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No. 102224-7

Court of Appeals No. 83424-0

SUPREME COURT  
OF THE STATE OF WASHINGTON

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MARCUS DUELL, an individual,

Respondent,

v.

PENINSULA AVIATION SERVICES, INC., doing  
business as PenAir, a Delaware corporation,

Petitioner,

and

ALASKA AIRLINES, INC., a Delaware corporation; and  
DOES 1-20,

Defendants.

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ERIN OLTMAN, individually and as Personal  
Representative of the Estate of David Oltman, and on  
behalf of REECE OLTMAN and EVAN OLTMAN, minors,

Respondents,

v.

PENINSULA AVIATION SERVICES, INC., doing  
business as PenAir, a Delaware corporation,

Petitioner,

and

ALASKA AIRLINES GROUP, INC. and  
ALASKA AIRLINES, INC.,

Defendants.

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**ANSWER TO PETITION FOR REVIEW**

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## IDENTITY OF RESPONDENTS, RELIEF REQUESTED, AND INTRODUCTION

Respondent Erin Oltman, individually and as Personal Representative of the Estate of David Oltman, and on behalf of Reece Oltman and Evan Oltman, minors, hereby requests that this Court deny review of the Court of Appeals' decision in *Duell v. Alaska Airlines, Inc.*, \_\_\_ Wn. App. 2d \_\_\_, 530 P.3d 1015 (2023).<sup>1</sup>

In *Duell*, the Court of Appeals concluded that

- (1) PenAir purposefully availed itself of the privilege of conducting activities within Washington State by entering into a Capacity Purchase Agreement ("CPA") with Washington-based Alaska Airlines, giving the latter the exclusive right to sell all the tickets on PenAir's Flight 3296 to Washington residents and others, and including a choice-of-law clause specifying that Washington law would govern performance of the contract;
- (2) due to the CPA, David Oltman purchased his ticket for Flight 3296 from Alaska Airlines; and

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<sup>1</sup> The Oltmans' lawsuit was consolidated with a case brought by Marcus Duell; Duell settled his claims while the Court of Appeals' proceeding was pending. *Duell*, 530 P.3d at 1018 n.2.

(3) absent the CPA, David would not have been on Flight 3296 when the tortious conduct occurred, meaning the Oltmans' claims arise directly from and are directly related to PenAir's Washington contacts.

**Duell**, 530 P.3d at 1021-23.

This decision does not conflict with this Court's decisions or with any published decisions of the Court of Appeals. Rather, it is entirely consistent with current United States Supreme Court precedent governing personal jurisdiction, most particularly **Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.**, \_\_ U.S. \_\_, 141 S. Ct. 1017, 209 L. Ed. 2d 225 (2021). That decision sets the limits of personal jurisdiction under the Due Process Clause of the federal Constitution and under our State's long-arm statute, so there is no issue of substantial public interest that this Court should determine.

This Court therefore should deny review of the Court of Appeals' correct decision in **Duell**.

## FACTS RELEVANT TO ANSWER

**A. David Oltman acquired tickets on PenAir's Flight 3296 from Anchorage to Dutch Harbor through Alaska Airlines on October 10, 2019.**

On October 10, 2019, Washington resident David Oltman purchased tickets from Alaska Airlines for a plane trip from Wenatchee, Washington, to Dutch Harbor, Alaska. CP 19 (¶¶ 7-8). While residing in Washington, he accessed Alaska Airlines' website, purchasing his tickets directly from Alaska Airlines. CP 19 (¶ 7). Alaska Airlines is headquartered in SeaTac, Washington. CP 19 (¶ 10).

His trip was scheduled for October 17, 2019. CP 19 (¶ 7). All three legs carried Alaska Airlines flight numbers. CP 19 (¶ 8), 115-16. The first leg was from Wenatchee to Seattle, Washington (Alaska Airlines Flight 2149); the second leg was from Seattle to Anchorage, Alaska (Alaska Airlines Flight 243); and the final leg was from Anchorage to Dutch Harbor (Alaska Airlines Flight 3296). CP 19 (¶ 8).

