

IN THE SUPREME COURT OF ILLINOIS

No. _____

THE CITY OF CHICAGO,)	Petition for Leave to Appeal from the
)	Appellate Court of Illinois for the First Judicial
<i>Plaintiff-Respondent</i>)	District, Sixth Division Appellate Court
)	No. 1-23-1908, Opinion Filed March 14, 2025
v.)	2025 IL App (1 st) 231908
)	
WESTFORTH SPORTS, INC.,)	There Heard on Appeal from the Circuit Court
)	of Cook County, Chancery Division,
<i>Defendant-Petitioner</i>)	No. 21 CH 1987, Hon. Clare J. Quish, Presiding
)	

PETITION FOR LEAVE TO APPEAL

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PRAYER FOR LEAVE TO APPEAL

The First District Appellate Court ruled that the Due Process Clause of Fourteenth Amendment to the United States Constitution permits the State of Illinois to exercise specific personal jurisdiction over Westforth Sports, Inc. (“Westforth”), a federally licensed firearms dealer (“FFL”) located in Gary, Indiana, related to claims that some firearms sold at retail in Indiana, to individuals who presented valid, government-issued Indiana identification showing an Indiana residence, and which could not be sold to anyone other than an Indiana resident, were later recovered in Chicago. The ruling created a *de facto* specific personal jurisdiction standard applicable to sellers of legal, non-defective, easily transportable products in one state based merely on a seller’s common-sense knowledge that some products sold may, through the agency of third parties, be later transported elsewhere. Westforth respectfully requests leave to appeal this decision pursuant to Supreme Court Rule 315.

JUDGMENT APPEALED

The First District Appellate Court, Sixth Division, entered its judgment on March 14, 2025. A043-058. No petition for rehearing was filed.

POINTS RELIED UPON FOR REVIEW

1. The Appellate Court’s decision creates a *de facto* specific personal jurisdiction standard based upon geographic proximity of out-of-state sellers of small, easily transported goods where third parties unilaterally transport products across state lines.
2. The Appellate Court’s decision conflicts with *Ford Motor Co. v. Mont. Eighth Judicial Dist. Court.*, 141 S.Ct. 1017 (2021) and *Russell v. SNFA*, 2011 Ill. App. (1st) 093012 by expanding “arising out of or relating to” analysis by tying the transactions at issue and harms complained of to other, unrelated contacts with the forum state.

ISSUES PRESENTED FOR REVIEW

1. Whether the Appellate Court erred in ruling that the Due Process Clause of the United States Constitution allows the exercise of specific personal jurisdiction over Westforth, a seller of legal, non-defective, easily transportable products in Indiana, based merely on the seller's common-sense knowledge that some such products may, through the agency of third parties over whom the seller has no control, be transported outside of the State of Indiana

STATEMENT OF FACTS

WESTFORTH IS ONLY "AT HOME" IN INDIANA.

Westforth is an Indiana corporation that has its principal and only place of business located in Gary, Indiana. *See*, Earl Westforth Affidavit, C 181 V1, ¶ 2. Westforth is a federally-licensed firearms retailer holding a Type 01 federal firearms license ("Type 01 FFL"), and has operated as a Type 01 FFL since its inception. C 181 V1, ¶ 4. Westforth is licensed in and engaged in the business of selling firearms in Indiana, and every firearm Westforth has sold at retail – including each sold as part of the specific transactions cited in the City's complaint – was sold in the State of Indiana. C 182 V1, ¶ 5. Westforth sells firearms in Indiana and in compliance with the laws of the State of Indiana as well as all other federal and local laws and regulations. C 182 V1, ¶ 9.

WESTFORTH ONLY SELLS GUNS AT RETAIL IN INDIANA.

For every retail sale of firearms, Westforth's customers completed an ATF Form 4473, and Westforth maintains an ATF Form 4473 for every retail firearm transaction as required under the Gun Control Act ("GCA"). C 182 V1, ¶ 11. ATF Form 4473 requires that a retail purchaser of firearms declare, under penalty of perjury, his or her residence address and state of residence. C 182 V1, ¶ 12. ATF Form 4473 also requires that an FFL examine a valid, government-issued photo ID that verifies the individual's residence information and to record the ID information on the form. ATF Form 4473 further requires an FFL to record information concerning the FBI/NICS

background check that must be conducted prior to completion of nearly every retail firearm sale to a non-licensee. *Id.* As a Type 01 FFL, Westforth was permitted by law to sell firearms at retail only in the State of Indiana, and handguns only to Indiana residents. C 183 V1, ¶ 13.

