No. 8P26 DISTRICT 25

SUPREME COURT OF NORTH CAROLINA
****

PDII, LLC,

Plaintiff-Appellee,

v.

SKY AIRCRAFT MAINTENANCE LLC; STEVEN TRENT; TEXTRON INC.; and TEXTRON AVIATION, INC.,

Defendant-Appellant.

From the Court of Appeals
COA25-202

****

BRIEF OF AMICI CURIAE THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, THE NORTH CAROLINA CHAMBER LEGAL INSTITUTE AND THE GENERAL AVIATION MANUFACTURERS ASSOCIATION

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INTRODUCTION[1]

The opinion below upset decades of jurisdictional certainty. It will likely increase costs for companies and consumers across the nation while jeopardizing North Carolina's reputation for promoting business and maintaining a stable legal climate. Other potential effects include unduly

[1] No person or entity, other than the U.S. Chamber, the N.C. Chamber Legal Institute, and the General Aviation Manufacturers Association, their counsel, or their members either directly or indirectly wrote this brief, or contributed money for its preparation. To the extent a party was a member of any of the above organizations, it did not participate in the preparation of this brief.

burdening our courts, damaging commerce in the state, and reducing state revenue from business registration and investment. Given its anticipated impacts, this case both holds "significant public interest" and "involves legal principles of major significance to the jurisprudence of the State." N.C. Gen. Stat. § 7A-31(c)(1)-(2). Amici thus respectfully request this Court allow Defendant Textron, Inc.'s petition for discretionary review and, for the reasons outlined below, reverse.

INTEREST OF AMICI

Amici curiae represent businesses in North Carolina and across the nation who will be negatively impacted by the Court of Appeals' opinion in *PDII, LLC v. Sky Aircraft Maintenance, LLC*, Slip Op., No. COA25-202, 2025 WL 3466047, (N.C. Ct. App. 2025) (publication forthcoming). If that opinion stands, Amici's members expect to encounter increased litigation costs and uncertainty, changing how they organize corporate structures, make employment decisions, and conduct business. Given these anticipated consequences, Amici and their members have a significant interest in this case.

The Chamber of Commerce of the United States of America is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the

Chamber is to represent its members' interests in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files amicus curiae briefs in cases like this one that raise concerns for the entire nation's business community.

The North Carolina Chamber Legal Institute is a nonpartisan, nonprofit affiliate of the North Carolina Chamber of Commerce, the leading business advocacy organization in North Carolina. The N.C. Chamber's member businesses employ citizens from every walk of life throughout the state. Its mission is to empower those with a common business interest to improve North Carolina's economic development by: (i) identifying and researching in a nonpartisan manner aspects of North Carolina's legal environment that enhance the business climate, workforce development, and quality of life for every citizen; (ii) disseminating the knowledge gained from those activities for North Carolina businesses and the general public; and (iii) serving as a champion in court for job providers on precedent-setting legal issues with broad implications for this state's business environment, workforce development, and quality of life.

The General Aviation Manufacturers Association is a nonprofit, international trade association representing over 140 of the world's leading manufacturers of general aviation airplanes, rotorcraft, powered lift, engines, avionics, components, and related services. Since 1970, GAMA has been

dedicated to fostering and advancing the welfare, safety, and interests of the general aviation industry. General aviation encompasses all civilian flying except scheduled commercial transport (i.e., scheduled commercial airlines like Delta Air Lines). It includes business travel, medical transport, aerial firefighting, law enforcement, search and rescue, agricultural services, surveying, and the flight training of almost all future pilots within the United States. There are over 440,000 general aviation aircraft flying today. GAMA's members produced nearly all of them. As part of its mission, GAMA regularly appears as amicus curiae before state and federal courts when a legal question poses a significant impact to GAMA's members.

