court involve "one or more common questions of fact," a judicial panel may transfer the cases to a single district court for pretrial proceedings, if doing so will serve "the convenience of parties and witnesses" and "promote the just and efficient conduct" of the actions to be consolidated. 28 U.S.C. 1407(a). Those procedures are commonly used to consolidate "toxic tort, mass disaster, and product defect" lawsuits, including cases involving "allegedly defective pharmaceutical products." 3 Michael Dore, *Law of Toxic Torts* § 21.2 (2016). Indeed, as petitioner observes, MDL procedures have been used to consolidate cases regarding Plavix itself, in proceedings that have been ongoing in the District of New Jersey since 2013. Pet. Br. 51 (citing *In re Plavix Mktg., Sales Practices & Prods. Liab. Litig.*, 923 F. Supp. 2d 1376 (J.P.M.L. 2013)).

Congress has taken further steps to provide a single, efficient federal forum for particular classes of claims. For instance, the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4, authorizes removal to federal court of some "mass action[s]" involving 100 or more plaintiffs, even if there exists only minimal diversity of citizenship between the parties, 28 U.S.C. 1332(d). Once such cases are brought into federal court, MDL procedures can be used to consolidate the cases with related federal suits. Similarly,

when money or property is claimed by two or more adverse claimants of diverse citizenship, the federal interpleader statute provides a single federal forum to adjudicate their claims, 28 U.S.C. 1335, utilizing a nationwide service of process provision to enable the court to reach parties that reside in multiple jurisdictions, see 28 U.S.C. 2361.[4] And the Multiparty, Multiforum Trial Jurisdiction Act of 2002, 28 U.S.C. 1369, creates jurisdiction in federal district courts for "civil

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[4] Congress has generally directed that federal district courts "follow state law in determining the bounds of their jurisdiction over persons," *Daimler*, 134 S. Ct. at 753, by linking their jurisdiction to service of process on a defendant "who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located," Fed. R. Civ. P. 4(k)(1)(A). However, Congress has in some circumstances authorized federal courts to exercise broader personal jurisdiction, including through provisions that authorize nationwide service of process with respect to specified claims. See, *e.g.*, 28 U.S.C. 1697, 2361; see also *In re "Agent Orange" Prod. Liab. Litig. MDL No. 381*, 818 F.2d 145, 163 (2d Cir. 1987) (describing MDL provisions as legislation that "authorize[s] the federal courts to exercise nationwide personal jurisdiction" in MDL cases), cert. denied, 484 U.S. 1004 (1988); cf. *In re FMC Corp. Patent Litig.*, 422 F. Supp. 1163, 1165 (J.P.M.L. 1976) (per curiam) (concluding that because MDL transfers are "in essence, a change of venue for pretrial purposes," they "are simply not encumbered by considerations of in personam jurisdiction").

This Court has reserved the question, relevant to such provisions, of whether "a federal court could exercise personal jurisdiction, consistent with the Due Process Clause of the Fifth Amendment, based on an aggregation of the defendant's contacts with the Nation as a whole, rather than on its contacts with the State in which the federal court sits." *Omni Capital Int'l, Ltd.* v. *Rudolf Wolff & Co.*, 484 U.S. 97, 102 n.5 (1987); see *Asahi*, 480 U.S. at 113 n.* (opinion of O'Connor, J.). Because that question is not presented in this case, there is no occasion for the Court to address it here.

action[s] involving minimal diversity * * * that arise[] from a single accident, where at least 75 natural persons have died," 28 U.S.C. 1369(a), utilizing procedures that allow nationwide service of process, 28 U.S.C. 1697.

