

APPENDIX

FULD V. PALESTINE LIBERATION ORGANIZATION*

CASE	DEFENDANT-CENTRIC LIBERTY OR FAIRNESS LANGUAGE IN SPECIFIC PERSONAL JURISDICTION MAJORITY OPINIONS FROM <i>INTERNATIONAL SHOE</i> ONWARD
Int'l Shoe Co. v. Washington, 326 U.S. 310, 316, 319–20 (1945)	<p>“But now that the <i>capias ad respondendum</i> has given way to personal service of summons or other form of notice, due process requires only that in order to subject a defendant to a judgment <i>in personam</i>, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” (quoting <i>Miliken v. Meyer</i>, 311 U.S. 457, 463 (1940)).</p> <p>“But to the extent that a corporation exercises the privilege of conducting activities within a state, it enjoys the benefits and protection of the laws of that state. The exercise of that privilege may give rise to obligations, and, so far as those obligations arise out of or are connected with the activities within the state, a procedure which requires the corporation to respond to a suit brought to enforce them can, in most instances, hardly be said to be undue. . . . It is evident that these operations establish sufficient contacts or ties with the state of the forum to make it reasonable and just, according to our traditional conception of fair play and substantial justice, to permit the state to enforce the obligations which appellant has incurred there. Hence we cannot say that the maintenance of the present suit in the State of Washington involves an unreasonable or undue procedure.”</p>
Travelers Health Ass’n v. Virginia	“And in <i>International Shoe Co. v. Washington</i> , this Court, after reviewing past cases,

* This is the Appendix to *The Supreme Court, 2024 Term — Leading Cases: Fuld v. Palestine Liberation Organization*, 139 HARV. L. REV. 302 (2025).

ex rel. State
Corp. Comm'n,
339 U.S. 643, 648
(1950)

concluded: 'due process requires only that in order to subject a defendant to a judgment *in personam*, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice.'" (citation omitted) (quoting *Int'l Shoe Co.*, 326 U.S. at 316).

"Measured by the principles of the *Osborn*, *Hoopston* and *International Shoe* cases, the contacts and ties of appellants with Virginia residents, together with that state's interest in faithful observance of the certificate obligations, justify subjecting appellants to cease and desist proceedings under § 6 [of the state law at issue]."

McGee v. Int'l
Life Ins. Co., 355
U.S. 220, 222,
223, 224 (1957)

"More recently in *International Shoe Co. v. Washington*, the Court decided that 'due process requires only that in order to subject a defendant to a judgment *in personam*, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice.'" (citation omitted) (quoting *Int'l Shoe Co.*, 326 U.S. at 316).

"With this increasing nationalization of commerce has come a great increase in the amount of business conducted by mail across state lines. At the same time modern transportation and communication have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity."

"Of course there may be inconvenience to the insurer if it is held amenable to suit in California where it had this contract but certainly nothing which amounts to a denial of due process."

Hanson v.
Denckla, 357
U.S. 235, 252,
253 (1958)

“In contrast, this action involves the validity of an agreement that was entered without any connection with the forum State. The agreement was executed in Delaware by a trust company incorporated in that State and a settlor domiciled in Pennsylvania. The first relationship Florida had to the agreement was years later when the settlor became domiciled there, and the trustee remitted the trust income to her in that State. From Florida Mrs. Donner carried on several bits of trust administration that may be compared to the mailing of premiums in *McGee*. But the record discloses no instance in which the *trustee* performed any acts in Florida that bear the same relationship to the agreement as the solicitation in *McGee*. Consequently, this suit cannot be said to be one to enforce an obligation that arose from a privilege the defendant exercised in Florida.” (footnote omitted).

“The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State. The application of that rule will vary with the quality and nature of the defendant’s activity, but it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.”

Shaffer v.
Heitner, 433
U.S. 186, 204,
207, 211, 212
(1977)

“[T]he relationship among the defendant, the forum, and the litigation, rather than the mutually exclusive sovereignty of the States on which the rules of *Pennoyer* rest, [is] the central concern of the inquiry into personal jurisdiction.”

“The case for applying to jurisdiction *in rem* the same test of ‘fair play and substantial justice’ as governs assertions of jurisdiction *in personam* is simple and straightforward.”

“We believe, however, that the fairness standard of *International Shoe* can be easily applied in the vast majority of cases. Moreover, when the existence of jurisdiction in a particular forum under *International Shoe* is unclear, the cost of simplifying the litigation by avoiding the jurisdictional question may be the sacrifice of ‘fair play and substantial justice.’ That cost is too high.”

“The fiction that an assertion of jurisdiction over property is anything but an assertion of jurisdiction over the owner of the property supports an ancient form without substantial modern justification. Its continued acceptance would serve only to allow state-court jurisdiction that is fundamentally unfair to the defendant.”