ARGUMENT

This case involves the exercise of personal jurisdiction over non-resident businesses in North Carolina. Below, Textron provided evidence that it did not direct business activities toward North Carolina, whether through products, advertising, or anything else. *See* Slip Op. at 11-12. Thus, this case does not involve North Carolina's exercise of specific jurisdiction over Textron.

Instead, because Textron had registered as a "foreign corporation" under section 55-15-01, the Court of Appeals held that Textron had consented to general jurisdiction here. Slip Op. at 17. But that rule was not limited to Textron alone. Now, going forward, any registered non-resident business is

subject to North Carolina's general jurisdiction for any claim, arising out of any state, and involving any plaintiff.

This holding creates uncertainty for businesses across the nation, exposes them to steep increases in insurance and litigation costs, and incentivizes them to withdraw products, services, and employment from the North Carolina market. Meanwhile, North Carolina faces significant potential reputational consequences while its courts risk being overrun with non-resident disputes that have nothing to do with this state.

Given the significant effects of the opinion below, one would expect it to be rooted in a clear statutory directive. Not so. The Court of Appeals admitted there was *no express language* that subjected businesses to general jurisdiction upon registration. Instead, the Court of Appeals amalgamated together five different statutes to reach its conclusion. That is the opposite of *Mallory v. Norfolk Southern Railway Co.*, 600 U.S. 122 (2023), which was predicated upon the existence of clear and unambiguous statutory language. The questionable reasoning of the opinion below thus only further supports review.

I. Expanding General Jurisdiction to Any Business Registered in North Carolina Will Have Massive Economic Consequences—Both Nationally and Locally.

Businesses from across the country register as foreign corporations in North Carolina as a precaution because our statutes do not clearly delineate when registration is required. But the Court of Appeals' opinion raises the

stakes for such decisions. Some businesses will feel forced to withdraw their registration, while others will pass the increased costs of litigation exposure on to consumers.

A. Under North Carolina's current statutory scheme, non-resident businesses register as a precaution, not because they expect to be haled into court for any conceivable claim.

Many non-resident (aka "foreign") businesses register for a North Carolina certificate of authority to transact business due to ambiguity in the statutory scheme. Section 55-15-01 states that a "foreign corporation may not transact business in this State until it obtains a certificate of authority from the Secretary of State." N.C. Gen. Stat. § 55-15-01(a). Nowhere, however, do North Carolina statutes define what it means to "transact business." While section 55-15-01 defines what *is not* "transact[ing] business," *see id.* § 55-15-01(b), it fails to define what *is*.

Meanwhile, case law on the meaning of "transact business" is inconclusive. The Court of Appeals has defined "transact business" at only a high level of generality—"engaging in, carrying on or exercising, in North Carolina, some of the functions for which the corporation was created." *Canterbury v. Monroe Lange Hardwood Imports*, 48 N.C. App. 90, 96, 268 S.E.2d 868, 872 (1980). Businesses are thus left trying to piece together the term's specific contours from dozens of varying appellate decisions.

Given this ambiguity, companies frequently register in North Carolina to avoid the possibility of unlawfully transacting business here. Indeed, similar reasons compel many national companies to register in all fifty states as a matter of course. Yet just because a company registers in this state does not mean that company expects to be haled to North Carolina for any and all claims. True, a business might reasonably expect to defend itself for conduct "purposefully directed" at a certain state under a "specific jurisdiction" theory. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985) (quoting *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 774 (1984)). But it would not expect to defend itself for all other claims in a state that is neither its place of incorporation nor its principal place of business. *See DaimlerAG v. Bauman*, 571 U.S. 117, 137 (2014).

The U.S. Supreme Court's recent decision in *Mallory* did not change that. *Mallory* was a narrow decision, finding that the distinct language of Pennsylvania's business registration statute—which used the "explicit" words "general jurisdiction"—meant that businesses which registered in Pennsylvania had voluntarily agreed to general jurisdiction there. 600 U.S. at 134. That was because businesses choosing to register in Pennsylvania did so with the express knowledge that they were subjecting themselves to general jurisdiction, allowing them to purposefully evaluate prior to registering.

