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WLF Asks Supreme Court to Clarify Scope of the Dormant Commerce Clause for Personal Jurisdiction (*BNSF v. Lynn*)

“A Delaware defendant headquartered in Texas. An Iowa plaintiff alleging a South Dakota injury. Yet the case was brought in Minnesota. That just can’t be right.”

— Zac Morgan, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to take a case that asks whether a Minnesota state court can exercise jurisdiction over a dispute between two out-of-state parties arising from an out-of-state injury.

The case stems from a lawsuit by Tanner Lynn, an Iowa resident. Mr. Lynn was employed by BNSF—a legal resident of Delaware that principally conducts business in Texas. Lynn was injured on the job in South Dakota. He sued—not in South Dakota, Iowa, Delaware, or Texas—but in Minnesota. Solely because BNSF is registered to do business in Minnesota, the state court determined that the company had consented to such suits.

That outcome can be traced to the Supreme Court’s contentious 2023 decision in *Mallory v. Norfolk Southern*, where a 5–4 Court found a Pennsylvania statute that expressly claimed open-ended jurisdiction via business registration did not run afoul of the Due Process Clause. But Justice Alito, a member of the *Mallory* majority, penned an unusual concurrence, arguing that while such jurisdiction does not undermine due process, it very likely violates the dormant Commerce Clause.

WLF’s amicus brief urges the Court to take the case on two grounds. First, after *Mallory*, the lower courts are divided on whether consent can be inferred from a generic business registration statute—with Connecticut in the odd situation of having the federal and state judiciaries at loggerheads on that issue. That undermines business certainty. WLF’s brief also explains that the Court can use this case to help clarify its broader dormant Commerce Clause jurisprudence.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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