"CONSENT BY REGISTRATION" AFTER *MALLORY*—A FIFTY STATE SUMMARY

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Table 1: **QUICK CHART**

Will "Consent by Registration" Apply after *Mallory*?		
Category	Answer	States
A	Clearly yes, since BCA explicitly subjects all registered foreign entities to PJ.	Pennsylvania, Kansas
B	Clearly yes, since courts have interpreted BCA to apply "consent by registration" both pre- and post-*Daimler*.	Georgia, Minnesota
C	Probably yes, since pre-*Daimler* case law interpreted BCA as establishing "consent by registration" (though state appellate courts have not addressed this issue post-*Daimler*).	Connecticut
D	Probably yes. Though "consent by registration" was held unconstitutional post-*Daimler*, its application was long-standing and consistent pre-*Daimler*.	New Jersey, New York
E	TBD. BCA includes "duties, restriction, penalties, and liabilities" language, and long-arm extends the limits of due process–but state appellate courts have never addressed this issue.	Alaska, Colorado, Louisiana, New Hampshire, North Carolina, Oklahoma, Rhode Island, Vermont, West Virginia, Wyoming
F	TBD. State appellate courts refused to apply "consent by registration" post-*Daimler* but applied it to some extent pre-*Daimler*.	Arizona, Nebraska, New Mexico
G	Probably no, since state appellate court have held that "duties, restrictions, penalties, and liabilities" language does *not* establish "consent by registration."	Michigan, Illinois,[1] Missouri, Oregon, South Carolina, Tennessee, Texas, Washington, Wisconsin

1. Though the Illinois Supreme Court has held that the "duties, restrictions, penalties and liabilities" language in Illinois' Business Corporation Act ("BCA") does not establish consent by registration, Illinois' long-arm statute also features a unique provision authorizing Illinois courts to "exercise jurisdiction in any action arising within *or without* this State against any person who . . . [i]s a natural person or corporation doing business within this State. ILL. COMP. STAT. 735 § 5/2-209(b)(4) (2024) (emphasis added). In 2017, the Illinois Supreme Court held that this portion of Illinois' long-arm statute violates due process, pursuant to *Daimler*. *See* Aspen Am. Ins. Co. v. Interstate Warehousing, Inc., 90 N.E.3d 440 (Ill. 2017). Since *Mallory* eliminated those constitutional concerns, a strong argument exists that "consent by registration" should apply in Illinois post-*Mallory*.

H	Probably no, since BCA does *not* include "duties, restrictions, penalties, and liabilities" language.	Alabama, California, Delaware,[2] Florida, Iowa,[3] Maryland, Ohio, Virginia
I	Probably no, since long-arm statute is strictly limited and does not extend to the limits of due process.	Kentucky, Massachusetts
J	Clearly no, since registered agent statute explicitly provides that "registered agent does not, by itself, create basis for PJ."	Arkansas, District of Columbia, Hawaii, Idaho, Indiana, Maine, Mississippi, Montana, Nevada, North Dakota, Utah

Mallory cleared a path allowing all states to adopt and apply "consent by registration," if they choose to do so. Any state is free to accomplish that task legislatively. The states in rows D-H could also accomplish that task via judicial action. Appellate courts in rows D, F, G, and H would have to reverse existing precedent to get there though. For reasons set out in more detail in the full chart hereinbelow, "D" states seem likely to take that step. "G" and "H" states appear much less likely to do that—though Illinois, Delaware, and Iowa bear monitoring for the reasons in the footnotes below. The outcome in "E" and "F" states is anyone's guess.

In "A," "B," and "C" states, "consent by registration" is already the established law of the land—a fact that Mallory only strengthened.

2. Before *Daimler*, the Delaware Supreme Court held that a foreign entity's registration to do business in Delaware was sufficient, in and of itself, to subject the registrant to personal jurisdiction. *See* Sternberg v. O'Neil, 550 A.2d 1105, 1116 (Del. 1988). After *Daimler*, the Delaware Supreme Court reversed course. *See* Genuine Parts Co. v. Cepec, 137 A.3d 123, 127 (Del. 2016). The only distinction between Delaware and the states in Row F is that Delaware's BCA does not feature the "duties, restrictions, penalties, and liabilities" language. Since *Mallory* instructs the states to look to the specific language of its statute, the assumption here is that Delaware will remain in the "no" row.