Westforth has never sold any handguns at retail to anyone other than residents of the State of Indiana. C 183 V1, ¶ 14. Westforth is permitted to sell long guns legally at retail to residents of other states only within the State of Indiana and only if such sales are legal both in Indiana and the purchaser's state of residence. C 183 V1, ¶ 15. Under federal law, with limited exceptions, each purchaser must provide valid, government-issued photo I.D. showing the purchaser's name, date of birth, state of residence, and residence address. C 183 V1, ¶ 16. For every retail sale of firearms, Westforth's customers provided required I.D. verifying the purchaser's state of residence. C 183 V1, ¶ 17. For every retail sale of firearms, Westforth's customers underwent FBI background checks ("FBI/NICS checks") as required under the GCA. C 183 V1, ¶ 18. ATF Form 3310.4 is a report of the transfer of more than one handgun to a non-licensee in a five-day period. This form is required to be completed and submitted both to ATF as well as local law enforcement. 18 U.S.C. § 923(g)(3)(A).20. C 183 V1, ¶ 19.

WESTFORTH'S ADVERTISING IS DIRECTED ONLY TO INDIANA.

Westforth maintains a passive, non-interactive website providing information about its location, hours and days of operation, and basic contact information. C 183 V1, ¶ 20. After politicians and activists began frequently and publicly announcing how "easy" it was for Illinois residents to go to Indiana to purchase firearms, Westforth was inundated with a slew of inquiries, via telephone and otherwise, about what is required for Illinois residents to purchase firearms and/or ammunition. Westforth has only responded to such customer-initiated inquiries by providing accurate information concerning what those requirements are. C 184 V1, ¶ 21.

The May 2018 Facebook posting by Westforth identified in the City’s complaint notified veterans of a discount program offered by a manufacturer, the ad specifically acknowledged Westworth’s inability to sell product under this program to non-Indiana residents, and merely offered to assist non-Indiana veterans in locating a participating dealer in their own states. C 184 V1, ¶ 22. From January 2011, Westforth Sports has not advertised via radio or television media and has never targeted advertising to Illinois. C 185 V1, ¶¶ 23-24. Westforth has purchased newspaper advertisements in Indiana on somewhere between ten and fifteen occasions in the last twenty years. C 185 V1, ¶ 25. All of those advertisements were in an Indiana newspaper, the Times of Northwest Indiana (the “Times”). *Id.* Of those, all but one was distributed only in Indiana. *Id.* Regarding the one Times advertisement that was distributed outside of Indiana, the Times had a special on a “full run” which covered the newspaper’s entire circulation area in northwest Indiana and included a small section in Illinois. *Id.* Westforth maintains two billboards, both of which are in the State of Indiana near to Westforth’s premises. C 182 V1, ¶ 10.

WESTFORTH’S “ONLINE” PRESENCE IS INSIGNIFICANT.

For Westforth to transfer a firearm to a retail customer, that customer must come to Westforth’s retail location in Indiana and receive the transfer of the firearm in Indiana. C 185 V1, ¶ 26. In addition to retail sales in Indiana, Westforth made occasional direct transfers of firearms directly to other FFLs pursuant to 27 C.F.R. § 478.94 on rare occasions. C 185 V1, ¶ 27. The websites, theshootingstore.com and galleryofguns.com, are operated by other FFLs to advertise their product. C 185 V1, ¶¶ 28-29. Westforth does not sell its own product through galleryofguns.com, but rather is merely listed as an FFL that a customer can select from which to receive ordered product in Indiana. *Id.* The website, gunsamerica.com, provides a platform to connect sellers of firearms with prospective buyers and facilitate transfer of those sales through

FFLs where necessary. C 186 V1, ¶ 30. Westforth did not sell its own product through gunsamerica.com, but rather was merely listed as an FFL that a customer can select from which to receive ordered product in Indiana. *Id.*,

WESTFORTH COMPLIED WITH ALL APPLICABLE LAW.

Regarding the transactions specifically addressed in the City's complaint, every such transaction involved a sale to an Indiana resident. C 186 V1 – C 193 V1, ¶¶ 31, 38, 42, 46, 50, 54, 58, 62, 66, 70, 75, and 80. For each transaction specifically addressed in the City's complaint, the purchasers, under penalty of perjury and other consequences, indicated on multiple lines that they were Indiana residents and provided valid, government-issued photo identification as required under the GCA to prove their Indiana residence. C 186 V1, ¶ 31. For each transaction specifically addressed in the City's complaint, all necessary forms, including ATF Form 4473 and ATF Form 3310.4, were properly completed and submitted. *Id.* With the exception the transactions wherein Westforth participated in ATF's sting operations, for each transaction specifically addressed in the City's complaint, the purchaser passed the required FBI/NICS background check or else the statutory period expired prior to the transfer. *Id.*, ¶¶ 33, 39, 43, 47, 51, 55, 59, 63, 67, 71, 76, and 81-85. For each applicable transaction specifically addressed in the City's complaint, Westforth Sports timely submitted ATF Form 3310.4 under the Gun Control Act, thereby providing notification of the handgun purchases both to local law enforcement and the ATF. *Id.*, ¶¶ 35, 40, 44, 48, 52, 56, 60, 64, 68, 72, 77, 81, and 86.