While initially *Mallory* raised concerns of universal jurisdiction in any state for any business, subsequent developments have calmed those fears. Until the Court of Appeals' opinion in this case, the only other state to interpret its registration statute as creating general jurisdiction was Georgia. *See Cooper Tire & Rubber Co. v. McCall*, 863 S.E.2d 81, 90, 92 (Ga. 2021).

Thus, even after *Mallory*, businesses were able to arrange their affairs with reasonable certainty. They knew they would be subject to general jurisdiction only in their places of incorporation and principal place of business, unless they also chose to register to do business in Pennsylvania or Georgia. North Carolina itself has benefitted from this scheme—drawing significant corporate investment and growth due to the favorable legal environment it has cultivated for businesses.[2]

But the opinion below dramatically changes that status quo. Under its holding, any of the thousands of non-resident corporations registered to do business here can get haled into North Carolina state courts on any claim. Consider, for example, a large aviation manufacturer headquartered in Texas that has a small graphics design team located in North Carolina. The company might register to transact business here to ensure compliance with registration rules. But suppose there was an accident back in its Texas warehouse. Under

[2] *See* Brian Smith, *Why Are Large Businesses Moving to North Carolina?* Regent Com. Real Est., https://regentcre.com/large-business-relocation-to-north-carolina/.

the Court of Appeals' opinion, the company could suddenly be subject to suit in North Carolina state courts for that accident, even though nothing about it had to do with this state.

As a result, the opinion below penalizes regulatory compliance with exposure to suit on any potential claim. The resulting harms will be borne by businesses and consumers both here and throughout the nation.

B. Subjecting businesses to general jurisdiction here will cause innumerable harms both inside the state and across America.

The consequences of the Court of Appeals' opinion are varied and significant. To start, businesses will face cost increases and a lack of certainty. Many companies will cease any business in North Carolina. Those that stay risk filling North Carolina's dockets with matters that have no connection to this state. And North Carolina's sterling reputation for promoting business will be severely tarnished. Under the public interest and legal significance factors of section 7A-31, a decision of such magnitude warrants review by this Court. *See* N.C. Gen. Stat. § 7A-31(c)(1)-(2).

Costs to Business and Consumers. One of the opinion's most direct harms is the increased costs to businesses. Distance from headquarters alone will necessarily drive up the cost of defending cases. *See Asahi Metal Indus. Co. v. Super. Ct. of Cal.*, 480 U.S. 102, 114 (1987) (noting the "unique burdens placed upon one who must defend oneself in a foreign legal system"). But those

costs are compounded when plaintiffs' lawyers strategically forum shop locations where "'local prejudice' against unpopular" non-resident corporations stack the deck in their favor. *Watson v. Philip Morris Cos.*, 551 U.S. 142, 150 (2007). Indeed, "prejudice against large corporations[is] a risk that is of special concern when the defendant is a nonresident." *TXO Prod. Corp. v. All. Res. Corp.*, 509 U.S. 443, 464 (1993).

Moreover, while large businesses face inherent prejudices, "the impact on small companies, which constitute the majority of all U.S. Corporations, could be" even more "devastating." *Mallory*, 600 U.S. at 161-62 (Alito, J., concurring in part and concurring in judgment). Large businesses may have the resources "to manage the patchwork of liability regimes, damages caps, and local rules in each State." *Id.* Small businesses are less equipped to do so.

These economic concerns only magnify with the growth of private equity funded plaintiffs. Recently, private equity funds, hedge funds, and other investors have begun pooling resources to profit from American lawsuits.[3] These investors cover the costs of legal fees in exchange for a percentage of any winnings. Rather than seeking to remedy the harms the plaintiffs may have suffered, an investor's goal is to extract as much money out of a verdict or

[3] *See What You Need to Know About Third Party Litigation Funding*, Inst. for Legal Reform (June 7, 2024), https://instituteforlegalreform.com/what-you-need-to-know-about-third-party-litigation-funding/.

settlement as possible. And while some jurisdictions have taken steps to limit or prohibit private equity funded litigation, North Carolina is not one of them.

