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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Appellate Case No. 2025-002086

Reid Fleming..... Petitioner,

v.

The Planet Vape, LLC; SCECIGARETTE, LLC; LG
Chem, Ltd.; John Doe Distributor #1; John Doe
Distributor #2; and John Doe Distributor #3 Defendants,

Of which LG Chem, Ltd. is the..... Respondent.

BRIEF OF RESPONDENT

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Counter-Statement of Issues on Appeal

- I. Did the Court of Appeals correctly apply South Carolina law when affirming the circuit court's conclusion that Petitioner failed to establish a prima facie case of jurisdiction?
- II. Did the Court of Appeals correctly apply federal precedents when affirming the circuit court's conclusion that the "relatedness" element of federal due process was not satisfied?
- III. Did the Court of Appeals correctly affirm the circuit court's conclusion that the "stream of commerce" analogy does not support the exercise of personal jurisdiction?
- IV. Did the Court of Appeals correctly affirm the circuit court's conclusion that Petitioner's failure to meet his burden of proof on the power prong required dismissal?

Counter-Statement of the Case

Petitioner Reid Fleming ("Petitioner" or "Fleming") appeals the dismissal of his products liability action against the alleged manufacturer for lack of personal jurisdiction.

Petitioner Reid Fleming filed his Complaint on April 12, 2021. Petitioner alleged that he was injured on May 24, 2018 when an 18650 battery cell he purchased from defendants The Planet Vape and SC E-Cigarette as a standalone battery to power his e-cigarette device exploded in his pocket. (App'x 131.) Petitioner alleged that LG Chem manufactured the cell. (App'x 131.)

Petitioner served his Complaint on LG Chem in South Korea through the Hague Service Convention on June 15, 2021. LG Chem moved to dismiss Petitioner's complaint for lack of personal jurisdiction. (App'x 140–142.) LG Chem's motion was supported by the Affidavit of Mr. Hwi Jae Lee. (App'x 143–149.)

On January 7, 2022, pursuant to the circuit court's instructions, both parties filed their briefs. LG Chem filed its Memorandum of Law in Support of its Motion to Dismiss. (App'x 156–177.) Petitioner filed his Response in Opposition to Defendant's Motion to Dismiss, attaching in support the affidavit of his counsel, dated January 7, 2022, and copies of LG Chem's 2018 and 2017 financial statements; import data; a Certificate of Authority and Business Registration for a

subsidiary of LG Chem; and orders from a North Carolina federal district court and other South Carolina trial courts. (App'x 178–381.)

On January 11, 2022, LG Chem filed the Reply Affidavit of Hwi Jae Lee (App'x 382–387) and a Motion for Leave to File a Reply Brief. (App'x 499–528.) Petitioner filed the Declaration of Nickie Bonenfant and appendices. (App'x 388–498.)

The circuit court conducted a lengthy hearing on January 18, 2022, during which the court asked many questions, and the parties had ample opportunity to argue the facts and law. (App'x 649–691.) On January 26, 2022, the Court notified the parties by email that LG Chem's Motion to Dismiss was granted and directed LG Chem to submit a proposed order. (App'x 606.) On February 2, 2022, LG Chem submitted its proposed order. (App'x 610–622.) Petitioner raised one specific objection regarding one sentence in the facts and generally objected to the overall analysis in the Court's Order. (App'x 624–638.) LG Chem submitted an amended proposed order addressing Petitioner's objection. (App'x 640–646.) Petitioner raised no further objections. On February 7, 2022, the Court entered its Order granting LG Chem's Motion to Dismiss. (App'x 113–123.)

On February 17, 2022, Petitioner filed his Motion to Reconsider, attaching portions of a transcript of the personal deposition of an LG Chem employee taken in September 2018 in a lawsuit in Georgia. (App'x 529–543.) Petitioner asked the Court to reconsider its February 7, 2022 Order, arguing that the Order was based on a misunderstanding and/or misapprehension of facts regarding LG Chem's products and South Carolina contacts and that the Order effectively leaves Petitioner with no forum for his claims against LG Chem. (App'x 529.)

On February 22, 2022, LG Chem filed its Response in Opposition to Petitioner's Motion to Reconsider, supported by exhibits, stating that the Court correctly applied the law to the facts and that a motion to reconsider is not an appropriate time to raise matters that could have been, but

were not, raised before the Court ruled on the Motion to Dismiss. (App’x 547–560.) On February 23, 2022, the Court denied Petitioner’s Motion to Reconsider. (App’x 124–126.)

On March 21, 2022, Petitioner filed his Notice of Appeal in the Court of Appeals. (App’x 111.) On April 19, 2022, Petitioner filed a motion to certify this case to the Supreme Court. On May 17, 2022, the Supreme Court denied the motion. (5/17/22 Order.)

On January 25, 2023, Petitioner filed his Final Brief of Appellant (App’x 19-46) and Final Reply Brief (App’x 87–112) in the Court of Appeals. On February 1, 2023, LG Chem filed its Final Brief of Respondent. (App’x 47–86.) On June 2, 2025, Petitioner filed Appellant’s Supplemental Citation Letter. On June 2, 2025, LG Chem filed Respondent’s Supplemental Citation Letter. On June 3, 2025, the Court of Appeals held oral argument.

On August 13, 2025, the Court of Appeals issued its decision, affirming the circuit court’s order dismissing LG Chem. On August 28, 2025, Petitioner filed his Petition for Rehearing. (App’x 10–18.) On September 10, 2025, the Court of Appeals denied the Petition for Rehearing. (App’x 8–9.) On October 10, 2025, Petitioner filed his Petition for Writ of Certiorari. (App’x 707–723.) On November 10, 2025, LG Chem filed Respondent’s Return to the Petition for Writ of Certiorari. (App’x 724–747.) On November 20, 2025, Petitioner filed his Reply to Respondent’s Return to the Petition. (App’x 748–755.) On January 13, 2026, this Court granted the Writ Petition. On March 4, 2026, Petitioner filed his Brief of Petitioner and Appendix of Petitioner.

Counter-Statement of Facts

A. Petitioner’s claims.

Petitioner Reid Fleming is a resident of Anderson County, South Carolina. (App’x 127.) Petitioner alleged that on or around May 24, 2018, he was injured when a lithium-ion battery he had purchased from Planet Vape and SC E-Cigarette for use with his e-cigarette device exploded in his pocket. (App’x 132.) Petitioner further alleged that these retailers marketed or represented

the batteries as being LG brand. (App’x 131.) Petitioner did not specifically identify the type of battery at issue in his Complaint. (App’x 127–139.) Petitioner subsequently identified the type of battery at issue as an LG 18650. (App’x 36.)

B. Petitioner’s jurisdictional allegations.

In his Complaint, Petitioner generically alleges that LG Chem’s lithium-ion batteries caused tortious injury in South Carolina under circumstances where LG Chem “regularly does or solicits business,” “engages in other persistent conduct,” and/or “derives substantial revenue from goods used or consumed” in the state. (App’x 128, ¶ 9(a).) Petitioner alleges that LG Chem manufactures and distributes “batteries” with the reasonable expectation they would be used in South Carolina (*id.* ¶ 9(b)); transacts business in the state, including through shipments of “battery products” made directly or through wholly owned subsidiaries via South Carolina ports (*id.* ¶ 9(c)); targets South Carolina through marketing efforts (*id.* ¶ 9(d)); manufactures “lithium-ion battery products” expecting they will be distributed and sold in South Carolina (App’x 129, ¶ 10(b)); and distributes “lithium-ion battery products” to South Carolina companies and through South Carolina ports. (*Id.* ¶ 10(c).)

C. LG Chem’s motion to dismiss.

LG Chem is a Korean corporation with its headquarters and principal offices in Seoul, South Korea. (App’x 146.) Petitioner did not dispute this fact and conceded that general jurisdiction is not at issue. (App’x 24, 127.)

LG Chem’s motion to dismiss was supported by the Affidavit of Hwi Jae Lee, showing that: LG Chem never designed, manufactured, distributed, advertised, or sold its 18650 lithium-ion battery cells to consumers for use as standalone, replaceable batteries (with e-cigarette devices or for any other purpose) in South Carolina or anywhere else, and never authorized anyone else to

do so (App’x 147–148, ¶¶ 16–17, 19–21); the lithium-ion cells LG Chem manufactured were industrial component parts, not standalone, replaceable consumer batteries, and they were not designed to be handled by consumers (App’x 147, ¶ 16); LG Chem never conducted any business with the South Carolina vape store that allegedly sold the subject battery cell to a South Carolina consumer as a standalone battery and never authorized them or anyone else to advertise, distribute, or sell its lithium-ion cells to individual consumers for use as standalone, replaceable batteries (App’x 148, ¶¶ 20–21); and LG Chem never distributed, supplied, sold, or shipped any lithium-ion battery cells to anyone in South Carolina known to LG Chem to be engaged in the business of selling 18650 lithium-ion cells directly to individual consumers for use as standalone, replaceable batteries for vaping devices. (App’x 147–148, ¶ 19.)

D. Petitioner’s opposition to the motion to dismiss.

In opposition to LG Chem’s Motion to Dismiss, Fleming submitted the affidavit of his counsel, attaching copies of LG Chem’s 2018 and 2017 financial statements; import data from a company called ImportGenius; a Certificate of Authority and Business Registration for a subsidiary of LG Chem; and orders from a North Carolina federal district court and other South Carolina trial courts. (App’x 178–498.)