3. Even after Iowa removed the "duties, restrictions, penalties, and liabilities" language from its statute, and after *Daimler*, federal district courts in Iowa have continued to acknowledge and apply the Eighth Circuit's holding in Knowlton v. Allied Van Lines, Inc., 900 F.2d 1196, 1200 (8th Cir.1990), equating registration to do business in Iowa with consent to personal jurisdiction there. *See* BH Mgmt. Servs., LLC v. B.H. Props., LLC, No. 422CV00046JEGHCA, 2022 WL 18780124, at *5 (S.D. Iowa Sept. 28, 2022); Spanier v. Am. Pop Corn Co., No. C15-4071-MWB, 2016 WL 1465400, at *4 (N.D. Iowa Apr. 14, 2016). Since *Mallory* instructs the states to look to the specific language of its statute, and since no Iowa state appellate court has ever weighed in on this issue, either before or after *Daimler*, the assumption here is that Iowa will move to the "no" row.

INTRODUCTION

In *Mallory v. Norfolk Southern Railroad Company*, the Supreme Court held that a state's application of "consent by registration" complies with due process.[4] But pursuant to *Mallory*, a foreign entity's registration to do business in a particular state will only establish the registrant's "consent" to personal jurisdiction in that state if the law of the state in question establishes that registration is tantamount to consent.[5] The intent of this Article is to outline (a) which states already apply "consent by registration," (b) which do not, and (c) which are likely to change course after *Mallory*.

I. PERSONAL JURISDICTION GENERALLY

There are, of course, three means by which a defendant can be held subject to personal jurisdiction: general, specific, and "tag." The first is general jurisdiction, where a defendant maintains such broad contacts with a state such that it can be deemed "at home" there, regardless of whether its conduct giving rise to the case had any connection with the jurisdiction or not.[6] In 2014, in *Daimler AG v. Bauman*, the Supreme Court sharply limited the application of general jurisdiction, holding—essentially—that though an entity will virtually always be subject to general jurisdiction in the state(s) where it is either incorporated or has its principal place of business,[7] those two places are the only states where general jurisdiction will apply.[8]

The second is specific jurisdiction, where the defendant's conduct giving rise to the case actually occurred in, or evidenced some specific contact with, the jurisdiction. In *Ford v. Montana*, the United States

4. *See* Mallory v. Norfolk S. R.R. Co., 600 U.S. 122, 146 (2023).

5. *Id.* at 135–36.

6. *See* Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 919 (2011) (introducing the "essentially at home" standard into the lexicon of general jurisdiction).

7. *See* Daimler AG v. Bauman, 571 U.S. 117, 118 (2014) (referring to "a corporation's place of incorporation and principal place of business" as "[t]he paradigm all-purpose forums for general jurisdiction").

8. Though the *Daimler C*ourt did not "foreclose the possibility that in an exceptional case, *see, e.g.*, *Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437 (1952), a corporation's operations in a forum other than its formal place of incorporation or principal place of business may be so substantial and of such a nature as to render the corporation at home in that state," *Daimler*, 571 U.S. at 139 n.19, the *Daimler C*ourt did not think the facts before it rendered that case to be so exceptional, despite the fact that the defendant's wholly owned subsidiary had multiple facilities in the forum state, including a regional office, a vehicle preparation center, and a "classic center," and despite the fact that 2.4% of all of the defendant's worldwide sales occurred in the forum state. *See id.* at 123. That fact has led multiple observers to conclude that *Daimler* essentially put an end to general jurisdiction in states other than the defendant's place of incorporation or principal place of business. *See* Tonya J. Monestier, *Registration Statutes, General Jurisdiction, and the Fallacy of Consent*, 36 CARDOZO L. REV. 1343, 1346 (2015) ("In the aftermath of *Daimler*, it is unlikely that any state other than these will be able to assert general jurisdiction over a corporation.").

Supreme Court broadened the application of specific jurisdiction, holding unequivocally, in a product liability case, that the defendant-manufacturer will always be subject to specific jurisdiction in the state where the plaintiff's injury occurred so long as that defendant marketed the allegedly defective product in that state in any manner.[9] The *Ford* court also refused to foreclose the possibility that a defendant in a product case could also be subject to specific jurisdiction in the state where the defective product was either (a) manufactured or (b) first sold to a consumer.[10]

The third basis for personal jurisdiction is consent. Such consent to jurisdiction may be either express or implied, based on a variety of circumstances.[11] A common form of implied consent to jurisdiction, frequently overlooked prior to *Mallory*, is "tag" jurisdiction. Before *Mallory*, "tag" jurisdiction was thought to apply only to individual, as opposed to corporate, defendants.[12] And that may still be true. The main opinion in *Mallory* is divided between portions that speak for a majority of the court and those that speak for only a plurality thereof.[13] *Mallory*'s characterization of "consent by registration" as an application of "tag" jurisdiction over corporate defendants is set out in only plurality portions of the main opinion.[14]