**B. David was on PenAir Flight 3296 because PenAir sold 100% of the tickets on this route to Alaska Airlines under a Capacity Purchase Agreement that included a choice of Washington law to govern the performance of the contract.**

While the tickets said he was flying on Alaska Airlines, David wound up on PenAir's Flight 3296 because PenAir had entered the CPA with Alaska Airlines. CP 22-23, 120-23. Under the CPA, PenAir operated Flight 3296 under Alaska Airlines' "contract of carriage," using Alaska Airlines' flight number, and giving Alaska Airlines the exclusive right to sell tickets on that flight. CP 112 (¶¶ 3, 4), 118, 120-23. Indeed, the *only* way David could purchase a ticket on PenAir's Flight 3296 was through Alaska Airlines. CP 22-23 (¶¶ 23-29), 118, 120-23.

The CPA provides that the agreement, including "all matters of ... performance," is governed by "the laws of the State of Washington (without regard to principles of conflicts of law)." CP 22 (¶¶ 27-29), 122.

**C. David died when PenAir Flight 3296 crashed.**

Flight 3296, carrying 42 passengers and crew, took off from Anchorage bound for Dutch Harbor, Alaska, on October 17, 2019. CP 24 (¶ 39). While attempting to land the plane at Dutch Harbor, the pilot failed to stop on the runway, ran past its end, crossed a street, and crashed into the ballast rocks at the edge of the harbor. CP 28 (¶¶ 63-64). The left propeller struck the ballast rocks and sheared off, sending pieces and shrapnel into the fuselage, some of which penetrated the passenger cabin. CP 28 (¶ 65). One or more pieces of the propeller and/or the destroyed fuselage struck David. *Id.* He suffered massive injuries that eventually killed him. CP 28 (¶ 66).

Plaintiff/Respondent Erin Oltman is David's widow. He is also survived by his children, Plaintiffs/Respondents Reece Oltman and Evan Oltman, both of whom are minors. CP 37-38 (¶¶ 89-94). It is undisputed that all the Respondents are Washington residents.

## REASONS THIS COURT SHOULD DENY REVIEW

### A. PenAir tacitly concedes that no significant constitutional question exists here.

PenAir does not cite or rely on RAP 13.4(b)(3), which permits review of decisions involving significant legal questions under the state or federal constitution. This tacit concession is appropriate: “To the extent that a corporation exercises the privilege of conducting activities within a state, it enjoys the benefits and protection of the laws of that state.” *Int’l Shoe Co. v. Wa.*, 326 U.S. 310, 319, 66 S. Ct. 154, 90 L. Ed. 95 (1945). Those benefits and protections include “the enforcement of contracts . . . [and] the resulting formation of effective markets.” *Ford*, 141 S. Ct. at 1029. They also come with reciprocal obligations, such as enforcing an obligation that what the company sells in the state is safe for its citizens to use. *Id.*

A state’s enforcement of that obligation by exercising personal jurisdiction when its citizens seek redress through

its courts can “hardly be said to be undue.” *Id.* (quoting *Int'l*

*Shoe*, 326 U.S. at 319). On the contrary:

No one seriously questions that the company, seeking to do business, entered . . . through the front door. And I cannot see why, when faced with the process server, it should be allowed to escape out the back.

*Ford*, 141 S. Ct. at 1039 (Gorsuch, J., concurring).

**B. There is no conflict with federal precedent.**

PenAir claims a conflict with various federal decisions, which is not a criterion for review in this Court. See RAP 13.4(b)(1) & (2). Nonetheless, no conflicts exist.