WESTFORTH COOPERATED WITH ATF STING OPERATIONS.

Certain transfers involving Jones, Thomas, and Magee were made only after consultation with ATF and the Office of the United States Attorney and only in a manner consistent with their instructions. *Id.*, ¶¶ 78, 82-85. For each transaction, Westforth made a notation at the time on the

applicable 4473 Form. *Id.* Westforth identified the specific representatives of the United States government who consulted them regarding the sting operations and have attached correspondence acknowledging Westforth's cooperation and instructions. *Id.*

ATF TRACE REQUESTS HAVE NO JURISDICTIONAL SIGNIFICANCE.

On occasion, FFLs receive firearm trace requests from ATF. *Id.*, ¶ 88. ATF advises that the existence of a trace does not mean that a firearm was used in a crime or recovered from or in connection with a crime, but merely that the firearm has come to the attention of law enforcement. *Id.*, ¶ 89. When an FFL such as Westforth, receives a trace request from ATF, the FFL is provided no information either as to the reason for the trace or the location of the firearm. *Id.*, ¶ 90. If a firearm was recovered in Illinois, an FFL receiving a trace request would not receive that information, nor would the FFL be notified as to the jurisdiction initiating the request. *Id.*, ¶ 91.

The City's identified 53 specific individuals that the City contends were charged with crimes relative to their purchase of firearms from Westforth. A018-A033. Westforth produced 556 pages ATF Form 4473 transaction records, multiple sale reports, receipts, acquisition and disposition records, and other documents relative to these individuals identified in the City's complaint as the "straw purchasers." C 3448 V4 – C 4057 V6. Westforth also produced 561 pages of ATF Form 4473 transaction records, multiple sale reports, receipts, acquisition and disposition records, and other documents relative to the individuals identified by the City as "additional straw purchasers." C 4058 V6 – C 4675 V8. Westforth's records relative to the transactions about which the City complains show that they all involved sales in Indiana to individuals indicating an Indiana residence and providing Indiana-issued identification affirming such. *Id.* Likewise, any required multiple handgun sales were reported to ATF and Indiana State Police. *Id.*

STANDARD OF REVIEW

The issue presented is a legal one. The Court’s review of legal issues is a non-deferential, *de novo* standard. *Cinkus v. Village of Stickney Municipal Officers Elec. Bd.*, 228 Ill.2d 200, 202 (2008); *Corbin v Schroeder*, 2021 IL 127052, ¶ 32.

ARGUMENT

I. SPECIFIC PERSONAL JURISDICTION REQUIRES MINIMUM CONTACTS RELATING TO THE CITY’S CLAIMS.

A. Specific Jurisdiction Arises Only Out Of Activities Purposefully Directed To The Forum And Only As To Claims Directly Related To Those Activities.

“Specific jurisdiction requires a showing that the defendant directed its activities at the forum state and the cause of action arose out of or relates to the defendant’s contacts with the forum state.” *Russell v. SNFA*, 2013 IL 113909, ¶ 40 (citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985)). “Under specific jurisdiction, a nonresident defendant may be subjected to a forum state’s jurisdiction based on certain ‘single or occasional acts’ in the state but only with respect to matters related to those acts.” *Id.* (quoting *Goodyear Dunlop Tires Operations S.A. v. Brown*, 564 U.S. 915, 919 (2011)) (“[S]pecific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.”). “For specific jurisdiction, a defendant’s general connections with the forum are not enough.” *Bristol-Myers Squibb Co. v. Superior Court of Cal. San Francisco Cty.*, 137 S. Ct. 1773, 1781 (2017).

“In determining whether minimum contacts exist, the court considers ‘the relationship among the defendant, the forum and the litigation.’” *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 775 (1984). To establish minimum contacts, Westforth’s conduct must have been purposely directed towards Illinois. *Burger King*, 471 U.S. at 474-476. Further, Westforth’s contacts with the forum must lead it to “reasonably anticipate being haled into court there” relative to those

specific transactions. *World-Wide Volkswagen Corp.*, 444 U.S. 286, 295-297 (1980); *Walden v. Fiore*, 134 S. Ct. 1115 (2014).

B. The Ford Case Does Not Reduce The City's Burden.

1. Ford emphasizes the centrality of the “related to” analysis.

Ford Motor Company v. Montana Eighth Judicial District Court involved a question of whether personal jurisdiction could be held over it in a state where it sold vehicles but did not sell the specific defective vehicle at issue; it re-emphasized the disjunctive nature of the “arise out of or relate to” standard for specific jurisdiction minimum contacts. 141 S. Ct. 1017 (2021). Observing that “Ford has a veritable truckload of contacts with Montana and Minnesota,” the Court noted that while the specific injury did not directly arise out of the company’s contacts with the forum jurisdiction, specific jurisdiction could still be exercised for claims related to those contacts:

Here, resident-plaintiffs allege that they suffered in-state injury because of defective products that Ford extensively promoted, sold, and serviced in Montana and Minnesota.