Petitioner argued that his exhibits (Moore Exhibit 3) showed that LG Chem had made “984 shipments through the Port of Charleston, with 818 of those shipments consigned by [LG Chem America, Inc.]” (App’x 186 (relying on App’x 295-353).) Moore Exhibit 3 was a 59-page chart designating shipments with LG Chem America, Inc. as consignee. It included a “product description” column identifying the product shipments as petrochemical products such as “methyl acrylate”, “ethyl hexyl acrylate”, “resin ABS”, “acrylic acid,” and “synthetic rubber.” (App’x 295–353.) The product descriptions do not mention batteries of any type.

Petitioner also argued that his exhibits (Moore Exhibit 4) showed that “13 shipments of LG Chem lithium-ion batteries went through the Port of Charleston and shipped out to businesses operating in South Carolina.” (App’x 186 (relying on App’x 354).) The chart included a date column showing that only one shipment occurred before the subject incident (May 24, 2018) and that shipment went to a car company in Ridgeville. (App’x 354.) Of the remaining 12 shipments, all of which were after the incident, 9 went to the same car manufacturer in Ridgeville and 3 went to a power company in North Carolina. (App’x 354.)

Petitioner also argued that his exhibits (Moore Exhibit 5) showed that LG Chem had been authorized to do business in South Carolina since 2010. (App’x 189, 355–358.) Petitioner argued that five other circuit courts (Moore Exhibit 6) had denied similar motions to dismiss in other cases involving similar claims after relying on similar information and exhibits and submitted those decisions. (App’x 189–190, 359–376.) Petitioner submitted a 2015 decision of the Western District of North Carolina in *Celgard LLC v. LG Chem, Ltd.* (App’x 269–293.)

Petitioner did not request jurisdictional discovery. He argued that his allegations and the publicly available evidence he submitted satisfied his burden. (App’x 181–196.)

E. LG Chem’s reply to Petitioner’s opposition.

Before the hearing, LG Chem submitted a supplemental memorandum and a Reply Affidavit of Mr. Hwi Jae Lee addressing the matters raised in Petitioner’s response and exhibits. (App’x 502–508.) LG Chem’s evidence showed that: LG Chem had never been registered to do business in South Carolina and that its subsidiary, LGCAI, was a separate and independent company (App’x 516); LGCAI did not consign any type of lithium-ion battery products for delivery to anyone in South Carolina (App’x 517, 522); and LG Chem did not ship 18650 lithium-ion battery cells to either of the two companies listed on Petitioner’s Exhibit 4. (App’x 517.)

F. Hearing on the motion.

At the hearing, Petitioner argued that a lithium-ion battery is a lithium-ion battery and that he could not be required to distinguish between different types of batteries. (App’x 679–680.) Petitioner argued that the charts indicate that “lithium-ion batteries” and “battery products” had been shipped to South Carolina and he could not be required to make the distinction of 18650. (*Id.*)

In response, LG Chem pointed out that uncontroverted admissible evidence in the record, in addition to readily available public information, shows that “lithium-ion battery products” encompasses multiple different types of products. For example, lithium-ion battery cells the size and shape of a purse or briefcase can be joined together in battery systems the size of an office desk to power electric vehicles, such as cars and buses. (App’x 163.) LG Chem further pointed out that the type of battery cell at issue in this case (as Petitioner later acknowledged) and in every other decision that Petitioner asked the Court to consider is an 18650 lithium-ion cell, which is an industry standard that measures 65 mm in length and 18 mm in diameter and is cylindrical in shape, comes in many different models, and is manufactured by multiple different companies. (App’x 661.) In response to Petitioner’s argument that his own charts were ambiguous as to the product type, LG Chem demonstrated to the Court that the description fields were searchable and identified only two entries appearing to reflect shipments of 18650 cells to anyone – and those went to an entity in Long Beach, California.¹ (App’x 570-71, 552.) Finally, LG Chem reiterated that it was

¹ During the hearing on LG Chem’s motion to dismiss, counsel for LG Chem stated that she had only seen one shipment that appeared to be an 18650 cell. In LG Chem’s response in opposition to Petitioner’s motion to reconsider, counsel for LG Chem clarified that upon further review, counsel could see that there were actually two entries appearing to reflect shipments of 18650s. (App’x 552.) The entries were close in time and undersigned counsel originally mistook them for the same shipment. (*Id.*) No entries on any of the other charts appear to refer to shipment of 18650 cells to anyone, nor did Petitioner point to any.

undisputed that it never supplied any lithium-ion battery cells (of any size or type) to consumers for use as standalone, replaceable batteries. (App’x 566, 572, 573, 578.)

G. Order granting LG Chem’s motion to dismiss.

By Order entered on February 7, 2022, the circuit court granted LG Chem’s motion to dismiss, concluding that Petitioner failed to meet his burden of establishing personal jurisdiction over LG Chem. (App’x 115, 121.) The circuit court first concluded that Petitioner’s allegations alone were conclusory and insufficient to make a prima facie showing that his claims arose out of or related to any contacts LG Chem purposefully directed toward South Carolina if the decision were based on the pleadings alone. (App’x 116.) The circuit court next concluded that, considering the extrinsic materials introduced by both parties, it was uncontroverted that LG Chem did not serve a consumer market for standalone 18650 batteries in South Carolina. (App’x 117–118.) Finally, the circuit court concluded that LG Chem’s unrelated business activities in South Carolina, including shipments of petrochemical products or even lithium-ion batteries as component parts shipped to manufacturers in South Carolina, could not support the exercise of specific jurisdiction because they were not related to Petitioner’s claims (App’x 118–119); rejected Petitioner’s stream-of-commerce theory as factually distinguishable from prior precedent (App’x 119–120); and determined that because Petitioner failed to satisfy the “power prong” of the jurisdictional analysis, the court need not reach the fairness prong. (App’x 121.) Accordingly, the circuit court ordered LG Chem dismissed from the action for lack of personal jurisdiction. (*Id.*)

H. Petitioner’s motion for reconsideration.

Petitioner moved to reconsider, arguing: that the Order was issued based on “a misunderstanding and/or misrepresentations of fact” regarding LG Chem’s products and contacts

with South Carolina; and the result was unfair because Petitioner was left “with no forum” and “no recourse” for his claims. (App’x 529.)

Petitioner argued that LG Chem’s counsel had misrepresented facts to the Court concerning LG Chem’s business activities, attaching portions of a transcript of a deposition of an LG Chem employee taken in 2018 in a Georgia lawsuit. (App’x 531–533.) Additionally, Petitioner provided the circuit court with native excel files for the Appendices to the Declaration of Nickie Bonenfant that had previously been filed in “PDF” format and stated that he could not tell from the excel spreadsheets which type of lithium-ion battery was involved in the shipments to the car manufacturers in South Carolina. (App’x 530.)

Petitioner asked the circuit court to reconsider its decision and deny the motion or, in the alternative, allow jurisdictional discovery. (App’x 538.)

I. LG Chem’s response to the motion for reconsideration.

LG Chem responded to the motion for reconsideration, showing first that LG Chem’s counsel had absolutely not misrepresented any facts to the court (App’x 551–552) and second illustrating that Petitioner’s own exhibits (provided in native format) could be searched for “18650,” showing that, on all of Petitioner’s charts, only two entries mentioned 18650 cells, which arrived in a California port for delivery to a manufacturer in California. (App’x 570–571, 552.) LG Chem further pointed out that its admissible evidence, which Petitioner did not contest, established that the single, pre-incident shipment to a car manufacturer in Ridgeville was not 18650s. (App’x 517.)

J. Order denying Petitioner’s motion to reconsider.

Promptly after LG Chem submitted its Memorandum in Opposition to the Motion to Reconsider, the circuit court denied the motion to reconsider in full, stating that “a motion for reconsideration is not a vehicle to re-litigate previously raised issues” or “to raise argument or

present evidence that could have been presented prior to the entry of judgment.” (App’x 125.)

K. Court of Appeals decision affirming the dismissal and reasoning.

After briefing and oral argument, the Court of Appeals issued its decision on August 13, 2025. Judge Thomas wrote the opinion of the Court. Judge Curtis concurred. Judge Hewitt dissented.

The Court of Appeals agreed with the circuit court’s reasoning and interpretation of the record in all respects. First, the Court of Appeals affirmed the circuit court’s conclusion that Petitioner had failed to establish a prima facie case of personal jurisdiction, either through his pleadings or through evidence submitted by the parties – including Petitioner’s proffered affidavit and voluminous exhibits. (App’x 2–3.) Specifically, the Court of Appeals agreed that Petitioner pled no facts, and offered no evidence, to support his conclusory assertion that his claims were related to forum-specific conduct by LG Chem. (App’x 3.)

Second, the Court of Appeals affirmed the circuit court’s distinction of the facts of this case from *Ford Motor Company v. Montana Eighth Judicial District Court*. By contrast to *Ford*, where Ford admittedly engaged in extensive, consumer-directed activities for the very type of vehicles at issue in that case (Ford Explorers and Crown Victorias), here, the uncontroverted evidence showed that it was third parties, acting without LG Chem’s authorization, that supplied consumers with the type of battery cells at issue and that LG Chem’s activities of shipping unrelated products to South Carolina did not satisfy due process. (App’x 3–4.)