Rather, the Court of Appeals correctly explained that “because we look to federal law to determine personal jurisdiction, we review this case in light of *Ford*.” *Duell*, 530 P.3d at 1020. While acknowledging that *Ford* is the most recent SCOTUS precedent establishing the boundaries of specific personal jurisdiction, PenAir does not, and cannot, explain how the Court of Appeals’ decision conflicts with *Ford*. That is because it does not.

**1. The Court of Appeals' decision does not conflict with *Ford*, the United States Supreme Court's controlling precedent on personal jurisdiction.**

The *Ford* court held that under the Due Process Clause of the federal Constitution, for a court to exercise specific personal jurisdiction over an out-of-state business, that defendant must purposefully avail itself of the privilege of conducting activities in the forum state, and the plaintiff's claims must arise out of or relate to those activities. *Ford*, 141 S. Ct. at 1024-25. In particular, *Ford* clarified that the phrase "arise out of or relate to" is disjunctive, rejecting Ford's argument that there must be a causal relationship between the forum-state activities and the plaintiff's claims. *Ford*, 141 S. Ct. at 1026 (while "arise out of" requires a causal connection, "relate to" does not.)

The Court of Appeals applied *Ford*, holding that (1) in contracting with Alaska Airlines, a Washington company, to exclusively price, market, and sell PenAir's flights from



Anchorage to Dutch Harbor under their CPA, PenAir purposefully availed itself of the privilege of doing business in Washington; (2) PenAir's CPA chooses Washington law to govern all matters of construction, validity, and *performance*, further evidencing PenAir's purposeful availment; and (3) David could not have been on the PenAir flight that killed him but for the CPA making Alaska Airlines PenAir's exclusive ticketing agent, so the Oltmans' claims arise from and relate to PenAir's purposeful Washington contacts. *Duell*, 530 P.3d at 10-21-23. PenAir identifies no conflict between *Duell* and *Ford*.

**2. *Ford* definitively clarified the law governing personal jurisdiction.**

PenAir repeatedly references earlier SCOTUS decisions, imagining conflicts where none exist. As support for its claims that its CPA with Alaska Airlines was somehow the act of a third party, so it did not purposefully avail itself of the privilege of doing any business in

Washington, PenAir cites the 2017 decision in ***Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County***, 582 U.S. 255, 137 S. Ct. 1773, 198 L. Ed. 2d 375 (2017), and the 2014 decision in ***Walden v. Fiore***, 571 U.S. 277, 134 S. Ct. 1115, 188 L. Ed. 2d 17 (2014). PFR at 8-11. Neither decision supports PenAir.

First, ***Ford*** is the most recent – and thus controlling – SCOTUS precedent on these issues. Courts and commentators have recognized that ***Ford*** significantly clarified the personal-jurisdiction analysis. See, e.g., ***Adams v. Aircraft Spruce & Specialty Co.***, 284 A.3d 600, 616 (Conn. 2022) (***Ford*** “definitively answered” the “causal connection” question that was previously unclear); ***Cox v. HP Inc.***, 492 P.3d 1245, 1254 (Ore. 2021) (***Ford*** “put an end to any misimpression that, in ***Bristol-Myers***, the Court’s rejection of specific personal jurisdiction had turned on the lack of a direct causal link between Bristol-Myers’ sales of Plavix in California and the out-of-state purchases

of Plavix by the out-of-state plaintiffs”); **Sandhu Farm Inc. v. A&P Fruit Growers, Ltd.**, 25 Wn. App. 2d 577, 580, 524 P.3d 209 (2023) (**Ford** “addressed and clarified the requirements for personal jurisdiction over a nonresident entity”); P. Borchers et al., *Ford Motor Co. v. Montana Eighth Judicial District: Lots of Questions, Some Answers*, 71 EMORY L.J. ONLINE 1, 9, 19–28 (2021); R. Freer, *From Contacts to Relatedness: Invigorating the Promise of ‘Fair Play and Substantial Justice’ in Personal Jurisdiction Doctrine*,” 73 ALA. L. REV. 583, 600–603 (2022). **Ford’s** decisive synthesis of controlling Supreme Court precedent renders PenAir’s reliance on prior decisions unpersuasive.