Id. at 1033.

Unlike here, Ford’s contacts with the forum states were extensive and unquestionably “related to” the claims:

By every means imaginable – among them, billboards, TV and radio spots, print ads, and direct mail – Ford urges Montanans and Minnesotans to buy its vehicles, including (at all relevant times) Explorers and Crown Victorias. [] The company’s dealers in Montana and Minnesota (as elsewhere) regularly maintain and repair Ford cars, including those whose warranties have long since expired. And the company distributes replacement parts both to its own dealers and to independent auto shops in the two States. Those activities, too, make Ford money. And by making it easier to own a Ford, they encourage Montanans and Minnesotans to become lifelong Ford drivers.

* * * *

Ford had systematically served a market in Montana and Minnesota for the very vehicles that the plaintiffs allege malfunctioned and injured them in those States. So there is a strong “relationship among the defendant, the

forum, and the litigation” – the “essential foundation” of specific jurisdiction.

Id. at 1028-1029. *Ford* analysis can only be used to permit specific personal jurisdiction where contacts are extensive and the injury relates to those contacts. *See, e.g., Esquivel v. Airbus Ams.*, 2021 U.S. Dist. LEXIS 193344 (N.D. Ill. 2021). Thus, irrespective of causation, only contacts of the defendant with the forum state relating to the claims can be used for specific jurisdiction.

2. Contacts unrelated to the litigation cannot confer jurisdiction.

Even if a defendant has contacts with a forum state, such contacts are irrelevant and cannot be used to establish specific jurisdiction over a defendant unless the plaintiff’s claims relate to those contacts. *Ford*, 141 S. Ct. at 1028. In fact, *Ford* expressly stated that the “essential foundation of specific jurisdiction” is “a strong relationship among the defendant, the forum, and the litigation.” *Id.* (citing *Helicopteros Nacionales de Columbia v. Hall*, 466 U.S. 408, 414 (1983) (internal quotations omitted) (emphasis added)); *Walden*, 571 U.S. at 284. Moreover, specific personal jurisdiction is not the free for all that the City makes it out to be:

[S]ome relationships will support jurisdiction without a causal showing. That does not mean anything goes. In the sphere of specific jurisdiction, the phrase “relate to” incorporates real limits, as it must to adequately protect defendants foreign to a forum.

Ford, 141 S. Ct. at 1026. This approach, however, is not new, and such was highlighted by the Court. *Id.* at 1026; *Goodyear*, 564 U.S. at 930 n.6 (“[E]ven regularly occurring sales of a product in a state do not justify the exercise of jurisdiction over a claim unrelated to those sales.”).

Ford does not open the floodgates to specific personal jurisdiction. For example, the Supreme Court of Oregon, applying *Ford*, recently reiterated the significance of relationship between a defendant’s in-state activity and the foreseeability of being sued related to that activity:

We continue to adhere, however, to our conclusion that a case will “arise out of or relate to” the defendant’s connection to Oregon only if the

defendant’s Oregon activities “provide a basis for an objective determination that the litigation was reasonably foreseeable. Nothing about the Court’s analysis in *Ford Motor Co.* calls into question that Court’s prior assertion that the concept of foreseeability is “critical to due process analysis.”

* * * *

In addition, there must be a relationship between the defendant’s activities in the state and the particular claims – commonly described as a requirement that the plaintiff’s claims “must arise out of or relate to the defendant’s contacts with the forum” state. At a minimum, to satisfy that requirement, the “nature and quality” of the defendant’s Oregon activities must permit a determination that it was “reasonably foreseeable” that the defendant would be sued in Oregon for the type of claim at issue.

Cox v. HP Inc. 368 Ore. 477 (2021); *see also Hepp v. Facebook*, 2021 U.S. App. LEXIS 28830, *4 (3rd Cir. 2021); *Sambrano v. United Airlines, Inc.*, 2021 U.S. Dist. LEXIS 215289 (N.D. Tex. 2021); *Murphy v. Viad Corp.*, 2021 U.S. Dist. LEXIS 192453 (E.D. Mich. 2021); *Zurich A.M. Life Ins. Co. v. Nagel*, 2021 U.S. Dist. LEXIS 217865 (S.D. N.Y. 2021); *O’Neil v. Somatics, LLC*, 2021 U.S. Dist. LEXIS 183730 (D. N.H. 2021).

Nothing in *Ford* reduces the City’s burden to prove Westforth’s intentional, knowing contacts with Illinois that relate to its specific claims. Here, the City’s claims relate to transfers direct to consumers in Indiana, not transfers in Illinois or to FFLs in Illinois or anywhere else.