Third, the Court of Appeals affirmed the circuit court’s distinction of the facts of this case from *State v. NV Sumatra Tobacco Trading Co.* and found that the stream of commerce analogy did not support the exercise of specific jurisdiction here. Unlike *Sumatra*, where the foreign defendant cigarette manufacturer admittedly sold nearly seven million cigarettes to South Carolina consumers through its intended distribution chain, here, LG Chem’s uncontroverted evidence

showed that LG Chem never manufactured, distributed, advertised, or sold 18650 lithium-ion battery cells as standalone batteries for use by consumers, and never authorized anyone else to do so either. (App’x 5–6.)

Finally, the Court of Appeals affirmed the circuit court’s conclusion that, because Petitioner failed to establish that the power prong of the specific jurisdiction analysis was satisfied, there was no need to consider the fairness prong. (App’x 6.)

In dissent, Judge Hewitt stated he found the allegations of the complaint, taken as true, adequate to support the exercise of personal jurisdiction. Judge Hewitt further stated that [t]his issue is dividing courts around the country,” that he is persuaded by the cases rejecting LG Chem’s core argument, and that South Carolina has a strong interest in providing a forum for its resident. (App’x 7.)

Standard Of Review

“The question of personal jurisdiction over a nonresident defendant is one which must be resolved upon the facts of each particular case.” *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005); *see also Hidria, USA, Inc. v. Delo*, 415 S.C. 533, 539, 783 S.E.2d 839, 842 (Ct. App. 2016). “The decision of the trial court should be affirmed unless unsupported by the evidence or influenced by an error of law.” *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508 (citing *Engineered Prods. v. Cleveland Crane & Eng'g*, 262 S.C. 1, 201 S.E.2d 921 (1974)). Errors of law are reviewed *de novo*.

Summary of Argument

This is not a typical product liability case. Here, the undisputed facts establish that the alleged manufacturer took no part in the chain of distribution that brought the subject battery to South Carolina. Instead, unidentified third parties, acting without LG Chem’s authorization, diverted an

18650 lithium-ion battery cell to a consumer vaping market, leading to Petitioner's ultimate purchase from a South Carolina vape store.

When Petitioner initially opposed LG Chem's motion to dismiss, he asked the circuit court to consider extrinsic evidence purportedly showing that LG Chem had supplied hundreds of shipments of lithium-ion batteries and battery products to South Carolina and because LG Chem had been held subject to jurisdiction here by five other circuit courts based on that same evidence.

The circuit court in this case dug into the record, as Petitioner invited it to do. The circuit court found Petitioner's allegations to be conclusory and generic, making no reference to the specific type of product at issue in this case and offering no facts to establish "relatedness." The circuit court construed all inferences in Petitioner's favor, but did not disregard plain, undisputed facts.

Reviewing the exhibits submitted, the circuit court found no evidence to support Petitioner's argument that LG Chem made "hundreds" of shipments of lithium-ion batteries into South Carolina, and more importantly, found it irrelevant when it was undisputed that LG Chem did not supply 18650 lithium-ion battery cells as standalone batteries to a consumer market in South Carolina (either directly or through an authorized intermediary). The circuit court determined that the "relatedness" element of the due process analysis was not satisfied on the undisputed facts of this case. Accordingly, the circuit court held that Petitioner had failed to meet his burden of proving jurisdictional facts necessary to satisfy constitutional due process and dismissed LG Chem. The Court of Appeals affirmed the circuit court's reasoning and conclusion in all respects.

As the circuit court and Court of Appeals correctly found, this Court's prior precedents support this result, as do U.S. Supreme Court precedents addressing constitutional due process.

Procedurally, it has long been South Carolina law that a plaintiff must plead specific facts – not conclusory allegations – to establish a prima facie case of jurisdiction over a non-resident product

manufacturer; that the burden of proof on this issue remains squarely on the plaintiff; and that the circuit court has discretion to consider matters outside the pleadings. Construing inferences in plaintiff's favor does not mean ignoring undisputed evidence and accepting the arguments of counsel when those arguments are contradicted by the plain words on the page.

Substantively, the Court of Appeals correctly applied well-established principles when affirming the circuit court's decision that Petitioner failed to show that his claims (personal injury arising from use of an 18650 lithium-ion battery cell as a standalone battery for his vaping device) arise out of or relate to any contacts formed by the defendant (not third parties) with the State of South Carolina. The Court of Appeals correctly focused on Petitioner's allegations and evidence concerning the defendant's alleged contacts for the specific product at issue (an 18650 lithium-ion battery cell) rather than the defendant's unrelated business activities in the state. The Court of Appeals correctly found that *Ford* and *Sumatra* were factually distinguishable, and those distinctions showed exactly why jurisdiction existed in those cases but was lacking here.

In addition, the Court of Appeals stands in good company with more than a dozen federal courts that have recognized that constitutional due process does not allow for the exercise of personal jurisdiction over a foreign manufacturer in a case like this. Instead, when the plaintiff alleges injury from an 18650 lithium-ion battery cell used in the state and the manufacturer did not supply a consumer market for 18650 battery cells, those courts have correctly found that the "relatedness" element of the due process test is not satisfied, regardless of whether "purposeful availment" is satisfied based on allegations or evidence (which did not exist in this case) that the manufacturer extensively supplied 18650 cells to sophisticated industrial customers in the forum. *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496 (9th Cir. 2023); *Ethridge v. Samsung SDI Co., Ltd.*, 163 F.4th 136 (5th Cir. 2025); *Quiniones v. LG Chem, Ltd.*, No. 23-15941, 2024 WL 4678053 (9th Cir. Nov. 5, 2024)

(unpublished); *B.D. ex rel. Myers v. Samsung SDI Co.*, 143 F.4th 757 (7th Cir. 2025); and cases cited *infra* at pp. 30–31.

ARGUMENT

I. The Court of Appeals correctly applied South Carolina law when affirming the circuit court’s conclusion that Petitioner failed to establish a prima facie case of jurisdiction.

A. Applicable standards.

“The question of personal jurisdiction over a nonresident defendant is one which must be resolved upon the facts of each particular case.” *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005); *see also Hidria, USA, Inc. v. Delo*, 415 S.C. 533, 539, 783 S.E.2d 839, 842 (Ct. App. 2016). “The party seeking to invoke personal jurisdiction over a non-resident defendant . . . bears the burden of establishing jurisdiction.” *Power Prods. & Servs. Co., Inc. v. Kozma*, 379 S.C. 423, 430, 665 S.E.2d 660, 664 (Ct. App. 2008).

To satisfy due process, the Court must find that (1) the defendant has the requisite minimum contacts with the forum, without which the court does not have the power to adjudicate the action (the power prong); and (2) the exercise of jurisdiction would be “reasonable” or “fair” (the fairness prong). *See S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992).

To meet the power prong, the suit must arise out of or relate to the defendant’s contacts with the forum. *See Cockrell*, 363 S.C. at 491–94, 611 S.E.2d at 509–10; *Power Prods.*, 379 S.C. at 433–35, 665 S.E.2d at 665–67; *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 360 (2021); *Bristol-Myers Squibb Co. v. Superior Ct. of California, San Francisco Cnty.*, 582 U.S. 255, 262 (2017). Specifically, the court must “find that the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities.” *Southern Plastics*, 310 S.C. at 260, 423 S.E.2d at 131; *Power Prods.*, 379 S.C. at 432, 665 S.E.2d

at 665. The relevant time for assessing contacts for specific jurisdiction is “at the time of the events underlying the dispute[.]” *Steel v. United States*, 813 F.2d 1545, 1549 (9th Cir. 1987).

B. The Court of Appeals correctly affirmed the circuit court’s conclusion that Petitioner’s allegations were legally insufficient to satisfy his burden.

The circuit court correctly found that, if it were to decide the motion to dismiss solely on the pleadings, the motion should be granted, because Petitioner did not plead any jurisdictional facts specific to the product at issue in the suit or showing how his claims were allegedly related to the defendant’s forum contacts. (App’x 116.)

In South Carolina, a plaintiff must allege specific facts to establish contacts necessary to invoke jurisdiction. *See Power Prods.*, 379 S.C. at 433, 434, 436, 665 S.E.2d at 665, 666, 667. Conclusory allegations do not suffice. *Id.* at 433, 665 S.E.2d at 665, 666.

In *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 723 S.E.2d 835, 838 (Ct. App. 2012), the complaint alleged that the court had personal jurisdiction based on the same kind of allegations as found in Petitioner’s complaint:

[E]ach [defendant] has caused tortious injury within this State as set forth herein, and each regularly does or solicits business, or engages in a persistent course of conduct or derives substantial revenue from goods used or consumed or services rendered in this State as contemplated under the statute.

Id. at 148, 723 S.E.2d at 835. The South Carolina Court of Appeals held that, even with a liberal construction of the statute and the complaint, the plaintiff had failed to allege facts (as opposed to conclusory allegations) to support his burden. *Id.* at 151, 723 S.E.2d at 839.