**3. The Court of Appeals’ decision does not conflict in any way with older federal decisions, including *Bristol-Myers* and *Walden*.**

In any event, **Duell** does not conflict with earlier SCOTUS decisions. For instance, **Bristol-Myers** involved a large group of individual plaintiffs – 86 California

residents and 592 nonresidents – who filed suit in California state court against pharmaceutical company Bristol-Myers Squibb, alleging that Plavix, a prescription drug that BMS manufactures and markets nationally, had damaged their health. ***Bristol-Myers***, 582 U.S. at 259. The Court rejected the nonresidents’ argument that a California court could exercise personal jurisdiction over the company, holding that the nonresidents’ claims did not arise out of or relate to any of the defendant’s activities in California. *Id.* at 265. Specifically, the nonresident plaintiffs’ claims had no connection to the forum state or to the defendant’s activities in the forum state. *Id.* at 265 (“What is needed – and what is missing here – is a connection between the forum and the specific claims at issue”).

In contrast, the connection between Washington and the specific claims at issue here is tight. Respondents are all Washington residents; David was a Washington resident; David bought his ticket from a Washington

company in Washington; and as the undisputed evidence established, David could not have purchased that ticket from a Washington company had PenAir not contracted with that Washington company to sell every single ticket on the flight that killed him.

A state “has a ‘manifest interest’ in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors.” ***Burger King Corp. v. Rudzewicz***, 471 U.S. 462, 473, 105 S. Ct. 2174, 85 L. Ed. 2d 528 (1985). Thus, although ***Bristol-Myers*** held that California lacked personal jurisdiction over the claims of *nonresident* plaintiffs who had no connection to the state, it never questioned that the state had jurisdiction over those of the *resident* plaintiffs who lived in California. ***Bristol-Myers***, 582 U.S. at 265.

The United States Supreme Court has consistently held that specific jurisdiction may rest on “an affiliation between the forum and the underlying controversy,

principally, activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation.” *Id.* at 262 (citation omitted). Even without the clarification provided in **Ford**, the Court of Appeals' decision does not conflict with **Bristol-Myers**, where (as here) the connections among the plaintiffs, their claims, and PenAir's activities in Washington, are indisputable.

PenAir is also wrong to assert that the Court of Appeals' decision somehow conflicts with **Walden**, *supra*. PenAir cites **Walden** for the proposition that there must be a relationship between the plaintiff's claims and contacts the defendant makes with the forum state. **Walden**, 571 U.S. at 284. Its argument is based on its erroneous assertion that David's ticket purchase did not arise from PenAir's contacts with Washington. PFR at 11.

In **Walden**, specific jurisdiction was lacking because the defendant “never traveled to, conducted activities within . . . or sent anything or anyone to” the forum state—

in other words, that defendant did not purposefully avail himself of the forum state. 571 U.S. at 289. In such cases, there is no need to ask whether nonexistent contacts relate to the suit in the first place.

But here, there is purposeful contact – indeed, a Washington contract – made by PenAir itself. This was not a “random,” “isolated,” or “fortuitous” contact, nor was it the work of some “third party.” **Ford**, 141 S. Ct. at 1025. Rather, as the Court of Appeals explained, “through the CPA [PenAir] reached beyond its home of Alaska to exploit a market in Washington by relying on Washington-based Alaska Airlines to exclusively market and sell PenAir’s flights to Dutch Harbor.” **Duell**, 530 P.3d at 1021. That is sufficient under **Walden**, **Ford**, and indeed, every relevant SCOTUS decision.