Kulko v. Superior Court, 436 U.S. 84, 92, 97–98 (1978)

“The parties are in agreement that the constitutional standard for determining whether the State may enter a binding judgment against appellant here is that set forth in this Court’s opinion in *International Shoe Co. v. Washington*: that a defendant ‘have certain minimum contacts with [the forum State] such that the maintenance of the suit does not offend “traditional notions of fair play and substantial justice.”’ While the interests of the forum State and of the plaintiff in proceeding with the cause in the plaintiff’s forum of choice are, of course, to be considered, an essential criterion in all cases is whether the ‘quality and nature’ of the defendant’s activity is such that it is ‘reasonable’ and ‘fair’ to require him to conduct his defense in that State.” (alteration in original) (citations omitted) (quoting *Int’l Shoe Co.*, 326 U.S. at 316–17, 219).

“[W]e believe that the California Supreme Court’s application of the minimum-contacts test in this case represents an unwarranted extension of *International Shoe* and would, if

	sustained, sanction a result that is neither fair, just, nor reasonable.”
	“Finally, basic considerations of fairness point decisively in favor of appellant’s State of domicile as the proper forum for adjudication of this case, whatever the merits of appellee’s underlying claim. . . . To make jurisdiction in a case such as this turn on whether appellant bought his daughter her ticket or instead unsuccessfully sought to prevent her departure would impose an unreasonable burden on family relations, and one wholly unjustified by the ‘quality and nature’ of appellant’s activities in or relating to the State of California.” (quoting <i>Int’l Shoe Co.</i> , 326 U.S. at 319).
Rush v. Savchuk, 444 U.S. 320, 328, 329 (1980)	“Jurisdiction is lacking . . . unless there are sufficient contacts to satisfy the fairness standard of <i>International Shoe</i> .”
	“In short, it cannot be said that the <i>defendant</i> engaged in any purposeful activity related to the forum that would make the exercise of jurisdiction fair, just, or reasonable merely because his insurer does business there.” (citations omitted).
World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291–92 (1980)	“The concept of minimum contacts, in turn, can be seen to perform two related, but distinguishable, functions. It protects the defendant against the burdens of litigating in a distant or inconvenient forum. And it acts to ensure 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.”
Ins. Corp. of Ir. v. Compagnie des Bauxites, 456 U.S. 694, 702–03 (1982)	“The requirement that a court have personal jurisdiction flows not from Art. III, but from the Due Process Clause. The personal jurisdiction requirement recognizes and protects an individual liberty interest. It represents a restriction on judicial power not as a matter of sovereignty, but as a matter of individual liberty. Thus, the test for personal jurisdiction requires that ‘the maintenance of the suit . . . not offend

	<p>“traditional notions of fair play and substantial justice.”” (footnote omitted) (quoting <i>Int’l Shoe Co.</i>, 326 U.S. at 316).</p>
<p>Keeton v. Hustler Mag., Inc., 465 U.S. 770, 781 (1984)</p>	<p>“Where, as in this case, respondent Hustler Magazine, Inc., has continuously and deliberately exploited the New Hampshire market, it must reasonably anticipate being haled into court there in a libel action based on the contents of its magazine. And, since respondent can be charged with knowledge of the ‘single publication rule,’ it must anticipate that such a suit will seek nationwide damages. Respondent produces a national publication aimed at a nationwide audience. There is no unfairness in calling it to answer for the contents of that publication wherever a substantial number of copies are regularly sold and distributed.” (citation omitted).</p>
<p>Calder v. Jones, 465 U.S. 783, 789–90, 790 (1984)</p>	<p>“Rather, their intentional, and allegedly tortious, actions were expressly aimed at California. Petitioner South wrote and petitioner Calder edited an article that they knew would have a potentially devastating impact upon respondent. And they knew that the brunt of that injury would be felt by respondent in the State in which she lives and works and in which the National Enquirer has its largest circulation. Under the circumstances, petitioners must ‘reasonably anticipate being haled into court there’ to answer for the truth of the statements made in their article.” (quoting <i>World-Wide Volkswagen</i>, 444 U.S. at 297).</p> <p>“In this case, petitioners are primary participants in an alleged wrongdoing intentionally directed at a California resident, and jurisdiction over them is proper on that basis.”</p>
<p>Burger King Corp. v. Rudzewicz, 471 U.S. 462, 471–72, 473–74 (1985)</p>	<p>“The Due Process Clause protects an individual’s liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful ‘contacts, ties, or relations.’” (quoting <i>Int’l Shoe Co.</i>, 326 U.S. at 319).</p>

“We have noted several reasons why a forum legitimately may exercise personal jurisdiction over a nonresident who ‘purposefully directs’ his activities toward forum residents. A State generally has a ‘manifest interest’ in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors. Moreover, where individuals ‘purposefully derive benefit’ from their interstate activities, it may well be unfair to allow them to escape having to account in other States for consequences that arise proximately from such activities; the Due Process Clause may not readily be wielded as a territorial shield to avoid interstate obligations that have been voluntarily assumed. And because ‘modern transportation and communications have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity,’ it usually will not be unfair to subject him to the burdens of litigating in another forum for disputes relating to such activity.” (citations omitted) (quoting *McGee*, 355 U.S. at 223; *Kulko*, 436 U.S. at 96).