This rule is especially critical in a state such as South Carolina where appeal of a denial of a motion to dismiss for lack of personal jurisdiction is not generally available until after the entire case is over, under current case law. If a plaintiff could prove jurisdiction by simply alleging in vague and conclusory fashion that a non-resident manufacturer placed products in the stream of

commerce and intended them to be used in the state, it would render the defense essentially meaningless.

Here, Petitioner’s jurisdictional allegations contained boilerplate legal conclusions matching the language of the long-arm statute.² (App’x 128–30.) He made no allegations about 18650 lithium-ion batteries specifically; he generically alleged that LG Chem delivers and distributes “lithium-ion battery products” to South Carolina companies and through the ports of South Carolina; and he made no allegations to show how his claims were related to LG Chem’s forum contacts. (App’x 129.) Therefore, the circuit court correctly found that Petitioner’s allegations, taken as true, were not sufficient to support his burden of proof, and the Court of Appeals correctly affirmed. (App’x 2.)

C. The Court of Appeals correctly affirmed the circuit court’s consideration of matters outside the pleadings.

It is well established that a circuit court has authority to consider matters outside the pleadings when considering a motion to dismiss for lack of personal jurisdiction. *Coggeshall v. Reprod. Endocrine Assocs. of Charlotte*, 376 S.C. 12, 16, 655 S.E.2d 476, 478 (2007) (“When a motion to dismiss attacks the allegations of the complaint on the issue of jurisdiction, the court is not confined to the allegations of the complaint but may resort to affidavits or other evidence to determine jurisdiction.”); *see also Power Prods.*, 379 S.C. at 428, 665 S.E.2d at 663 (citing defendants’ affidavits submitted to negate facts alleged in the complaint and support their argument that there was an insufficient nexus from their actions to support jurisdiction); *Hidria*,

² South Carolina’s long-arm statute retains a causal element, requiring a showing that the cause of action “aris[es] from” any of the enumerated acts. This is distinct from the constitutional due process standard, which does not require a causal showing, as discussed below. Petitioner’s failure to satisfy South Carolina’s long-arm statute remains an independent reason to affirm the dismissal.

USA, Inc. v. Delo, 415 S.C. 533, 538, 783 S.E.2d 839, 841 (Ct. App. 2016) (citing to affidavits submitted by both plaintiff and defendant in affirming the trial court’s dismissal).

Further, Petitioner offered affidavits and other extrinsic evidence and asked the circuit court to consider it in support of his opposition to LG Chem’s motion to dismiss. (App’x 182–183, 185 –186, 189.) Petitioner also argued that other trial courts within the state had considered and relied upon the same information when denying similar motions to dismiss brought by LG Chem in those cases and urged the circuit court to follow those decisions. (App’x 189–190.)

Accordingly, even if it had been error for the circuit court to consider extrinsic evidence, which it was not, Petitioner invited the court to consider extrinsic evidence and therefore waived any argument that it was improper for the court to do so. *Gordon v. Busbee*, 397 S.C. 119, 130, 723 S.E.2d 822, 828 n.2 (Ct. App. 2012) (“An appellant cannot cause or invite the trial court to err and then complain about the court's actions on appeal.”).

D. The Court of Appeals correctly affirmed the circuit court’s analysis of the allegations and evidence in the record.

Petitioner argues that the circuit court and Court of Appeals committed legal error by construing inferences against him and that the outcome was not supported by the record.

However, LG Chem’s evidence that it never designed, manufactured, distributed, advertised or sold 18650 lithium-ion battery cells for sale to consumers as standalone, replaceable batteries is uncontroverted. (App’x 147–148.) Petitioner did not plead contrary facts, nor did he introduce any evidence to controvert LG Chem’s admissible evidence on this point.

In addition, Petitioner’s own exhibits undermined his arguments.

Petitioner offered a Certificate of Authority for LG Chem’s subsidiary as proof that LG Chem was registered to do business in the state. But, on its face, the certificate shows that it was for the subsidiary, not for LG Chem. And LG Chem’s affidavit evidence was uncontested showing

that the subsidiary was a separate and independent legal entity, that LG Chem was never registered to do business in South Carolina, and that the subsidiary did not distribute batteries (any type) to anyone in South Carolina. (See App’x 516, ¶¶ 7–8.) See *Durham v. LG Chem, Ltd. et al*, No. 1:20-CV-01277-SDG, 2021 WL 1573899 (N.D. Ga. Apr. 22, 2021) *aff’d* 2022 WL 274498, (11th Cir. Jan. 31, 2022) (dismissing LG Chem from a suit for lack of personal jurisdiction where the plaintiffs had voluntarily dismissed LGCAI from five lawsuits with prejudice because LGCAI “did not sell, manufacture, or distribute the batteries at issue in this litigation during the relevant time period.”)

Petitioner offered various charts (which were inadmissible hearsay even if they supported Petitioner’s position, which they did not)³ to prove that LG Chem made hundreds of shipments of lithium-ion batteries into the state, consigned to its subsidiary.

But the charts on which Petitioner initially relied as purported evidence of consigned shipments to LGCAI identified the contents of the product shipments as petrochemical products, such as “methyl acrylate”, “ethyl hexyl acrylate”, “resin ABS”, “acrylic acid,” and “synthetic rubber” and did not identify a single battery-related shipment. (App’x 295-353.) The record further showed that the subsidiary did not distribute lithium-ion battery products (any type) to anyone in South

³ The spreadsheets attached to Petitioner’s Motion for Reconsideration were unauthenticated and inadmissible hearsay. See SCRE 901 & Note (citing *State v. Jeffcoat*, 279 S.C. 167, 303 S.E.2d 855 (1983)) (“Even when evidence is properly authenticated, it must still be admissible under the other rules of evidence.”); *State v. Anderson*, 386 S.C. 120, 126, 687 S.E.2d 35, 38 (2009). Had the circuit court relied on these inadmissible records as evidence of jurisdictional facts, it would have been error. See *Yarborough & Co. v. Schoolfield Furniture Indus., Inc.*, 275 S.C. 151, 153, 268 S.E.2d 42, 43 (1980) (finding that the court lacked personal jurisdiction and stating that plaintiff’s counsel’s affidavits were “conclusory in nature and based almost entirely on hearsay. We hold that they should have been excluded from the trial court’s consideration”). Petitioner did not address or otherwise contest in the lower court, or this Court, that his exhibits were inadmissible, and his newly raised arguments on this point are untimely.

Carolina. (*Id.*; see also App’x 520-523.) And the chart on which Petitioner initially relied as purported evidence of substantial battery-related business in the state showed a single, pre-incident shipment of lithium-ion batteries, and that was to a car manufacturer (and not an 18650 in any event).⁴ (App’x 354.)

After the circuit court rendered its decision, Petitioner submitted the charts in native excel format and argued that the record did not support one way or the other whether or not the “lithium-ion battery” shipments to South Carolina were “similar” to the product at issue. (App’x 530.) This argument was untimely and therefore waived even if it had been correct, which it was not, because (1) LG Chem’s uncontroverted, admissible evidence established that the shipments were not 18650 cells, (2) Petitioner’s own exhibits showed that the shipments went to a car manufacturer, and (3) all but one shipment occurred after the subject incident.

Petitioner’s argument that his exhibits showed “over fifty shipments” of lithium-ion batteries to businesses within South Carolina was not raised until his motion for reconsideration, after the court had already ruled. (App’x 418.) Even if Petitioner had timely raised this argument, however, his argument is highly misleading. Before the incident, the appendices show **a single shipment of lithium-ion batteries** to anyone in South Carolina, which went to the car manufacturer in Ridgeville and was not an 18650. (App’x 385, ¶ 10.)⁵ The appendices show post-incident shipments to car

⁴ Contacts relevant to the specific jurisdiction analysis are those that exist at the time of the events in question. *Steel v. United States*, 813 F.2d 1545, 1549 (9th Cir. 1987).

⁵ Mr. Lee was a knowledgeable witness who set forth concrete and specific facts in his Affidavit. In particular, Mr. Lee attested that he worked at LG Chem for five years before LG Chem spun its battery business off in December 2020 and that his area of job responsibility included sales of battery packs and small application battery cells, including 18650 cylindrical lithium-ion battery cells. Mr. Lee attested to the specific purpose for which LG Chem designed, manufactured, and sold its 18650 battery cells and specifically attested that LG Chem never did any business with the retailers that sold 18650 battery cells to Petitioner as standalone consumer products and never authorized anyone to supply its 18650 cells to individual consumers as a standalone, replaceable

manufacturers and a power company in North Carolina (including shipments made in 2021 by a subsidiary). Petitioner claimed that he could not tell what type of cells they were because no jurisdictional discovery had been conducted. However, jurisdictional discovery had not been requested before the motion to dismiss was decided and, in any event, LG Chem’s affidavit evidence (which responded to the exhibits Petitioner had raised by that point) showed the shipments were not 18650s. (*Id.*)

Later, on appeal, Petitioner argued that “LG imported 419 shipments of lithium-ion batteries through the port of Charleston, some destined for South Carolina businesses,” citing Record pp. 243 and 292-386.” (Br. at 5.) Record p. 243 (App’x 354) is the Moore Exhibit 4 chart of 13 shipments, discussed above. Record pp. 292-386 (App’x 403-498) are charts submitted as Exhibits A-F to the Bonenfante Declaration, which were filed in PDF format with Petitioner’s opposition brief and later (after the circuit court had already ruled on the motion to dismiss) submitted in native format with Petitioner’s motion for reconsideration.⁶ Before filing his appeal, Petitioner never argued that LG Chem imported 419 battery shipments, using a South Carolina port. Even if he had, battery shipments arriving at a South Carolina port, long after the incident, destined for delivery as component parts to sophisticated manufacturers, primarily in other states, are not in any way relevant.