This decision also arrives at a time when nuclear verdicts "are on the rise." *See* Inst. for Legal Reform, *Nuclear Verdicts: An Update on Trends, Causes, and Solutions* 2 (2024). A nuclear verdict is a jury verdict worth "$10 million or more." *Id.* Excluding pandemic years, research discovered "an upward trend in the frequency of reported nuclear verdicts at all levels." *See id.* at 2. Meanwhile, Georgia—one of only two general jurisdiction-registration states—"host[ed] more than [its] expected share" of nuclear verdicts "given [its] size." *Id.* at 4. If this Court allows the opinion below to stand, North Carolina might soon earn a similar ignominious distinction.

The upshot then of the Court of Appeals' opinion is a significant increase in litigation costs that will be passed on to consumers. Such costs will do nothing to improve the quality of products or services offered. Rather, they will be used solely to cover the unnecessary increase in litigation expenses caused by the Court of Appeals' opinion below.

Loss of Predictability. The Court of Appeals' opinion will also undermine certainty for businesses across the nation who have made incorporation and operational decisions by balancing the legal risks of various jurisdictions. *See* Inst. for Legal Reform, *Personal Jurisdiction After* Mallory 13 (2023) [hereinafter "*After* Mallory"]. Predictability allows "foreign

corporations to operate effectively throughout our nation," which "is critical to our nation's economic vitality and ability to create jobs." *Genuine Parts Co. v. Cepec*, 137 A.3d 123, 137 (Del. 2016). Under the prior general jurisdiction regime, plaintiffs always had "at least one clear and certain forum"—a corporation's state of incorporation and principal place of business. *DaimlerAG*, 571 U.S. at 137. Meanwhile, under specific jurisdiction jurisprudence, businesses could make reasonable predictions as to what activities exposed them to what kind of litigation risks and where. Considered together, this framework gave both businesses and consumers reasonable guidance, and allowed companies to allocate risk accordingly.

The Court of Appeals' opinion jeopardizes that predictability. Consider a business incorporated and principally operating in a state that caps personal injury damages.[4] Such a business would have reasonable certainty as to the maximum amount it might owe in a hypothetical personal injury lawsuit. But under the Court of Appeals' opinion, as long as that business is registered in North Carolina, it could be dragged here for any personal injury claim, despite that claim having no relation to this state. And North Carolina has no cap on damages—outside of medical malpractice claims.

[4] *See* Dani Alexis Ryskamp, *The Current State of State Damage Caps*, Expert Inst. (Nov. 27, 2024), https://www.expertinstitute.com/resources/insights/state-state-damage-caps/.

Businesses will need to price in this uncertainty or withdraw their registration from North Carolina altogether. The result: less options and opportunities available to our own citizens. *See After* Mallory, *supra*, at 10.

Overloading North Carolina Courts. The opinion below also incentivizes litigation in North Carolina state courts that has nothing to do with this state. A marked uptick in caseload will strain the judicial system and lead to overall worse outcomes for all parties, as judges and court staff try to process more cases in the same amount of time. *See After* Mallory, *supra*, at 12-13.

The negative effects of caseload increases are well documented. "When hundreds, or even thousands, of claims are stockpiled into a court system, the focus even of well-intentioned judges can shift from dispensing justice to clearing cases from the docket." Philip S. Goldberg, Christopher E. Appel, and Victor E. Schwartz, *The U.S. Supreme Court's Personal Jurisdiction Paradigm Shift to End Litigation Tourism*, 14 Duke J. Const. L. & Pub. Pol'y 51, 81-89 (2019). As a result, justice may be short circuited in those jurisdictions, with the greatest impact felt by the community's most vulnerable members. *See* Hannah Lieberman & Paula Hannaford-Agor, *Meeting the Challenges of High-Volume Civil Dockets* 89-90 (2016).