II. WESTFORTH LACKS SUFFICIENT MINIMUM CONTACTS WITH ILLINOIS TO REASONABLY ANTICIPATE BEING HALED INTO COURT THERE.

A. Only Westforth’s Contacts With Illinois Are Of Jurisdictional Significance.

In *Walden v. Fiore*, 134 S. Ct. 1115 (2014), the U.S. Supreme Court addressed the Constitutional due process considerations that must be satisfied before a court may exercise personal jurisdiction over an out-of-state defendant. Specifically, noting that “[t]he Due Process Clause of the Fourteenth Amendment constrains a State’s authority to bind a nonresident defendant to the judgment of its courts,” the court in *Walden* focused on the limits of specific jurisdiction and the necessary “minimum contacts” analysis to create specific jurisdiction. What the Court in

Walden highlighted was that it is only a particular defendant's contacts with the forum state – not those of other individuals – upon which specific jurisdiction may be based.

If no part of a defendant's course of conduct occurred in the forum state and the defendant formed no jurisdictionally relevant contacts with that forum, the minimum contacts prerequisite to the exercise of jurisdiction over that defendant are lacking. *Walden*, at syllabus. Due process requires a showing that a defendant's relationship with the forum "arise out of contacts that the 'defendant himself' creates with the forum State," as "[d]ue process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant – not the convenience of plaintiffs or third parties." *Id.* at 1122. No matter how significant others' contacts with the forum state, "those contacts cannot be 'decisive in determining whether the due process rights are violated.'" *Id.* It is a defendant's contacts that matter, "not the defendant's contacts with persons who reside there." *Id.*

Ultimately, *Walden* emphasizes that the only determinative and decisive factor for the court's constitutional due process analysis is whether Westforth itself had sufficient contacts of jurisdictional significance with Illinois to reasonably anticipate being haled into court there. All that matters under *Walden* is the extent of Westforth's contacts within Illinois relative to the City's alleged injury. Here, of course, there were none.

B. Placing A Product In The Stream Of Commerce, By Itself, Cannot Support A Finding Of Jurisdiction.

Merely placing a product into commerce, without expecting that it will be purchased by consumers in a given forum, is not enough to establish the purposeful activity towards the forum state required for the exercise of personal jurisdiction. *Asahi Metal v. Sup. Ct. of Calif.*, 480 U.S. 102, 112 (1987); *World-Wide Volkswagen*, 444 U.S. at 297-298. Instead, there must be "some act by which the defendant purposely avails itself of the privilege of conducting activities with the

forum State, thus invoking the benefits and protection of its laws.” *Hanson v. Denckla*, 357 U.S. 235, 253 (1958).

C. Referral Of Business Elsewhere Is Not Sufficient To Establish Jurisdiction.

The City’s complaint cited a 2018 Facebook post by Westforth directing prospective out-of-state purchasers to other dealers. Of course, the discount program offered by Glock, a manufacturer, applied to pistols which, as discussed above, cannot be transferred from an FFL to a resident of another state. Thus, the ad specifically acknowledges Westforth’s inability to sell product under this program to non-Indiana residents directly and merely offers to assist non-Indiana veterans in locating a participating dealer in their own states. To the extent that the City relies on Westworth’s May 2018 Facebook posting to somehow create jurisdiction presumably everywhere in America, such is entirely unsupported by the law.

D. A Firearm Trace Has No Jurisdictional Significance.

The City’s complaint alleged that certain firearms were “traced” by ATF, but that, too, is immaterial. A firearm trace is initiated by request to ATF from a law enforcement agency for *bona fide* law enforcement purposes through the submission of a trace request to ATF. 18 U.S.C. § 923(g)(7). Upon receipt of a valid trace request, the ATF’s Tracing Center begins the process of contacting licensees by first contacting the manufacturer or importer, and then the wholesaler, retailer, and any other licensees in the chain of distribution. ATF’s sole inquiry to each licensee is the same, namely, to whom did they transfer the firearm. ATF continues to inquire down the chain of distribution until it can identify the first non-licensee retail purchaser. Each licensee is required by law to keep an acquisition and disposition record, from which the licensee should be able to answer the trace request. *See*, 18 U.S.C. § 923(g)(1)(A). The licensee is not required to keep any record of the trace request it receives from ATF.

ATF provides only the serial number of the weapon it is seeking to trace. ATF does not provide the licensee with any information concerning the location of the law enforcement agency originating the trace, the reason for the request, or even if the firearm being traced had anything to do with, let alone was used in, a crime. For example, if the police cannot read a digit of the serial number on a gun, they may trace all ten guns bearing numbers 0-9 for that digit of the serial number. Each licensee, such as Westforth, knows only its piece of information in the chain of distribution. Thus, the mere fact that a firearm was traced provides no usable information to an FFL for knowing where or how that firearm came to the attention of law enforcement.