To the extent Petitioner now argues that he cannot tell from the charts what type of batteries were being shipped, LG Chem’s counsel pointed out at the hearing that the charts were searchable,

battery. (App’x 147–148.) In his Reply affidavit offered in response to Petitioner’s 59 pages of “import records,” Mr. Lee further attested that not a single one of the entries on those 59 pages reflected shipment of 18650 lithium-ion cells to anyone in South Carolina. (App’x 385.)

⁶ Appendices A-C were identified as charts showing shipments to a South Carolina port for a fifteen year time period (November 1, 2006–July 22, 2021). Appendices D-F were identified as charts showing shipments by LG Energy Solution, Ltd., a different company that did not even exist until December 1, 2020, two-and-a-half years after the alleged incident (May 24, 2018) and could not have shipped anything to South Carolina in any relevant time.

that the only entries showing any type of lithium-ion battery going to South Carolina were to a car manufacturer, and the only shipment of 18650 cells identified on any of the charts went to a battery packer in Long Beach, California. (App’x 657–658, 686; App’x 552 (correcting record to explain there appeared to be two shipments to the packer in California).)

None of this evidence suggests that LG Chem was supplying 18650 lithium-ion cells to a consumer vaping market. The circuit court correctly determined that Petitioner’s import charts (even if they had been admissible) could not support a finding that LG Chem had directed activities to South Carolina related to Petitioner’s claim for injury allegedly resulting from use of an LG 18650 lithium-ion cell as a standalone, replaceable battery that he bought from a vape store to power his e-cigarette device. The Court of Appeals correctly affirmed.

E. The Court of Appeals correctly affirmed the circuit court’s conclusion that *Sumatra* is readily distinguishable.

In *Sumatra*, this Court recognized that “[t]he question of personal jurisdiction over a nonresident defendant is one which must be resolved upon the facts of each particular case,” 379 S.C. at 88, 666 S.E.2d at 221 (emphasis added); *see also Maybank v. BB&T Corp.*, 416 S.C. 541, 565, 787 S.E.2d 498, 510 (2016); *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005); *Abdulla v. Southern Bank*, 439 S.C. 391, 399, 887 S.E.2d 138, 143 (Ct. App. 2023). The facts of this case are highly distinguishable from *Sumatra*, as the circuit court and Court of Appeals correctly found.

In *Sumatra*, the Indonesian cigarette manufacturer admitted that it intended to sell its cigarettes **to consumers** throughout the United States, including almost seven million cigarettes **sold to consumers** in South Carolina in one year as the direct result of **its intended chain of distribution**. *Id.* at 87–92, 666 S.E.2d at 221–24. Further, in *Sumatra*, the Indonesian manufacturer sold its cigarettes to its designated distributor, which then distributed the cigarettes to South

Carolina for the specific purpose of distributing them to consumers as a consumer product. *Id.* at 86, 666 S.E.2d at 220.

By contrast, here, Petitioner did not allege, nor could he, that LG Chem distributed its 18650 lithium-ion battery cells directly to consumers as a standalone product, or to any distributor or other intermediary for the purpose of supplying the cells to consumers as a standalone product. And LG Chem’s admissible evidence showed that LG Chem did not design, manufacture, distribute, advertise, or sell its 18650 battery cells directly to or for use by consumers as standalone, replaceable batteries, and that it never authorized anyone else to do so either. (App’x 147–148.) This important fact readily and materially distinguishes *Sumatra* from the case before this Court.

In addition, this Court’s precedent in *Cockrell* further supports the Court of Appeals’ decision. There, this Court found personal jurisdiction lacking over defendants—the University of Massachusetts at Lowell Baseball Research Center and James Sherwood, a mechanical engineer and Director of the Research Center—because the subject product (baseball bats) “did not arrive in South Carolina through the respondents’ efforts.” 363 S.C. at 494, 611 S.E.2d at 510. Instead, the bats arrived in South Carolina through the unilateral efforts of the distributor, Hillerich.

Here, LG Chem’s purported involvement with the subject suit is even more attenuated than the defendants in *Cockrell*. Here, unlike in *Cockrell*, the subject 18650 arrived in South Carolina through the unilateral efforts of third parties that were not authorized by LG Chem. That does not mean, as Petitioner has argued, that the Court of Appeals added a “causation” requirement to the relatedness analysis contrary to *Ford*. To the contrary, as discussed below, this case is not about whether one particular 18650 cell arrived in the state through third party efforts; it is about the fact that any 18650 cells that were available for purchase by South Carolina consumers in South

Carolina vape stores arrived in the state through the unilateral actions of third parties acting without LG Chem’s authorization.

Therefore, the prior precedents of this Court support the Court of Appeals’ decision.

II. The Court of Appeals correctly applied federal precedents when affirming the circuit court’s conclusion that the “relatedness” element of federal due process was not satisfied.

A. The Court of Appeals correctly applied the “relatedness” standard when concluding this case is nothing like *Ford*.

Petitioner argues that the Court of Appeals incorrectly adopted a “causation-focused” approach rejected by *Ford* and that due process is satisfied because LG Chem did not deny shipping 18650 batteries to South Carolina. (Pet. Br at 17–18.)

In *Ford*, the Supreme Court reiterated that the constitutional touchstone focuses on the contacts formed by the defendant with the forum state—not contacts formed by the plaintiff or other third parties. *Ford*, 592 U.S. at 369 (specific jurisdiction requires “a connection between the forum and the specific claims at issue”) (quoting *Bristol-Myers*, 582 U.S. at 256); *see also Walden v. Fiore*, 571 U.S. 277, 284 (2014); *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 (1984) (“When a controversy is related to or ‘arises out of’ a defendant’s contacts with the forum, the Court has said that a ‘relationship among the defendant, the forum, and the litigation’ is the essential foundation of in personam jurisdiction.”).

In *Ford*, which consolidated two cases that originated in Montana and Minnesota state courts, the Supreme Court found that those two states had properly exercised personal jurisdiction over Ford in cases in which a consumer plaintiff asserted product liability claims against the company based on use of a Ford vehicle that had arrived in the forum state (where the accident occurred) as the result of consumer relocations and resales, and was not designed, manufactured, or sold in the forum by Ford. Although Ford did not bring *the specific vehicles* to the forum states,

Ford itself engaged in extensive and wide-ranging activities in the forum state in furtherance of its undisputed intention to serve a consumer market for the *very same type of vehicles at issue*.

It was Ford, not unauthorized third parties, that supplied consumers in Minnesota and Montana with Ford vehicles (and specifically Explorers and Crown Victorias); it was Ford, not unauthorized third parties, that advertised those vehicles to in-state consumers on TV and billboards and by “every means imaginable”; and it was Ford that licensed dealers to sell, maintain, and repair Ford cars in Minnesota and Montana. *Ford*, 592 U.S. at 365. As the Court noted, Ford had “a veritable truckload” of relevant, suit-related contacts with the forum States. *Id.* at 371.

This case is nothing like *Ford*. By contrast, here, it was unauthorized third parties—not LG Chem—that supplied consumers in South Carolina with lithium-ion battery cells through retail stores that had no connection to LG Chem. There were no retailers licensed by LG Chem to supply lithium-ion battery cells directly to consumers. There were no dealers authorized by LG Chem to repair or replace lithium-ion battery cells for consumers. There were no TV or billboards or other advertisements whereby LG Chem “urged” consumers to purchase lithium-ion battery cells as standalone, replaceable batteries for any purpose. Any connections that exist between South Carolina and this lawsuit were formed entirely by Petitioner and other third parties; none by LG Chem. The Court of Appeals correctly held that this case is nothing like *Ford*.

In addition, Petitioner’s argument that LG Chem did not deny shipping 18650 lithium-ion battery cells into South Carolina misses the mark. *First*, Petitioner never alleged that LG Chem shipped 18650 lithium-ion battery cells into the state, so there was nothing to deny. *Second*, Petitioner asked the Court to consider extrinsic evidence to establish the purportedly vast extent of LG Chem’s lithium-ion battery business in the state, but Petitioner’s own evidence showed only a single, pre-incident shipment of any type of lithium-ion battery cell to South Carolina, and that

went to a car manufacturer in Ridgeville. *Third*, LG Chem showed that it was not just that this particular 18650 cell (if it was even manufactured by LG Chem, which has never been established) arrived in the state through an unauthorized, third-party distribution chain, but also that was true of any 18650 cell purchased by a consumer as a standalone battery from a vape store. Finally, LG Chem showed that the vast majority of federal courts confronted with this issue have repeatedly recognized that the U.S. Supreme Court’s statement in *Ford* that its decision does not mean “anything goes” has real teeth: it is simply not enough to allege (as some plaintiffs have done, but Petitioner did not) that LG Chem shipped mass quantities of 18650 lithium-ion cells to a state where a plaintiff suffered an injury.