In stark contrast to national trends, North Carolina has been working hard to reduce backlog and maintain an efficient court system. Since 2021,

North Carolina has reduced backlog by 25%.[5] Even so, as of 2023, there were still 900,000 cases in the backlog. And if the Court of Appeals opens this state's courts to litigation against companies across the nation, North Carolina's progress in improving its backlog could be undermined or reversed.

Reputational Consequences. Right now, North Carolina is the number one state for business in America.[6] That caps a five-year run, where North Carolina has held that title three times, and come in second twice. A host of stakeholders have worked together to help accomplish this feat, including government actors, nonprofits, and businesses themselves.

The Court of Appeals' opinion threatens to change that. As noted by N.C. Chamber General Counsel Ray Starling, companies pay close attention to jury award trends and nuclear verdicts "when deciding where to move or expand their businesses."[7] While historically North Carolina has been well regarded when it comes to such issues, recent developments have threatened that reputation. Just last year, North Carolina experienced the second largest personal injury jury verdict in state history.[8] The Court of Appeals also upheld

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[5] *See* Press Release, *All Things Judicial Highlights Case Backlog Reduction Strategies and Successes*, N.C. Jud. Branch (Aug. 30, 2023), https://www.nccourts.gov/news/tag/press-release/all-things-judicial-highlights-case-backlog-reduction-strategies-and-successes.
[6] *See* Scott Cohn, *North Carolina is America's Top State for Business in 2025*, CNBC (Jul. 10, 2025), https://www.cnbc.com/2025/07/10/north-carolina-top-state-for-business-america.html.
[7] David Mildenberg, *Make Them Pay*, Bus. N.C. (Dec. 31, 2025), https://businessnc.com/a-tragic-helicopter-crash-sparked-a-50-million-wrongful-death-settlement/.
[8] *$38.2 Million Verdict in Landmark Personal Injury Case Against NC DOT and Negligent Motorist*, Horton & Mendez (Mar. 5, 2025), https://tinyurl.com/LandmarkVerdict.

a $40,000,000 negligence verdict. *See Chappell v. Webb*, 295 N.C. App. 13, 14, 905 S.E.2d 346, 350-51 (2024). Meanwhile a 2022 helicopter crash resulted in a public, $50 million settlement.[9]

Throwing the doors of state court jurisdiction wide open will only raise additional questions about North Carolina's business-friendly image. A well-known national group, for example, keeps a running tally of the worst jurisdictions for companies to end up in, titling them "judicial hellholes." *See* Am. Tort Reform Found., *Judicial Hellholes 2025-2026* 1 (2025). One criteria used to rank jurisdictions is the extent to which they welcome "litigation tourism." *Id.* Not surprisingly, the only two states to recognize registration-based general jurisdiction—Pennsylvania and Georgia—are listed at the top of the "Watch List." *See id.* at 2. If the Court of Appeals' decision remains in place, North Carolina too could end up on that list.

Additionally, non-resident business registrations are currently at an all-time high.[10] As Secretary of State Elaine F. Marshall explained, those hundreds of thousands of registrations and renewals lead to millions of dollars in fees that "go directly to the general fund."[11] But if the opinion below remains

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[9] Mildenberg, *supra*.

[10] *See* Adam Wagner, *NC Secretary of State Calls for New Budget to Keep Up with Business Registrations*, WUNC (Jan. 6, 2026), https://www.wunc.org/politics/2026-01-06/nc-secretary-state-budget-business-registrations.