**4. There is no conflict with the Ninth Circuit's decision in *Yamashita*.**

PenAir's citation to a Ninth Circuit decision also does not give rise to a conflict or indicate that the Court of Appeals' decision does not follow controlling precedent. PFR at 15-16 (citing *Yamashita v. LG Chem, Ltd.*, 62 F.4<sup>th</sup> 496 (9<sup>th</sup> Cir. 2023)). *Yamashita* is a products-liability case. *Yamashita*, 62 F.4<sup>th</sup> at 501. In rejecting personal jurisdiction, the Ninth Circuit applied *Ford*, asking whether the plaintiff's claims arose from or related to the defendant's activity in the forum state. *Id.* While the defendant did sell large solar batteries in the forum state, it did not sell the type of battery alleged to have injured the plaintiff in that state. *Id.* at 506-07. The court concluded that a claim based on an exploding e-cigarette battery was unrelated to LG Chem's sale of other, much larger batteries in that state. *Id.*



Notably, two months after *Yamashita*, the Texas Supreme Court reached a different conclusion when LG Chem's contact with the forum state was the sale of the very model battery the plaintiff alleged caused his injuries. See *LG Chem America, Inc. v. Morgan*, 670 S.W.3d 341 (Tex. 2023). The *Morgan* court saw evidence that LG Chem sold thousands of batteries in Texas of the same model that injured the Texas plaintiff: the court held that under *Ford*, the plaintiff's claim related to the defendant's activities in Texas. *Morgan*, 670 S.W.3d at 349.

These two cases together teach the same lesson regarding the limits of personal jurisdiction set down by the United States Supreme Court in *Ford*: what matters is the connection between the defendant's forum-state activities and the plaintiff's claims. Where, as here, the claims arise from *and* relate to the defendant's in-state activities, personal jurisdiction exists. The Court of Appeals' decision is entirely consistent with *Yamashita*.

**5. The United States Supreme Court has held that even a single contract – like the CPA between PenAir and Alaska Airlines – can establish purposeful availment.**

PenAir claims that under United States Supreme Court precedent, “a contract between a defendant and a third party in the forum state has never been sufficient to sustain an exercise of specific personal jurisdiction,” and a “contract with a third party located in Washington, absent such significant contacts, is not eligible” to establish purposeful availment. PFR at 12, 18. PenAir is wrong.

PenAir quotes ***Burger King***, which rejected the proposition that an individual’s single contract with an out-of-state party *automatically establishes* minimum contacts in the other party’s home forum. ***Burger King***, 471 U.S. at 478. That same Court, however, made it clear that “so long as it creates a ‘substantial connection’ with the forum, *even a single act can support jurisdiction.*” *Id.* at 475 n.18 (emphasis added). ***Yamashita*** also noted that

“for purposeful availment purposes, a single sufficiently deliberate contact can suffice.” ***Yamashita***, 62 F.4<sup>th</sup> at 504.

***Burger King*** explains its “highly realistic approach that recognizes that a contract is ordinarily but an intermediate step serving to tie up prior business negotiations with future consequences which themselves are the real object of the business transaction.” 471 U.S. at 479 (cleaned up). Here, the CPA – under which *all* seats on *all* PenAir flights during its term would be priced, marketed, and sold, *exclusively* by Alaska Airlines – clearly established PenAir’s purposeful availment of the privilege of doing business in Washington. And the CPA clause making *Washington law* govern the relationship between PenAir and Alaska Airlines also evidenced that PenAir “purposefully availed itself of the privilege of conducting activities within Washington.” ***Duell***, 530 P.3d at 1022.

Under CPA § 14.5 – “Choice of Law” (CP 122):

This CPA shall be governed by and interpreted in accordance with the laws of the State of Washington (without regard to principles of conflicts of law) including all matters of construction, validity and *performance*.

**Duell**, 530 P.3d at 1018 (emphasis added). **Burger King** itself recognizes that a choice-of-law provision in a contract is evidence that a defendant has “purposefully invoked the benefits and protections of a State’s laws for jurisdictional purposes.” **Burger King**, 471 U.S. at 482 (cleaned up).