III. TRANSFERS OF FIREARMS TO ILLINOIS FFLS AND LONG GUN SALES TO ILLINOIS RESIDENTS ARE UNRELATED TO THE CITY'S CLAIMS.

As the City notes, Westforth has transferred firearms to Illinois FFLs and sold long guns to Illinois residents at its store in Indiana. While these transfers and sales may involve Illinois customers, they are irrelevant to the Court's analysis. Specifically, the City's claims are not about those sales. Rather, the City's claims are about alleged straw purchasers traveling to Indiana to acquire firearms, not Illinois State Police approved FOID card holders purchasing firearms for themselves or transfers to Illinois FFLs. The City has neither alleged nor provided evidence of any such customer being a "straw purchaser" or otherwise involved in any alleged third-party criminal trafficking activity from Indiana to Illinois at the heart of its claims against Westforth.

An Illinois Appellate Court in the Fourth District recently rejected an attempt by a plaintiff to bootstrap claims to unrelated forum contacts as the City is attempting to do here:

While defendant admits it has service facilities in Illinois, it argues plaintiff never alleged that its one-time service on her vehicle occurred at, or has anything to do with, any of its Illinois service centers, nor does plaintiff allege she ever had any contact with one of defendant's Illinois service centers.

* * * *

Here, we find plaintiff's cause of action (negligence) did not arise out of or relate to defendant's contacts with Illinois, specifically, defendant's service centers in Illinois. Defendant performed maintenance work on plaintiff's vehicle in Arkansas. Thus, the only thing connecting defendant to Illinois as it relates to plaintiff's cause of action is the fact that plaintiff chose to drive to Illinois and was subsequently injured in Illinois. However, a "plaintiff cannot be the only link between the defendant and the forum." *Walden*, 571 U.S. at 285. Our case is distinguishable from *Ford Motor Co.*, where plaintiff, not defendant, established a relationship among the forum and the litigation. Accordingly, where plaintiff's cause of action did not arise out of or relate to defendant's contacts with Illinois, plaintiff failed to meet her burden of establishing a *prima facie* basis to exercise specific personal jurisdiction over defendant.

Morrison v. JSK Transp., Ltd., 2022 IL App (4th) 210542-U, ¶¶ 41-42.

Other Courts have rejected jurisdictional bootstrapping arguments as well. “Simply serving the forum state’s market – even serving the relevant product to the market – is not alone enough of a relationship to meet the minimum contacts requirement.” *Tyler v. Ford Motor Co.* 2021 U.S. Dist. LEXIS 221863 (M.D. Ala. 2021) (no specific personal jurisdiction over Ford Motor Co. even applying *Ford* as “[i]t is clear that mere purposeful availment remains insufficient to impart personal jurisdiction if the contacts are not related to the controversy at suit.”); *see also Colluci v. Whole Foods Mkt. Servs.*, 2021 U.S. Dist. LEXIS 64063 (N.D. Ill. 2021) (even where contacts with Illinois are related to the type of product at issue, there is no jurisdiction if the claim is unrelated to those contacts).

Unlike here, specific jurisdiction over a defendant is justified only where the defendant’s own contacts are at the center of the dispute rather than unilateral contacts of third parties. *Houlihan Trad. Co. v. CTI Foods*, 2021 U.S. Dist. LEXIS 231819 (E.D. Mo. 2021) (claims “relate to” the forum state under *Ford* where “[the defendant’s] contacts [] lie ‘at the heart of this contract dispute’”); *Kosar v. Columbia Sussex Mgmt.*, 2021 U.S. Dist. LEXIS 221913 (N.D. Ill. 2021) (applying *Ford*, even where “lawsuit undoubtedly would not have occurred” had the third-party

defendant not hired a particular Illinois resident, that employment relationship “did not cause or relate to the alleged injury” and could not serve as a basis for specific personal jurisdiction.); *Dental Health Prods. v. Coleman*, 2022 U.S. Dist. LEXIS 90914 (E.D. Wisc. 2022) (“Plaintiff has not offered any evidence of litigation-specific conduct ... to establish specific jurisdiction.”). Thus, even where a defendant has otherwise sufficient minimum contacts to a forum state, specific personal jurisdiction does not arise against that defendant unless the plaintiff’s claims relate to those specific contacts. *Steel Warehouse v. Leech*, 154 F.3d 712, 714-715 (7th Cir. 1998) (“Specific jurisdiction cannot lie without a connection between the defendants’ [in-state] activity and the claims alleged in the complaint.”); *Dugger v. Horseshoe* 2005 U.S. Dist. LEXIS 61582, *5 (N.D. Ill. 2005) (Illinois contacts insufficient where plaintiff showed no connection between those contacts and the claimed injuries).

A. Retail Long Gun Sales In Indiana To Illinois Residents Cannot Create Specific Personal Jurisdiction Over Westforth In Illinois On The City’s Claims.