[11] *Id.*; *see also* Elaine F. Marshall, *Dual Registration & New Business Creations*, N.C. Dep't of Secretary of State 13 (Jan. 6, 2026), https://webservices.ncleg.gov/ViewDocSiteFile/104883.

law, those contributions are likely to drop off. After all, the opinion's potential harms have already begun to grab the business community's attention.[12]

II. The Court of Appeals' Opinion Will Harm Industries Across the Nation, Particularly General Aviation.

The opinion below will affect numerous industries, but manufacturing, transportation, health care, hospitality, energy, and finance are at particular risk. A closer look at how such litigation risks have impacted general aviation provides a concrete example of the dangers presented by the Court of Appeals' opinion to all these industries going forward.

A. Industries with significant litigation exposure or national reach face new risks due to the Court of Appeals' decision.

If the Court of Appeals' decision stands, then any company with the potential for significant tort exposure or a national reach could find themselves unexpectedly haled into North Carolina for a vast array of unforeseeable circumstances and claims.

Manufacturers, for example, are at a particular risk of personal injury claims due to the heavy equipment used in their work. Following the Court of Appeals decision, any accident at any plant anywhere in the country could be litigated here, regardless of a manufacturer's reliance on another state's workers' compensation statutes when deciding where to build facilities.

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[12] *See e.g.*, CJ Staff, *Filing Claims NC Case 'Fundamentally Transforms' Business Lawsuits*, Carolina J. (Jan. 7, 2025), https://www.carolinajournal.com/filing-claims-nc-case-fundamentally-transforms-business-lawsuits/.

The transportation industry, meanwhile, faces its own unique challenges. Federal law requires motor carriers designate an agent for service of process in each state in which they operate. *See* 49 U.S.C. § 13304. Many transportation businesses thus register to do business in North Carolina since they already must designate a process agent. And like manufacturers, motor carriers face similar liability risks inherent to the equipment they use, often with an even broader geographical scope.

The list goes on. Pharmaceutical and medical device companies have both national reach and the potential for significant litigation exposure due to their distribution of products that directly impact individuals' health. Retail and hospitality companies rely on national brands and franchising models to offer products and services across the nation. Under the Court of Appeals' opinion, a lawsuit arising from of an accident at a Washington Wendy's or a Hawaiian Hilton could be brought here, despite the utter absence of any relationship to this state. The energy and financial sectors, likewise, will feel acute impacts of this decision, given the interstate nature of their operations and their own unique liability risks.

And if plaintiffs' attorneys discover a favorable North Carolina venue for mass tort claims, it will only increase the industry impact. Other litigation "destinations" provide ample illustration. In asbestos litigation, for example, 85% of all claims are filed in just fifteen jurisdictions each year. See KCIC,

Asbestos Litigation: 2024 Year in Review 5 (Jan. 31, 2025). And after Philadelphia expanded its jurisdictional framework to welcome mass tort claims, out-of-state plaintiffs accounted for 81% of new pharmaceutical cases filed in 2015.[13] If the decision below stands, North Carolina could soon find itself in a similar situation.

B. The general aviation industry offers a telling example of how the opinion below will impact businesses going forward.

The general aviation industry is particularly concerned about the Court of Appeals' opinion. This case, after all, involves a general aviation manufacturer being haled into North Carolina despite its absence of significant contacts here. Allowing North Carolina's courts to remain open to similar future claims could have devastating effects on an important industry already suffering from significant financial strains.

The general aviation industry is a major economic contributor both in North Carolina and across America. Nationally, general aviation supports hundreds of billions of dollars in output and well over a million jobs, providing a key source of American exports. *See* PricewaterhouseCoopers, *Contribution of General Aviation to the US Economy in 2023*, 1, 6 (2025). North Carolina is a leading contributor within this national picture, with more than 33,000

[13] *See* Max Mitchell, *Out-of-State Pharma Filings Dip as Phila. Mass Torts Remain Steady*, Law.com (July 25, 2016), https://www.law.com/article/almID/1202763506813/.

general aviation jobs, billions of dollars in state-level output, and a billion-plus-dollar GDP contribution. *Id.* at 15, 17, 55.

