



1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **Filing Date:** July 6, 2023

3 **No. S-1-SC-39381**

4 **STATE OF NEW MEXICO ex rel.**
5 **HECTOR H. BALDERAS, Attorney General,**

6 Plaintiff-Respondent,

7 v.

8 **GILEAD SCIENCES, INC.; and**
9 **GILEAD SCIENCES, LLC, f/k/a**
10 **BRISTOL-MEYERS SQUIBB &**
11 **GILEAD SCIENCES, LLC,**

12 Defendants-Petitioners,

13 and

14 **BRISTOL-MYERS SQUIBB and**
15 **TEVA PHARMACEUTICALS USA, INC.,**

16 Defendants.

17 **ORIGINAL PROCEEDING ON CERTIORARI**
18 **Maria Sanchez-Gagne, District Judge**

19 Hector H. Balderas, Attorney General
20 Brian L. Moore, Assistant Attorney General
21 P. Cholla Khoury, Assistant Attorney General
22 Santa Fe, NM

23 Robles, Rael & Anaya, P.C.
24 Marcus J. Rael, Jr.
25 Albuquerque, NM

I CERTIFY AND ATTEST:
A true copy was served on all parties
or their counsel of record on date filed.
Zelda Abeita
Clerk of the Supreme Court
of the State of New Mexico

1 for Respondent

2 Modrall, Sperling, Roehl, Harris & Sisk, P.A.,
3 Michelle A. Hernandez
4 Elizabeth A. Martinez
5 Albuquerque, NM

6 Kirkland & Ellis LLP
7 Jay Lefkowitz
8 Devora W. Allon
9 New York, NY;

10 James F. Hurst
11 Nick Wasdin
12 Michael LeFevour
13 Chicago, IL

14 Rodey, Dickason, Sloan, Akin & Robb, P.A.
15 Andrew G. Schultz
16 Albuquerque, NM

17 for Petitioners

18 Sidley Austin LLP
19 William R. Levi
20 Jose M. Valle
21 Washington, DC

22 for Amici Curiae Chamber of Commerce of the United States of America
23 and The American Tort Reform

24 YLAW, P.C.
25 Matthew L. Connelly
26 Albuquerque, NM

27 for Amicus Curiae Association for Accessible Medicines

1 extends only to claims that arise out of or relate to the defendant's contacts with the
2 forum" (internal quotation marks and citation omitted));

3 {3} WHEREAS, Defendants have contested the exercise of specific personal
4 jurisdiction in this case and have come forward with affidavits in support of their
5 position;

6 {4} WHEREAS, "[w]hen a party contests the existence of personal jurisdiction
7 under Rule 1-012(B)(2) and accompanies its motion with affidavits or depositions,
8 . . . the party resisting such motion may not stand on its pleadings and must come
9 forward with affidavits or other proper evidence detailing specific facts
10 demonstrating that the court has jurisdiction over the defendant, *Doe v. Roman*
11 *Catholic Diocese of Boise, Inc.*, 1996-NMCA-057, ¶ 10, 121 N.M. 738, 918 P.2d
12 17;

13 {5} WHEREAS, the determination of whether there are sufficient minimum
14 contacts between Defendants and the State of New Mexico to support the exercise
15 of specific personal jurisdiction in this case may require additional factual
16 development;

17 {6} WHEREAS, Court rules and New Mexico Statutes govern the procedural
18 issues and the related questions before us in this case;

1 {7} WHEREAS, this Court may exercise discretion under Rule 12-405(B) to
2 dispose of a case by nonprecedential order;

3 {8} WHEREAS, Chief Justice C. Shannon Bacon, Senior Justice Michael E.
4 Vigil, Justice David K. Thomson, Justice Julie J. Vargas, and Justice Briana H.
5 Zamora having considered the briefs and being otherwise fully informed on the
6 issues and applicable law;

7 {9} NOW, THEREFORE, IT IS ORDERED that this matter is remanded to the
8 district court so that the parties may conduct limited discovery on the issue of
9 whether the district court may exercise specific personal jurisdiction over
10 Defendants in this matter;

11 {10} IT IS FURTHER ORDERED that, upon completion of discovery, the district
12 court shall enter an order stating its conclusion as to whether the court may exercise
13 specific personal jurisdiction over Defendants in this matter, shall explain the
14 standard applied by the court in reaching its decision by explaining how its decision
15 conforms with the U.S. Supreme Court's discussion of specific jurisdiction in *Ford*
16 *Motor Co. v. Montana Eighth Judicial District Court*, 141 S. Ct. 1017 (2021).


17 {11} **IT IS SO ORDERED.**


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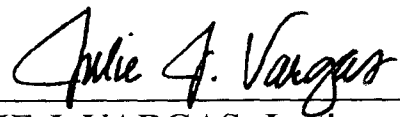
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C. SHANNON BACON, Chief Justice

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MICHAEL E. VIGIL, Justice


DAVID K. THOMSON, Justice


JULIE J. VARGAS, Justice


BRIANA H. ZAMORA, Justice