Retail long gun sales to Illinois residents at Westforth’s place of business in Indiana cannot confer specific jurisdiction over Westforth. The City’s litigation is based upon its premise, albeit unfounded, that “Westforth feeds the market for illegal firearms by knowingly selling its products to an ever-changing roster of gun traffickers and straw (sham) purchasers who transport Westforth’s guns from Indiana into Chicago, where they are resold to individuals who cannot legally possess firearms, including convicted felons and drug traffickers” because of Indiana’s “significantly weaker gun laws.” See Complaint, ¶ 1, 28; see also Comp. ¶ 97 (Count I); ¶ 105 (Count II); ¶¶ 112, 114 (Count III); ¶ 122 (Count IV). That is, all of the City’s claims are about alleged straw purchasers trafficking firearms.

The City has identified the transfers that it alleges were straw purchases by alleged firearm traffickers, and there is no overlap whatsoever between that list of transfers and Westforth's retail sale of long guns in Indiana to Illinois FOID card holders. Plaintiff has not alleged or proven such.

B. Transfers To FFLs In Illinois Cannot Give Rise To Specific Personal Jurisdiction Over Westforth In Illinois On The City's Claims.

Transfers of handguns to Illinois FFLs cannot confer specific jurisdiction over Westforth on the City's claims. Again, the City has identified the transfers that it alleges were straw purchasers by alleged firearm traffickers, and there is no overlap whatsoever between that list of transfers and Westforth's transfers of firearms to Illinois FFLs.

C. The City's Reliance Upon Product Defect Cases Is Misplaced.

To expand the "relate to" analysis, the City relies on a string of defective product cases where specific jurisdiction was found to apply where a supplier sold products into the state but not the specific unit alleged to be defective. For instance, *Russell* involved claims arising out of a helicopter crash allegedly resulting from defectively manufactured bearings and the manufacturer had sold other bearings into Illinois. *Russell v. SNFA*, 2013 IL 113909. As in *Ford*, where the Court did not require a specific defective product to have been sold into the state directly where the manufacturer sells the same or similar products, the Court in *Russell* likewise did not distinguish between specific subcategories of bearings sold for its jurisdictional analysis over the bearing supplier. *Id.* Similarly, the court in *Harding*, applying both *Ford* and *Russell*, determined that a manufacturer in a product defect case was subject to jurisdiction in Illinois where the defendant "manufactured a nitinol filter that could *only* enter the stream of commerce through the marketing efforts" of a particular company whose Illinois sales constituted nearly 60% of its annual sales for the better part of a decade. *Harding v. Cordis Corp.*, 2021 IL App (1st) 210032 (reaffirmed applicability of *Ford* in a defect case against out-of-state manufacturer); *Kothawala v.*

Whole Leaf, LLC, 2023 IL App (1st) 210972 (manufacturer of defective battery sold nearly 2 million of the batteries into Illinois in the two years prior).

Here, of course, the City's claims do not relate to an allegedly defective product, nor is Westforth's defense a matter of units, models, or SKUs. Rather, the City's claims relate to specific transactions that took place in Indiana involving sales to Indiana residents, and other contacts with Illinois cannot confer specific personal jurisdiction over Westforth relating to these transactions.

D. The City's Other Cited Authority Is Distinguishable And Inapplicable.

The City has cited a handful of other cases in support of its position but they do not, in actuality, support its position. They nonetheless merit mention to highlight the distinction from the present litigation. *Illinois v. Hemi Grp. LLC*, 522 F.3d 754 (7th Cir. 2010) (claims related to product seller shipped into Illinois); *Allerion, Inc. v. Nueva Icacos, S.A. de C.V.*, 283 Ill. App. 3d 40 (1st Dist. 1996) (contract claim negotiated on behalf of defendant using Illinois-based agent); *People ex rel. Morse v. E & B Coal Co., Inc.*, 261 Ill. App. 3d 738 (5th Dist. 1994) (claims against director of an Illinois corporation related to his actions in that capacity); *Strabala v. Zhang* 318 F.R.D. 81 (N.D. Ill. 2016) (defamation claims related to defendant sending communications to individuals in Illinois); *Kollmorgen Corp. v. Yaskawa Elec. Corp.*, 169 F. Supp. 2d 530 (W.D. Va. 1999) (manufacturer contracted with distributor to reach market); *Barone v. Rich Bros. Interstate Display Fireworks Co.*, 25 F.3d 610 (8th Cir. 1994) (manufacturer contracted with distributor to reach market); *Delehanty v. Hinckley*, 686 F. Supp. 920 (D.D.C. 1986) (defendants "purposefully engaged in a nationwide distribution scheme" through contracted distributors).

Each of these cases highlights precisely the type of purposeful availment and contacts related to the claims that are necessary to establish specific personal jurisdiction.

IV. SALES TO ALLEGED STRAW PURCHASERS DO NOT RELATE TO ANY WESTFORTH CONTACTS WITH ILLINOIS.

Because the City's claims center on transactions involving sales to alleged straw purchasers, the City was required prove Westforth's purposeful contacts with Illinois as to those specific transactions. The City failed to do so. Each transaction involving an alleged "straw purchaser" took place in Indiana, each such transaction involved a purchaser providing an Indiana residential address, and each transaction involved a purchaser providing photo identification issued by the Indiana government attesting to Indiana residency. The City's arguments as to these transactions boil down to essentially: 1) people sometimes straw purchase firearms and traffic them across state lines, 2) FFLs are aware of the existence of straw purchasing, and 3) Westforth is near the Illinois border. That, however, is woefully insufficient for the City to meet its burden.