General aviation connects communities, sustains commerce, and provides services that scheduled airlines cannot. Fed. Aviation Admin., *General Aviation Airports: A National Asset* 2, 27 (2012). For thousands of rural communities, which lack access to the few hundred airports served by commercial airlines, general aviation is an essential lifeline. *Id.* The industry further supplies most new airline pilots while pushing for technological developments that make even commercial airliners safer.[14]

But like other industries, general aviation is not immune to rising costs. Inflation and supply-chain fragility have caused manufacturers' price lists to rise by roughly 7% year over year, while maintenance and repair outlays are generally tracking 5-10% annual increases.[15] But the biggest financial threat is increased liability risk. That is not because manufacturers are creating unsafe aircraft. To the contrary, most accidents are caused by operator error, with pilot loss of control accounting for the majority of fatal crashes. *See* Jay Shively, NASA, *If Human Error Is the Case of Most Aviation Accidents, then Shouldn't We Remove the Human* 3 (2013).

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[14] *The Airline Pilot Career Path*, Flight Apprentice (Mar. 11, 2020), https://flightapprentice.com/blog/airline-pilot-career/.

[15] *See* Branislav Urosevic, *Aviation Claims Costs Show No Sign of Easing,* Ins. Bus. (Sep. 4, 2025), https://www.insurancebusinessmag.com/ca/news/technology/aviation-claims-costs-show-no-sign-of-easing-mclarens-warns-548340.aspx.

Yet "social inflation"—including larger jury awards, increased litigation, and higher medical and legal expenses—has dramatically driven up the severity of claims and the cost of insurance.[16] Since 2015, the claims to loss ratio for general aviation manufacturers is just under 300%—a steep increase driven primarily by the U.S. legal system and nuclear verdicts. *See* Graham Daldry, *Too Windy for Fog*, Address at the International Union of Aerospace Insurers Conference (June 2025).

The reason for these increasing liability risks is simple: Aircraft owners and maintenance companies often carry only minimal insurance coverage, which does not come close to covering losses. As a result, the only party left with deep enough pockets to make a lawsuit economically viable is the manufacturer itself.

Manufacturers thus find themselves dealing with liability threats even decades after they last built the aircraft. For example, de Havilland was sued following the 2022 loss of a DHC-3 that de Havilland had not touched since the 1950s. *See Hilty v. de Havilland Aircraft of Can., Ltd.,* No. 23-2-15840-7 SEA (King Cnty. Wash. Sup. Ct. 2023). De Havilland was left paying to defend itself against this suit, even after the NTSB determined that the failure most likely was caused by a third party's recent installation of an unapproved moisture

[16] Andy Pickford, *The Challenges of Escalating Claims Costs*, Gallagher Specialty (Jan. 9, 2025), https://specialty.ajg.com/plane-talking/the-challenges-of-escalating-claims-costs.

seal. NTSB, *Abrupt Loss of Pitch Control and Water Impact* 1 (AIR-23-01, Sept. 29, 2023).

While the national growth of nuclear verdicts is concerning for all industries, the amount awarded in aviation claims is particularly high, threatening to upend the aviation insurance market. *See* Daldry, *supra.* The result is that the domestic general aviation industry is facing a cost crisis, jeopardizing America's position as the global leader in design and production. The Court of Appeals' opinion could not have come at a worse time.

III. The Outlier Outcome in the Opinion Below Further Warrants this Court's Review.

The impact of the Court of Appeals' opinion—both on this state and across the country—would alone justify discretionary review, regardless of the opinion's legal reasoning. But as Textron's petition explains, the opinion defied textual principles to reach an outlier outcome. This suspect approach further warrants review from this Court.

Unlike the statute in *Mallory*—which a narrow U.S. Supreme Court majority read as imposing general jurisdiction on every business registered in Pennsylvania—there is no single, "explicit" statute here. *Compare Mallory*, 600 U.S. at 134, *with* Slip Op. at 13. Instead, the Court of Appeals cited five different statutes, none of which include language like Pennsylvania's.