B. The Court of Appeals correctly focused on the particular product at issue.

Petitioner has repeatedly argued that “a battery is a battery” and that it was enough to show that LG Chem supplied other type of lithium-ion battery products (such as electric vehicle batteries) to South Carolina entities.

The U.S. Supreme Court’s precedents make clear that the manufacturer’s forum contacts must relate to the specific product at issue in the suit, not any product a manufacturer might sell. *See Ford*, 592 U.S. at 365. *Ford* specifically focused on the manufacturer’s admission that it purposefully served a consumer market in Montana and Minnesota **for the exact same type of product** (Ford Explorers and Crown Victorias) which allegedly injured the plaintiffs:

Ford had advertised, sold, and serviced those two car models in both States for many years. *(Contrast a case, which we do not address, in which Ford marketed the models in only a different State or region.)*

592 U.S. at 365. In other words, 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.” *Id.*

As the U.S. Court of Appeals for the Ninth Circuit emphasized in *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496 (9th Cir. 2023), the “relatedness” inquiry turns on whether the defendant’s forum contacts meaningfully connect to the specific product that allegedly caused the plaintiff’s injury, not the defendant’s general business activities in the forum. *Id.* at 506–07. The Ninth Circuit rejected the plaintiff’s reliance on LG Chem’s sales of “other” batteries in the forum, explaining: “[T]he large batteries installed in stationary solar-power systems and the small portable stand-alone battery at issue here *are as different as sedans and 18-wheelers*. There is little reason to believe that . . . port contacts or [LG Chem]’s solar contacts have anything to do with Hawaii residents’ acquisition of 18650 lithium-ion batteries.” *Id.* at 506–07 (emphasis added).

Petitioner’s argument that “lithium-ion batteries are lithium-ion batteries” would be like the Supreme Court saying “prescription drugs are prescription drugs” in *Bristol-Myers* or “passenger vehicles are passenger vehicles” in *Ford*. The Court did not say that. Instead, it focused on the defendant’s in-state contacts for the exact products at issue – Plavix in *Bristol-Myers* and Ford Explorers and Crown Victorias in *Ford*. See e.g. *Straight v. LG Chem, Ltd.*, 640 F. Supp. 3d 795, 805 (S.D. Ohio 2022) (“Broadening the definition of the market from 18650 cells to all lithium-ion battery technology goes too far and finds no support in *Ford* or the case law which has followed.”)

C. The Court of Appeals correctly recognized that allegations or evidence about unrelated business activities do not support specific jurisdiction.

The U.S. Supreme Court has repeatedly made clear that unrelated business activities in the forum state cannot support the exercise of specific jurisdiction, no matter how extensive those in-state activities are. Even sales of the **very same product** at issue cannot support the exercise of specific jurisdiction if unrelated to the litigation. *Bristol-Myers*, 582 U.S. at 264 (“[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.”) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 930 n.6 (2011)).

In *Bristol-Myers*, the U.S. Supreme Court made clear that even extensive in-state sales and other activities related to the very product at issue would not satisfy due process if not related to the plaintiff’s claims. *Bristol-Myers*, 582 U.S. at 264–65. In *Bristol-Myers*, the defendant had sold almost 187 million Plavix pills in the forum state (California), through an in-state distributor, and took in more than \$900 million from those sales between 2006 and 2012. *Id.* at 258–59. Additionally, in California the company owned five research and laboratory facilities, employing a total of approximately 160 employees; employed about 250 sales representatives; and maintained a state-government advocacy office—all involving the very same product at issue in the case—the drug Plavix. *Id.* Despite all these contacts with the state, including the defendant’s sales of the same product, the court found that the plaintiffs’ claims against the company were not connected to those contacts. *Id.* at 264 (“When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant’s unconnected activities in the State.”) (emphasis added).

In *Bristol-Myers*, the California Supreme Court made the same error Petitioner urges here when applying the “sliding scale” approach to the specific jurisdiction analysis: for a defendant with extensive in-state business activities, the California Supreme Court required a less attenuated connection between the claims and the business activities. The U.S. Supreme Court reversed, rejecting that approach as a “loose and spurious form of general jurisdiction.” *See Bristol-Myers*, 582 U.S. at 264 (rejecting California’s “sliding scale approach”, *i.e.* the more general connections a company has to a forum state the less is required by way of suit-specific connections, because it “resemble[d] a loose and spurious form of general jurisdiction” by relaxing “the strength of the requisite connection between the forum and the specific claims at issue”).

D. The Court of Appeals stands in good company with the overwhelming weight of federal authority interpreting the boundaries of constitutional due process in cases involving similar claims.

In support of his argument that LG Chem “purposefully served the forum market,” Petitioner states in a footnote that “LG cannot plausibly claim it could not reasonably anticipate being haled into court here.” (Pet. Br. at 15 n.1.) Noting Judge Hewitt’s dissenting observation that “there have been a number of courts faced with this same issue,” Petitioner cites five cases, then states: “[w]hile some courts have come to a different conclusion, those exercising jurisdiction on similar facts to those herein are comfortable in doing so because the manufacturers are taking advantage of the state’s business markets. That is sufficient for the companies to anticipate suit in the forum state for a consumer’s unintended use of the products.” *Id.*

This quote encapsulates the essential problem with Petitioner’s argument: taking advantage of a state’s business markets is not the constitutional touchstone. The U.S. Supreme Court has made abundantly clear that it does not matter how extensive a defendant’s contacts with a state if those contacts are unrelated to the claims at issue, as discussed above.

In addition, Petitioner’s assertion that “some courts have come to a different conclusion” fails to acknowledge that the vast majority of federal courts to have confronted similar issues have aligned with our Court of Appeals’ analysis.

The Sixth Circuit Court of Appeals in *Sullivan* is the only federal appellate court to find otherwise, and there the court focused on its findings concerning the evidentiary record showing that “LG Chem conducted business with Michigan companies regarding its 18650 batteries and shipped its 18650 batteries into Michigan.” *See Sullivan v. LG Chem, Ltd.*, 79 F.4th 651, 673–74 (6th Cir. 2023). This case is an outlier among federal courts and LG Chem maintains that it was wrongly decided. In addition, like the other out-of-state cases on which Petitioner relies, *Sullivan*

does nothing to help Petitioner’s argument that the Court of Appeals mistakenly focused on 18650 lithium-ion battery cells, rather than generalized allegations about lithium-ion battery products.

And despite asking the Court of Appeals (in his June 2, 2025 notice of supplemental authority) and this Court (in his Petition for Certiorari) to consider *Ethridge v. Samsung SDI Co., Ltd.*, 137 F.4th 309 (5th Cir. 2025) in support of his position, Petitioner fails to inform the Court in his opening brief that the Fifth Circuit *withdrew* that opinion and substituted it with an opinion affirming dismissal of the manufacturer (Samsung). *Ethridge v. Samsung SDI Co., Ltd.*, 163 F.4th 136 (5th Cir. 2025).⁷

The Seventh and Ninth Circuit Courts of Appeal have likewise aligned with the “relatedness” analysis the Court of Appeals applied here. *B.D. ex rel. Myers v. Samsung SDI Co.*, 143 F.4th 757, 774 (7th Cir. 2025) (“Substitute back in batteries for vehicles and Samsung SDI for Ford, and we do not think the Supreme Court would consider the relationship here close enough to support an exercise of specific personal jurisdiction.”); *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496 (9th Cir. 2023) (the Ninth Circuit agreed that LG Chem’s forum contacts in Hawaii for other types of batteries did not have anything to do with the claims of Hawaii residents who acquired 18650 lithium-ion batteries for use with vaping devices); *Quiniones v. LG Chem, Ltd.*, No. 23-15941, 2024 WL 4678053 (9th Cir. Nov. 5, 2024) (following *Yamashita*, the Ninth Circuit agreed the same held true in California, where LG Chem had multiple, industrial customers for its 18650 lithium-ion battery cells).

⁷ In *Ethridge*, the plaintiff has filed a petition for a writ of certiorari, which Samsung does not oppose. On April 3, 2026, Samsung filed a response requesting that the U.S. Supreme Court grant review and also grant review and consolidate the appeal with its forthcoming petition for review of *Peters v. Samsung SDI Co.*, No. A25-0195, 2025 WL 2902144 (Minn. Ct. App. Oct. 13, 2025), *review denied* (Dec. 31, 2025) (a case Petitioner cites).