A. The City's Claims Do Not Involve Illinois Contact Attributable To Westforth.

Applying *Walden*, it is Westforth's contacts with the forum state, not the action of someone else at some later time, that is determinative for this Court's jurisdictional analysis as to Westforth. "The Supreme Court has explained that the contacts supporting purposeful direction must be the defendant's own choice and not 'random, isolated, or fortuitous.'" *Cisco Sys. v. Dexon Comput., Inc.*, 2021 U.S. Dist. LEXIS 103613 (N.D. Cal. 2021)(quoting *Ford*, supra at 1025 (quoting *Keeton*, 465 U.S. at 774)); see also *Williams v. Beemiller*, 33 N.Y.3d 533 (2019) (no jurisdiction despite was evidence that the FFL may have had reason to know that the purchaser may himself eventually take the guns to New York).

B. The City's "Distributor" Theory Does Not Support Jurisdiction.

Because the complained-of transactions do not involve any contacts of Westforth with Illinois, the City is left with relying on the actions of third parties as its basis for establishing jurisdiction in contravention of *Walden*. In fact, the City even went so far as to fabricate a theory

that the alleged straw purchasers are Westforth's "distributors" to Illinois for purposes of making a connection where there is none. Thus, in a clear attempt to circumvent *Walden* and somehow make the conduct of third parties attributable to Westforth, the City cited a slew of cases where jurisdiction applied over manufacturers who actually contracted with distributors to supply product on their behalf to the forum state. *Hernandez v. Oliveros*, 2021 IL App. (1st) 2000032, ¶¶23-24 (distributor served market on defendant's behalf); *Schaefer v. Synergy Flight Ctr., LLC*, 2019 IL App (1st) 181779, ¶ 4 (defective product sold through distributor into Illinois for a plane owned by an Illinois company).

While a party's purposeful availment need not be direct, such indirect purposeful availment requirement can only be achieved through a third party if that third party "makes contact with the forum state *bilaterally* rather than *unilaterally*." *Hernandez*, 2021 IL App. (1st) 2000032 at ¶23 (emphasis in original) (citing *Khan v. Gramercy Advisors, LLC*, 2016 IL App (4th) 150435, ¶ 171; *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 479, (1985)). "Bilateral acts can occur when two parties have a business relationship or contractual understanding that contemplates one party's acting for the benefit of both in the forum state." *Id.* Here, the City has provided no evidence that Westforth contracted with anyone to take product to Illinois on its behalf. Absent a distributor relationship, Courts have routinely rejected "knew or should have known" arguments for specific personal jurisdiction such as those put forth by Plaintiff here. *Companion Prop. & Cas. Ins. Co. v. U.S. Bank Nat'l Ass'n*, 2016 U.S. Dist. LEXIS 158389, *31-32 (D.S.C. 2016)(citing *Maxitrate Tratamento Termico E Controles v. Super Sys., Inc.*, 617 F. App'x 406, 408 (6th Cir. 2015)); *Campinha-Bacote v. Wick*, No. 1:15-cv-277, 2015 U.S. Dist. LEXIS 157372, 2015 WL 7354014, *5 (S.D. Ohio 2015); *see also Accident Ins. Co. v. U.S. Bank N.A.*, 2017 U.S. Dist. LEXIS 156301, *7-8 (D.S.C. 2017); *Flipside Wallets LLC v. Brafman Group, Inc.*, 2020 U.S. Dist. LEXIS 50206,

*8 (E.D. Pa. 2020) (“Even if [defendant] knew or should have known that its [products] would end up in Pennsylvania through Amazon sales, that expectation is insufficient to establish specific jurisdiction.”) “It is the defendant's actions, not [its] expectations, that empower a State's courts to subject him to judgment.” *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 837, 882-883 (2011) (emphasis added).

CONCLUSION

Because the Appellate Court’s decision creates a *de facto* specific personal jurisdiction based upon geographic proximity of out-of-state sellers of small, easily transported goods where third parties unilaterally transport products across state lines and conflicts with governing authority by expanding “arising out of or relating to” analysis, Westforth’s petition should be granted.

Dated: Chicago, Illinois
April 17, 2025

Respectfully submitted,

By:

s/s Richard J. Leamy, Jr.

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CERTIFICATE OF SERVICE

I, Richard J. Leamy, Jr., an attorney, on oath, states that he served the foregoing documents and this notice via the court's electronic filing system and by e-mailing copies to the parties mentioned below at their respective e-mail addresses this 17th day of April 2025.

/s/ Richard J. Leamy, Jr. _____
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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 20 pages.

s/s Richard J. Leamy, Jr. _____