In other circumstances, when courts cannot formally consolidate related cases, "[f]ederal and state judges frequently cooperate informally and effectively to coordinate discovery and pretrial proceedings in mass tort cases." *Manual for Complex Litigation* (Fourth) § 22.4 (2004). Mechanisms that courts have employed "to reduce costs, delays, and inefficiencies" in parallel proceedings include joint discovery programs, joint settlement sessions, coordinated pretrial proceedings, and the use of "test cases," in which litigants "agree[] to be bound by the results" of trials on representative claims. William W. Schwarzer et al., *Judicial Federalism in Action: Coordination of Litigation in State and Federal Courts*, 78 Va. L. Rev. 1689, 1699, 1700 (1992); see *id.* at 1700-1707.[5]

The California Supreme Court's expansive approach to specific jurisdiction is less suited than mechanisms like these to avoiding duplication of re-

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[5] This case does not present any question concerning whether a state court may entertain class actions, under established rules, to resolve claims arising from conduct in multiple jurisdictions. In particular, it does not present the question whether it is sufficient that the claims of named plaintiffs arise from conduct occurring within the forum State, or whether the Fourteenth Amendment also requires that claims of nonnamed plaintiffs arise from conduct occurring within the State. See *Devlin* v. *Scardelletti*, 536 U.S. 1, 9-10 (2002) (stating that "[n]onnamed class members * * * may be parties for some purposes but not for other[]" purposes); see also *id.* at 10 (noting that nonnamed class members are "not parties" with respect to determining diversity for purposes of jurisdiction).

sources from litigation across multiple forums. While California's approach would open companies to suit in myriad state courts for claims arising from events nationwide, it would not require all plaintiffs to file their suits in any particular State. As a result, there could be no guarantee that plaintiffs would choose to bring their claims in forums where they could be consolidated with existing suits by other plaintiffs. See Pet. Br. 50-51 (noting the plaintiffs chose not to bring suit in New York, where petitioner is subject to general jurisdiction and other claims are pending, or in federal court, where the plaintiffs' claims could have been consolidated through MDL procedures). Nor is there any guarantee that plaintiffs who have their choice of jurisdictions would seek out forums where litigation is most convenient for the parties and witnesses—rather than joining claims with those of resident plaintiffs in forums with the procedural rules or jury pools that the plaintiffs consider most favorable. And if nonresident plaintiffs' claims were joined with those of some resident plaintiffs, a court might be reluctant to decline jurisdiction. Cf. Pet. App. 38a-39a (finding specific jurisdiction reasonable even though nonresident plaintiffs outnumbered resident plaintiffs, because petitioner already faced the burden of defending against resident plaintiffs' claims in California, and the residents' claims meant that California "ha[d] a clear interest in providing a forum" for the litigation). Particularly in view of the alternative mechanisms for promoting efficient adjudication, no interest in efficiency justifies the California Supreme Court's expansive approach to personal jurisdiction.[6]

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[6] This case presents no occasion to consider whether a legislature could, consistent with due process principles, craft a well-

CONCLUSION

The judgment of the California Supreme Court should be reversed.

Respectfully submitted.

NOEL J. FRANCISCO
Acting Solicitor General
CHAD A. READLER
Acting Assistant Attorney General
EDWIN S. KNEEDLER
Deputy Solicitor General
RACHEL P. KOVNER
Assistant to the Solicitor General
MICHAEL S. RAAB
LAURA MYRON
Attorneys

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defined rule for specific jurisdiction that reaches beyond the circumstances in which the exercise of specific jurisdiction has been sustained by this Court. Cf. *Hanson*, 357 U.S. at 252 (explaining the recognition of specific jurisdiction in *McGee*, *supra*, as resting in part on the State's having "enacted special legislation" evidencing its interest in providing a forum for the type of claim at issue); *Hanson*, 357 U.S. at 252-254 (relying in part on the absence of a statute concretely defining a governmental interest in rejecting specific jurisdiction); see *Shaffer* v. *Heitner*, 433 U.S. 186, 214-215 (1977) (finding that specific jurisdiction did not comport with due process principles in part because of "the failure of the Delaware Legislature to assert" the interest in jurisdiction over corporate fiduciaries that was claimed by the plaintiffs).