More than a dozen federal district courts have reached the same conclusion, including within the Fourth Circuit.⁸ *See, e.g., Heit v. LG Chem, Ltd.*, No. 21-CV-00771-HFS, 2023 WL 1928289 (W.D. Mo. Feb. 10, 2023) (dismissing LG Chem for lack of personal jurisdiction in Missouri); *Grizzard v. LG Chem Ltd.*, 641 F. Supp. 3d 282 (E.D. Va. Nov. 18, 2022) (same – Virginia); *Straight v. LG Chem, Ltd.*, 640 F. Supp. 3d 795 (S.D. Ohio Nov. 9, 2022) (same – Ohio); *Mehl v. LG Chem Ltd.*, No. 6:21-CV-01149-AA, 2023 WL 6200288 (D. Or. Sept. 22, 2023), *appeal dismissed*, No. 23-3943, 2024 WL 2809367 9th Cir. Mar. 21, 2024) (same – Oregon); *Bullock v. Otto Imports, LLC*, No. 4:19-CV-149-BJB, 2022 WL 949914 (W.D. Ky. Mar. 29, 2022) (same – Kentucky); *Matter of Am. River Transp. Co., LLC (ARTCO)*, No. CV 18-2186, 2022 WL 17325899, at *7 (E.D. La. Nov. 29, 2022) (same – Louisiana); *Richter v. LG Chem, Ltd.*, No. 18 CV 50360, 2022 WL 5240583 (N.D. Ill. Sept. 27, 2022) (same – Illinois); *Huntington v. Smoke City for Less LLC*, No. 4:22-CV-05014-MKD, 2023 WL 2996729, at *8 (E.D. Wash. Apr. 18, 2023) (same – Washington); *see also Montoya v. Samsung SDI Co.*, No. 4:22-CV-6, 2022 WL 18776009 (S.D. Ga. Dec. 28, 2022) (dismissing Samsung for lack of personal jurisdiction in Georgia); *Moore v. Elec. Mktg., LLC*, No. CIV-21-836-D, 2022 WL 17960773 (W.D. Okla. Dec. 27, 2022) (same – Oklahoma); *Kasper v. Samsung SDI Co. Ltd.*, No. CV-21-01191-PHX-SMB, 2022 WL 294208 (D. Ariz. Feb. 1, 2022) (same – Arizona).

⁸ Many state appellate courts are also in accord, including the California Court of Appeal where the record showed (unlike here) that LG Chem had multiple customers (battery packers and original equipment manufacturers) for its 18650 lithium-ion battery cells. *LG Chem, Ltd. v. Superior Ct. of San Diego Cnty.*, 80 Cal. App. 5th 348, 295 Cal. Rptr. 3d 661 (2022), *review denied* (Oct. 12, 2022); *Kadow v. LG Chem, Ltd.*, No. B309854, 2021 WL 5935657 (Cal. Ct. App. Dec. 16, 2021) (unpublished); *State ex rel. LG Chem, Ltd. v. McLaughlin*, 599 S.W.3d 899, 903 (Mo. 2020); *Eriksen v. ECX, LLC*, 15 Wash. App. 2d 1001 (Ct. App. Wa. 2020).

III. The Court of Appeals correctly affirmed the circuit court’s conclusion that personal jurisdiction is lacking regardless of whether *Sumatra* remains viable.

A. *Sumatra* does not stand for the proposition that a manufacturer is subject to jurisdiction in any forum where its product may be found.

Petitioner argues that, under *State v. NV Sumatra Tobacco Trading, Co.*, 379 S.C. 81, 666 S.E.2d 218 (2008), allegations that a defendant manufactured a product outside the state and expected that its products would be distributed in South Carolina are sufficient to support the exercise of jurisdiction “regardless of how [the product] arrived in South Carolina[.]” (*See* Pet. Br. at 16.)

As the Court of Appeals correctly found, Petitioner’s interpretation of *Sumatra* is incorrect, because that interpretation does not follow from *Sumatra* and would read *Sumatra* in a way that is inconsistent with U.S. Supreme Court precedents.

The U.S. Supreme Court has long recognized that alleged awareness of third-party actions is legally insufficient to support the exercise of specific jurisdiction. Instead, “it is the defendant’s actions, not his expectations, that empower a State’s courts to subject him to judgment.” *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 883 (2011) (plurality op.); *Ford*, 592 U.S. at 359 (the relevant “contacts must be the defendant’s own choice”); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980) (“[T]he foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum State. Rather, it is that the defendant’s conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.”).

Consistent with those precedents, in *Sumatra*, this Court recognized that “[t]he foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum state. Rather, it is that the defendant’s conduct and connection with the

forum state are such that he should reasonably anticipate being haled into court there.” 379 S.C. at 89, 666 S.E.2d at 222 (emphasis added).

This Court concluded this standard was met in *Sumatra* in light of the volume of cigarettes the defendant admittedly distributed for sale to consumers throughout the United States, including 7 million cigarettes to consumers in South Carolina. In other words, *Sumatra* does not stand for the proposition that there was jurisdiction over the defendant because it manufactured cigarettes and could foresee that an unauthorized third party would distribute those cigarettes in South Carolina. To the contrary, *Sumatra* stands for the proposition that there was jurisdiction over the defendant because it placed its product into the stream of commerce and intended the product to reach South Carolina consumers through its chain of distribution.

But here, LG Chem denies that it distributed any 18650 battery cells to anyone for sale as a standalone product to consumers in South Carolina—or anywhere else. Here, it is undisputed that the particular 18650 lithium-ion cell at issue in this case (if LG Chem even manufactured it, which was never established) arrived in South Carolina through the unilateral actions of third parties. More to the point, here, *it is also undisputed* that any 18650 lithium-ion cell purchased by a South Carolina consumer from a vape retailer arrived in South Carolina through an unauthorized and unintended chain of distribution.

That is not a merits-based product misuse defense. It is about the chain of distribution that brought LG 18650 cells to consumers in South Carolina. Third parties severed the chain of distribution, removing the cells from the “stream of commerce” and bringing them into the state without LG Chem’s authorization.

And despite Petitioner’s argument that LG Chem’s subsidiary (LGCAI) distributed batteries in South Carolina, Petitioner did not make any such allegations in the Complaint and did

not offer any evidence to support the statement – which is simply untrue. (See App’x 295-354 (59-page chart of shipments consigned by LGCAI, not a single one of which involved batteries); App’x 527, ¶ 10 (affidavit of LGCAI employee filed in the *Williamson* case).)

Petitioner’s expansive interpretation of *Sumatra* would effectively eliminate the protections of due process for a foreign manufacturer, because a plaintiff could meet his burden of proving jurisdiction by simply alleging – in conclusory fashion and without supporting evidence – that a foreign manufacturer placed its products into the stream of commerce and expected the products would make their way to South Carolina. That is not the law.

B. This case does not present the opportunity to revisit the viability of stream of commerce jurisdiction in product liability cases.

There has not been another South Carolina appellate decision that addressed the stream-of-commerce doctrine as applied to minimum contacts since *State v. NV Sumatra Tobacco Trading Co.*, 379 S.C. 81, 666, S.E.2d 218 (2008) was decided eighteen years ago.

Some courts have questioned whether the “stream of commerce” analogy remains a viable theory of personal jurisdiction in products liability cases after the U.S. Supreme Court’s decisions in *J. McIntyre, Bristol-Myers*, and *Ford*, including in another case with similar facts to *Sumatra*. *State v. NV Sumatra Tobacco Trading Co.*, 403 S.W.3d 726, 765 (Tenn. 2012) (recognizing that “[i]f New Jersey lacked personal jurisdiction over J. McIntyre Machinery, which vigorously and directly targeted American markets, including New Jersey, then Tennessee surely lacks jurisdiction over NV Sumatra”); see e.g., *Shuker v. Smith & Nephew, PLC*, 885 F.3d 760, 780 (3d Cir. 2018).

Even before *Bristol-Myers* and *Ford*, the Fourth Circuit has long rejected an unadorned “stream of commerce” theory as a basis to support the exercise of specific jurisdiction. See, e.g., *Fed. Ins. Co. v. Lake Shore, Inc.*, 886 F.2d 654, 659 (4th Cir. 1989) (rejecting approach that relied

“on an unadorned ‘stream of commerce’ theory to justify the assertion of personal jurisdiction over defendants”); *Grizzard v. LG Chem Ltd.*, 641 F. Supp. 3d 282, 292 (E.D. Va. 2022) (“[T]his court has made clear that a ‘defendant’s introduction of its product into the stream of commerce. . . is, by itself, an insufficient basis for personal jurisdiction.’ ”) (citations omitted).

Petitioner’s own case (*Celgard*), which he describes as showing that “LG purposefully served the consumer electronics market with lithium-ion batteries” (Pet. Br. at 6) expressly held that “stream of commerce” was not a basis to hold LG Chem subject to personal jurisdiction. *See Celgard, LLC v. LG Chem, Ltd.*, No. 3:14-cv-00043-MOC-DCK, 2015 WL 2412467 (W.D. N.C. May 21, 2015), at *24–25.⁹ (App’x 287–289.)

This case does not present the right vehicle, however, to decide whether “stream of commerce” remains a viable theory of personal jurisdiction. The “stream of commerce” analogy applies to the first prong of the due process analysis – purposeful availment – whereas this case was decided based upon failure to meet the second prong – relatedness.

In addition, the “stream of commerce” has been described as referring “not to unpredictable currents or eddies, but to the regular and anticipated flow of products from manufacture to distribution to retail sale.” *Asahi Metal Indus. Co. v. Superior Ct. of California, Solano Cnty.*, 480 U.S. 102, 117 (1987) (Brennan, J., concurring in part).

In typical product liability cases where the stream of commerce is raised, the product arrives in the state through the manufacturer’s chain of distribution, and the question then becomes

⁹ *Celgard* was a patent infringement action decided over a decade ago, in which the court found that jurisdiction could be exercised over LG Chem based on a 7-year contractual relationship with a North Carolina entity for the supply of material for a licensed “separator” used in the manufacture of batteries for electronic devices and electric vehicles. *See* 2015 WL 2412467, at *19–21. The case had nothing whatsoever to do with consumer product liability claims or supply of 18650 lithium-ion battery cells to consumers as standalone, replaceable batteries.