Asahi Metal
Indus. Co. v.
Superior Court,
480 U.S. 102
(1987)

Plurality opinion

Burnham v.
Superior Court,
495 U.S. 604
(1990)

Plurality opinion

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

Plurality opinion

Walden v. Fiore,
571 U.S. 277,
284, 285 (2014)

“First, the relationship must arise out of contacts that the ‘defendant *himself*’ creates with the forum State. Due process limits on the State’s adjudicative authority principally protect the liberty of the nonresident defendant — not the convenience of plaintiffs or third parties. We have consistently rejected attempts to satisfy

	<p>the defendant-focused ‘minimum contacts’ inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State. . . . Put simply, however significant the plaintiff’s contacts with the forum may be, those contacts cannot be ‘decisive in determining whether the defendant’s due process rights are violated.’” (citations omitted) (quoting <i>Burger King Corp.</i>, 471 U.S. at 475; <i>Rush</i>, 444 U.S. at 332).</p>
<p>Bristol-Myers Squibb Co. v. Superior Court, 582 U.S. 255, 263 (2017)</p>	<p>“In determining whether personal jurisdiction is present, a court must consider a variety of interests. These include ‘the interests of the forum State and of the plaintiff in proceeding with the cause in the plaintiff’s forum of choice.’ But the ‘primary concern’ is ‘the burden on the defendant.’ Assessing this burden obviously requires a court to consider the practical problems resulting from litigating in the forum, but it also encompasses the more abstract matter of submitting to the coercive power of a State that may have little legitimate interest in the claims in question.” (citations omitted) (quoting <i>Kulko</i>, 436 U.S. at 92; <i>World-Wide Volkswagen</i>, 444 U.S. at 292).</p>
<p>Ford Motor Co. v. Mont. 8th Jud. Dist. Ct., 141 S. Ct. 1017, 1025, 1029–30 (2021)</p>	<p>“These rules derive from and reflect two sets of values — treating defendants fairly and protecting ‘interstate federalism.’ Our decision in <i>International Shoe</i>[]founded specific jurisdiction on an idea of reciprocity between a defendant and a State: When (but only when) a company ‘exercises the privilege of conducting activities within a state’ — thus ‘enjoy[ing] the benefits and protection of [its] laws’ — the State may hold the company to account for related misconduct. Later decisions have added that our doctrine similarly provides defendants with ‘fair warning’ — knowledge that ‘a particular activity may subject [it] to the jurisdiction of a foreign sovereign.’ A defendant can thus ‘structure [its] primary conduct’ to lessen or avoid exposure to a given State’s courts.” (second, third, and fourth alterations in original) (citations omitted) (quoting <i>World-Wide Volkswagen</i>, 444 U.S. at</p>

293, 297; *Int'l Shoe Co.*, 326 U.S. at 319; *Burger King*, 471 U.S. at 472).

“[A]llowing jurisdiction in these cases treats Ford fairly, as this Court’s precedents explain. In conducting so much business in Montana and Minnesota, Ford ‘enjoys the benefits and protection of [their] laws’ — the enforcement of contracts, the defense of property, the resulting formation of effective markets. All that assistance to Ford’s in-state business creates reciprocal obligations — most relevant here, that the car models Ford so extensively markets in Montana and Minnesota be safe for their citizens to use there. Thus our repeated conclusion: A state court’s enforcement of that commitment, enmeshed as it is with Ford’s government-protected in-state business, can ‘hardly be said to be undue.’ And as *World-Wide Volkswagen* described, it cannot be thought surprising either. An automaker regularly marketing a vehicle in a State, the Court said, has ‘clear notice’ that it will be subject to jurisdiction in the State’s courts when the product malfunctions there (regardless where it was first sold). Precisely because that exercise of jurisdiction is so reasonable, it is also predictable — and thus allows Ford to ‘structure [its] primary conduct’ to lessen or even avoid the costs of state-court litigation.” (alterations in original) (citations omitted) (quoting *Int'l Shoe*, 326 U.S. at 319; *World-Wide Volkswagen*, 444 U.S. at 297).

Mallory v.
Norfolk S. Ry.
Co., 143 S. Ct.
2028 (2023)

Plurality opinion