The Court of Appeals started with section 1-75.4, but that just provides state courts jurisdiction over any person or business "engaged in substantial activity within this State," N.C. Gen. Stat. § 1-75.4(1)(d), a standard that the Court of Appeals never found Textron's business activities to satisfy. *See* Slip Op. at 12, 17. The Court of Appeals then quoted North Carolina's registration statute, section 55-15-01, under which Textron had registered to do business in this state. *See* Slip Op. at 13 (citing N.C. Gen. Stat. § 55-15-01(a)). But that too lacked clear language on jurisdiction, leaving the Court of Appeals to discuss section 55-15-02, which permits registered businesses to "maintain any action or proceeding in any court of this State"; section 55-15-05, which authorizes registered businesses "to transact business"; and section 55-15-07, which requires registered businesses to "maintain a registered office and registered agent." *See id.* (citing N.C. Gen. Stat. §§ 55-15-02(a), -05(a), -07).

At that point, having pointed to no fewer than five statutes, the Court of Appeals *admitted* that "North Carolina law, unlike Pennsylvania law, does not explicitly state that foreign corporations consent to personal jurisdiction as part of registering to do business in the state." Slip Op. at 13. Yet the Court of Appeals still combined an excerpt of section 1-75.4 (discussing the state's general jurisdiction over "a domestic corporation") with a portion of section 55-15-05 (describing how registered non-resident corporations have the same rights and privileges as "a domestic corporation of like character") to read a

general jurisdiction consent provision into the textual silence. *See* Slip Op. at 17 (quoting N.C. Gen. Stat. §§ 1-75.4(1)(c), 55-15-05(b) (emphasis omitted)).

That is not how statutory interpretation works. "When interpreting the meaning of a statute, [courts] first look to the language of the statute itself." *Sara Lee Corp. v. Carter*, 351 N.C. 27, 35, 519 S.E.2d 308, 313 (1999). They cannot do this by looking to text that does not exist. And even if courts could properly infer meaning from statutory silence, longstanding textual principles dictate that legislatures do "not hide elephants in mouseholes." *AMG Cap. Mgmt., LLC v. Fed. Trade Comm'n*, 593 U.S. 67, 78 (2021) (cleaned up).

The Court of Appeals' interpretation of North Carolina's statutes is such an elephant, both because of the practical consequences identified above and the constitutional issues lurking in the background. While Textron has already flagged the opinion's dormant commerce clause concerns, additional U.S. Supreme Court precedent further highlights the opinion's constitutional problems. *See, e.g.*, *Bendix Autolite Corp. v. Midwesco Enters., Inc.*, 486 U.S. 888 (1988).

Bendix involved an Ohio law that offered businesses a choice—either agree to general jurisdiction in Ohio or face an indefinite statute of limitations for fraud and contract claims. *Id.* at 889. The Supreme Court struck that scheme down for overly interfering with interstate commerce. *See id.* As the Court explained, the "significant" burden of conceding to general jurisdiction,

which "exceed[ed] any local interest that the State might advance," could not be justified simply to gain "the protection of the limitations period." *Id.* at 891-892.

Here, the Court of Appeals has created an even greater constitutional conundrum than the one in *Bendix*. Rather than just tolled fraud and contract claims, businesses now risk legal uncertainty on *all* claim, increased costs, juror prejudice, and more. *Bendix* thus further bolsters Textron's arguments and weighs heavily against the Court of Appeals' statutory interpretation. This Court should allow review to closely examine that reasoning and ensure an opinion with such broad consequences does not violate the Constitution.

CONCLUSION

This Court should allow Textron's petition for discretionary review and reverse the Court of Appeals' decision.

Respectfully submitted, this the 14th day of January, 2026.

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N.C. R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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