(as in *Sumatra*) whether the manufacturer intended for its product to be sold to consumers in the state through a series of intermediaries.

Here, Petitioner’s own allegations and the undisputed evidence in the record answer that question decisively: LG Chem did not place its 18650 lithium-ion battery cells into the “stream of commerce” to be sold as a standalone product to consumers in South Carolina. Quite the contrary, LG Chem specifically *prohibited* anyone from selling its 18650 cells to consumers as a standalone product. This is not an unbroken chain from manufacturer to distribution to retail sale. To the contrary, this is a classic example of a distribution chain of “unpredictable currents or eddies” to which the stream of commerce does not apply. *See, e.g., Matter of Am. River Transp. Co. (ARTCO)*, 2022 WL 17325899, at *7 (“LG Chem emphasizes that its batteries were intercepted and re-sold for an unauthorized use, and that when it learned of unauthorized distribution to consumers, it attempted to stamp it out, sending cease and desist letters, including to the distributor that supplied the Louisiana retailer in this case.”).

It would be legal error to find that due process was satisfied on these facts, and if *Sumatra* led to that result, it could not be reconciled with federal constitutional law.

But *Sumatra* does *not* compel that result, as discussed above, leaving the question for another day whether this Court’s formulation of “stream of commerce” jurisdiction as set forth in *Sumatra* continues to be a viable legal theory.¹⁰

¹⁰ That other South Carolina circuit courts reached a different conclusion does not support Petitioner’s position. Even the most cursory review of those other decisions immediately reveals that each court gave different reasons for its decision (and two of the courts gave no reasons at all), including that three of those other courts found personal jurisdiction could fairly be exercised over both LG Chem and its subsidiary LGCAI, despite uncontroverted evidence that LGCAI did not manufacture battery cells (or any products) and did not sell a single battery (any type) to anyone in South Carolina. (App’x 367–376.)

IV. The Court of Appeals correctly affirmed the circuit court’s conclusion that Petitioner’s failure to meet his burden of proof on the power prong analysis required dismissal.

A. Petitioner failed to meet his burden of proof on the power prong.

Petitioner bears the burden of proving personal jurisdiction. *Power Prods. & Servs. Co., Inc. v. Kozma*, 379 S.C. 423, 430, 665 S.E.2d 660, 664 (Ct. App. 2008). Despite this well-established principle, Petitioner repeatedly attempts to shift this burden of proof to LG Chem. The main theme running through Petitioner’s Brief is that LG Chem did not deny shipping extensive quantities (dozens or even hundreds of shipments) of lithium-ion batteries, 18650 lithium-ion cells even, into South Carolina. Petitioner argues that is enough under *Ford*.

This argument fails for many reasons. *First*, Petitioner never alleged that LG Chem extensively shipped 18650 lithium-ion battery cells to South Carolina. Petitioner generically alleged in conclusory fashion that LG Chem did lithium-ion battery related business in the state. *Second*, Petitioner never offered any extrinsic evidence showing that LG Chem extensively shipped 18650 lithium-ion cells to South Carolina. Petitioner filed hundreds of pages of inadmissible import charts but did not point to any evidence supporting his arguments about LG Chem’s battery-related business, which he said was conducted either directly or through its subsidiary (LGCAI). LG Chem showed that Petitioner’s own exhibits supported only that LG Chem had made one pre-incident shipment of any type of lithium-ion battery cell—a non-18650 that went to a car manufacturer in Ridgeville and that its subsidiary (an independent company) did not distribute or sell batteries to anyone in the state. *Third*, Petitioner offered nothing to contradict LG Chem’s evidence that it never sold designed, manufactured, distributed, advertised, or sold 18650 lithium-ion battery cells for sale to or use by consumers as a standalone product and never authorized anyone else to do so, either. Petitioner argued only that it did not matter. But under the

authorities discussed herein, including *Ford*, it *does* matter, as the circuit court and Court of Appeals correctly found, and as more than a dozen other courts have likewise agreed.

Based upon Petitioner's failure to plead or prove any facts to meet his burden of establishing that his claims arose out of or relate to contacts formed by LG Chem with South Carolina, as due process requires, the circuit court and Court of Appeals were correct to dismiss LG Chem from the suit.

B. Petitioner waived jurisdictional discovery.

To the extent Petitioner may attempt to argue in his reply brief that he should have the opportunity to conduct jurisdictional discovery before dismissal is affirmed, that argument should be rejected.

First, Petitioner has long-since waived jurisdictional discovery. The issue was not raised in Petitioner's Initial Brief, and any argument not raised or argued in an initial brief is abandoned. *See Glasscock, Inc. v. U.S. Fid. & Guar. Co.*, 348 S.C. 76, 81, 557 S.E.2d 689, 692 (Ct. App. 2001) (“[E]ven though [the appellant] more fully addressed the issue in its reply brief, an argument made in a reply brief cannot present an issue to the appellate court if it was not addressed in the initial brief. Accordingly, we find that [the appellant's] argument was not properly presented to this Court and is deemed abandoned.”) (internal citations omitted); *Jackson v. Bi-Lo Stores, Inc.*, 313 S.C. 272, 277, 437 S.E.2d 168, 171 (Ct. App. 1993) (“[T]hese arguments are not properly before this Court because an appellant cannot make new arguments for reversal in a reply brief.”) (citation omitted); *see also State v. Hewins*, 409 S.C. 93, 118 n.9, 760 S.E.2d 814, 827 n.9 (2014) (Pleicones, J., concurring) (same). That waiver is not limited to Petitioner's Initial Brief: Petitioner did not request jurisdictional discovery in the Court of Appeals and did not seek such relief in his Petition to this Court. (App'x 72–73.)

Second, and consistent with that appellate waiver, Petitioner did not request jurisdictional discovery before the circuit court ruled on LG Chem’s motion to dismiss. Petitioner first requested jurisdictional discovery after the circuit court ruled on this motion to dismiss, which the circuit court denied noting “a motion for reconsideration is not a vehicle . . . ‘to raise argument or present evidence that could have been presented prior to the entry of judgment.’” (App’x 125) (citing *Dash v. Mayweather*, No. C/A 3:10-1036-JFA, 2010 WL 3606829, at *1 (D.S.C. Sept. 13, 2010) (quoting *Exxon Shipping Co. v. Baker*, 554 U.S. 471, n.5 (2008) (alterations added))); *see also* *Dixon v. Dixon*, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005) (finding that party’s failure to raise an alternate remedy was not preserved because it was first raised in a Rule 59 motion); *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 563, 566–67, 762 S.E.2d 693, 695 (2014) (finding that it was error for the court of appeals to consider an argument that was improperly raised for the first time in a Rule 59(e) motion to amend judgment after trial court granted partial summary judgment in favor of plaintiff); *Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000) (“It is well-settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved for appellate review.”). Therefore, in addition to Petitioner’s waiver on appeal by failing to raise this issue before the Court of Appeals or in his Initial Brief before this Court, Petitioner had previously waived any request for jurisdictional discovery by failing to raise it until after the circuit court had already granted the motion to dismiss.

Third, even if Petitioner had timely raised a request for jurisdictional discovery or preserved the issue for appeal (which he did not), the circuit court would have been correct and well within its discretion to deny any such request. Petitioner failed to explain why the belated jurisdictional discovery he sought, in a single sentence at the end of his motion to reconsider, was

appropriate or necessary. (App'x 538.) Petitioner did not specify (and has never specified) what other "South Carolina contacts" could purportedly change the outcome of the due process analysis. And for good reason: Any jurisdictional discovery would have only further borne out what the record already shows by admissible, uncontroverted evidence: that Petitioner's claims do not arise out of and are not related to any contacts formed by LG Chem with South Carolina because LG Chem never designed, manufactured, distributed, advertised, or sold its 18650 lithium-ion battery cells to consumers for use as standalone, replaceable batteries (with e-cigarette devices or for any other purpose) in South Carolina or anywhere else, and never authorized anyone else to do so. (App'x 147.)

C. Petitioner's failure to establish the power prong requires dismissal.

Petitioner bears the burden of proving personal jurisdiction. *Power Prods. & Servs. Co., Inc. v. Kozma*, 379 S.C. 423, 430, 665 S.E.2d 660, 664 (Ct. App. 2008). The circuit court correctly found, and the Court of Appeals correctly affirmed, that, as a matter of law, the failure to satisfy the power prong is dispositive of the issue. Without power to adjudicate a dispute over a defendant, considerations of relative fairness simply do not come into play.

Due process is an important constitutional right, and here, it is undisputed that LG Chem never authorized anyone to sell its 18650 lithium-ion battery cells to consumers as standalone batteries. The cases are legion that a plaintiff may not rely on the actions of a third party to satisfy the due process requirement of the specific personal jurisdiction analysis, and that is exactly what Petitioner asks the Court to do here. The circuit court and Court of Appeals correctly rejected that invitation, and this Court should do the same.

Conclusion

For the reasons stated above, this Court should affirm the judgment of the Court of Appeals.

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