In contrast, there is no authority (and PenAir cites none) for PenAir’s contention that the absence of a forum-selection clause in the CPA is in any way significant. Notably, the agreement at issue in **Burger King** did not include a forum-selection clause and instead specifically stated that the choice of Florida law to govern the agreement did not mean the parties agreed that all suits about the agreement had to be filed in Florida. *Id.* at 481. There is no conflict with **Burger King**.

**6. The scope of the CPA is irrelevant to the jurisdictional question.**

In framing its issue and elsewhere in its Petition, PenAir asserts that it was inaccurate for the Court of Appeals to reference Alaska Airlines retaining some control over safety or other standards for flights in and out of Dutch Harbor. PFR 2-4 & n.3. The meaning of that provision is entirely immaterial to whether these claims arise from or relate to PenAir's purposeful contact. Of course, the referenced section of the CPA does talk about safety and reliability in connection with Alaska Airlines' right to control when flights were to be scheduled for that airport. How much control Alaska Airlines was given may be an issue at trial, but it plays no part in the jurisdictional analysis.

**C. No conflict exists with other appellate decisions.**

PenAir also fails to identify any conflict with other published appellate decisions. *Duell* itself explains why the same court's prior decision in *Montgomery* is not controlling and does not mandate a different result here.

*Duell*, 530 P.3d at 1019-20 (distinguishing *Montgomery v. Air Serv. Corp., Inc.*, 9 Wn. App. 2d 532, 446 P.3d 659 (2019)). The other decisions PenAir identifies are unpublished and do not conflict with *Duell*.

1. **There is no conflict with Division One’s own *Montgomery* decision, which predates *Ford* and is factually distinguishable.**

PenAir is simply wrong in claiming that *Duell* conflicts with the same Court of Appeals’ earlier decision in *Montgomery*. In making this claim, PenAir again argues as if *Ford* was not decided after *Montgomery*.

The Court of Appeals clearly explained that *Montgomery* is inapplicable because it was decided before *Ford* and was based on a premise from “a plurality decision” in *J. McIntyre Machinery, Ltd. v. Nicastro*, 564 U.S. 873, 131 S. Ct. 2786, 180 L. Ed. 2d 760 (2011), which this Court described as involving “fractured opinions” on the “stream of commerce theory.” *Duell*, 530 P.3d at 1020 (citing *State v. LG Elec., Inc.*, 186 Wn.2d 169, 178-81, 375

P.3d 1035 (2016)). **Duell** goes on to explain that “neither **McIntyre** nor the ‘stream of commerce theory’ is mentioned in **Ford**,” and because “we look to federal law to determine personal jurisdiction, we review this case in light of **Ford**.” *Id.* at 1020.

In sum, the Court of Appeals properly followed the newer, unanimous decision of the United States Supreme Court, rather than the “fractured opinions” in an older case involving a different theory of personal jurisdiction. By following and applying controlling precedent, the Court of Appeals did not create a conflict that needs to be resolved by this Court.

PenAir also attempts to avoid this reality by claiming both that this case is on all fours with **Montgomery** and also that **Montgomery** categorically precludes Washington courts from exercising personal jurisdiction over an out-of-state company that contracts with a Washington company to perform services in another state.

PFR at 12-13, 20. Yet PenAir's discussion of **Montgomery** omits a key fact from **Montgomery**: the agreement between the wheelchair company (ABM) and Alaska Airlines was *not* what led to ABM providing services to that plaintiff because, when she arrived at DFW airport, she was *not on the Alaska Airlines flight for which she had purchased a ticket and requested wheelchair services*. **Montgomery**, 9 Wn. App. 2d at 536 n.3. Rather, she had missed her Alaska Airlines flight, so she flew from SeaTac to DFW on an American Airlines flight. *Id.*

If nonresident ABM entered into an agreement with nonresident American Airlines to provide services to Washington residents (among others) *in Texas*, no business transaction was made in Washington to justify long-arm jurisdiction. Further, **Montgomery**'s refusal to premise long-arm jurisdiction on such a contact is easily reconciled with this Court's decision in **Shute v. Carnival Cruise Lines**, 113 Wn.2d 763, 783 P.2d 78 (1989), which



also involved the provision of services outside the state, but under a ticket-sale contract made in Washington.

What was missing in **Montgomery** is present here: a direct link between the defendant's in-state Washington activities and the plaintiff's claims. David Oltman was on a flight operated by PenAir because PenAir entered into the CPA with Alaska Airlines to provide that specific service to Washington residents and others and to discourage competition in its market. The flight – and the negligence that led to David's death – arose from PenAir's efforts to give a Washington company the exclusive right to sell all its tickets. **Duell** is not inconsistent with **Montgomery** because PenAir engaged in business transactions within Washington directly related to the Estate's claims. Again, no conflict exists.

**2. PenAir identifies no published decisions in conflict with *Duell*.**

PenAir argues a conflict with an unpublished Division One decision. PFR at 22 (citing ***Wa. State Hous. Fin. Comm'n v. Nat'l Homebuyers Fund, Inc***, 14 Wn. App. 2d 1015, 2020 Wn. App. LEXIS 2306 (2020)). This Court does not grant review based on alleged conflicts with unpublished decisions. See RAP 13.4(b)(2)

But that unpublished decision, like ***Montgomery***, also came down before ***Ford***. Further, there it was undisputed that those defendants had “no connection to Washington,” and that plaintiff was unable to pierce the corporate veil between the out-of-state defendants and a Washington-connected defendant. ***Homebuyers***, 2020 Wn. App. LEXIS at \*9-\*11. No conflict exists.

PenAir relies on another unpublished opinion, ***Great Am. Ins. Co. v. 1914 Com. Leasing, LLC***, 22 Wn. App. 2d 1020, 2022 Wn. App. LEXIS 1196 (2022). PFR at 22-23.

That case involved an “out-of-state landlord-tenant dispute” over rent payments for a property in Tennessee, where none of the parties engaged in any business in Washington. **Great Am.** at \*11. Again, no conflict exists.

**D. Because the United States Supreme Court establishes the due-process limits of personal jurisdiction, no issue of substantial public interest exists that this Court should determine.**

This Court has repeatedly and consistently held that the state’s long-arm statute allows Washington courts to exercise personal jurisdiction over foreign companies to the extent permitted by the Due Process Clause of the federal Constitution. **Noll v. Am. Biltrite, Inc.**, 188 Wn.2d 402, 411, 395 P.3d 1021 (2017); **Shute**, 113 Wn.2d at 766-67. **Ford** is the most recent SCOTUS decision on this issue, and **Duell** follows that precedent. **Duell**, 530 P.3d at 1019 (“Since **International Shoe**, the United States Supreme Court has revisited the contours of how specific jurisdiction can be met – most recently in its decision in

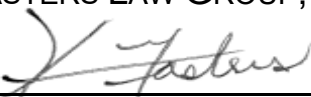
*Ford*”). Absent a conflict between an appellate decision and the governing United States Supreme Court precedent, there is no issue under either the federal or state constitution for this Court to resolve, nor is there an issue of substantial public interest that this Court should determine. Review is unnecessary.

### **CONCLUSION**

For the reasons stated above and in the trial and appellate court decisions, this Court should deny discretionary review.

The undersigned hereby certifies under RAP 18.17(2)(b) that this document contains **4,227** words.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of September 2023.

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I certify that I caused to be filed and served a copy of the foregoing **ANSWER TO PETITION FOR REVIEW** on the 27<sup>th</sup> day of September 2023 as follows:

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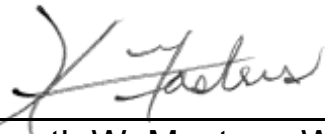
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