II. THE FIFTY STATES' CURRENT REGISTRATION STATUTES

The *Mallory* opinion cites an Appendix, which was provided in Petitioner's brief, that collected each of the fifty states' original registration statutes enacted over an eighty-year period.[15] Those old statutes, several of which have been repealed, addressed "consent by registration" in a variety of ways, as summarized by the court in *Mallory*.[16]

But in the attempt to create uniformity among the various states' business corporation laws, in 1950, a group of judges and lawyers first issued the Model Business Corporation Act ("MBCA"). Snce its initial 1950 issuance, revised versions of the MBCA have been issued four times—in

9. *See* Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 592 U.S. 351, 363–65 (2021).

10. *But see id.* at 376–77 (Gorsuch, J., concurring in the judgment) (worrying, needlessly, that the majority's opinion in *Ford* might end the application of specific jurisdiction in states where a defective product was first sold).

11. Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 703–04 (1982).

12. *See, e.g.*, Burnham v. Super. Ct. of Cal., Cnty. of Marin, 495 U.S. 604, 615–16 (1990) (collecting "[m]any recent cases reaffirm[ing]" the constitutionality of tag jurisdiction, each of which applied the concept to an individual—as opposed to a corporate—defendant).

13. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 124 (2023) (noting that only Parts I and III-B of the main opinion speak for a majority of the Court).

14. *See id.* at 129, 139–40.

15. *See id.* at 130–31.

16. *See id.*

1969, 1984, 2013, and 2016.[17] Today, some iteration of the MBCA has been enacted and is effective in thirty-six states.[18]

A. Only Two States Currently Feature Statutes That Explicitly Establish "Consent by Registration."

To allow for flexibility in interpretation by the various state courts and perhaps to attract enactment of the MBCA itself, each iteration of the MBCA is short and uncontroversial—particularly when compared to the colorful versions of those statutes enacted by states throughout the latter half of the nineteenth century.[19] In contrast, the MBCA addresses only those barest of necessities required for the formation and operation of a legal business entity.[20]

Importantly, no iteration of the MBCA has ever *explicitly* addressed whether a foreign entity's registration to business in the state is tantamount to consent to personal jurisdiction therein.[21]

So today, most states' "registration to do business" statutes do not explicitly address whether such registration will be deemed tantamount to consent.[22] Only two states—Pennsylvania and Kansas—currently have statutes that explicitly provide for "consent by registration."[23]

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17. *See* MODEL BUS. CORP. ACT (1950) (AM. BAR ASS'N, amended 2016).

18. AM. BAR ASS'N, *MBCA Enactments by States*, MODEL BUS. CORP. ACT RES. CTR., https://www.americanbar.org/groups/business_law/resources/model-business-corporation-act/ [https://perma.cc/EQ8W-C98N] (last visited Oct. 27, 2024).

19. *Compare* MODEL BUS. CORP. ACT (1950) (AM. BAR ASS'N, amended 2016), *with* IOWA CODE ANN. vol. VI, tit. XII (2024), *and* IOWA CODE ANN. §§ 490.101–1804 (2024).

20. *See* MODEL BUS. CORP. ACT (1950) (AM. BAR ASS'N, amended 2016).

21. *See id.*

22. *See, e.g.*, ALA. CODE § 10A-1-7.32 (2021); ALA. CODE § 10A-1-7.05(b) (2021); ALASKA STAT. § 10.06.740 (2024); ARIZ. REV. STAT. ANN. § 10-1505(B) (2019); CAL. CORP. CODE § 2102 (2024); COLO. REV. STAT. § 7-90-805(2) (2023); CONN. GEN. STAT. § 33-924(b) (2023); DEL. CODE ANN. tit. 8, § 371 (2024); FLA. STAT. § 607.1505(2) (2023); GA. CODE ANN. § 14-2-1505(b) (2003); 805 ILL. COMP. STAT. 5/13.10 (2024); IOWA CODE ANN. § 490.1502 (2024); KY. REV. STAT. ANN. § 14A.9-050(2) (West 2021); LA. STAT. ANN. § 12:1347 (2024); MD. CODE ANN. § 7-101 (2024); MASS. GEN. LAWS ch. 156D, § 15.05(b) (2024); MICH. COMP. LAWS § 450.2002(1) (2024); MINN. STAT. § 303.06(4) (2023); MO. REV. STAT. § 351.582(2) (2021); NEB. REV. STAT. § 21-2,207(b) (2020); N.H. REV. STAT. ANN. § 293-A:15.05(b) (2013); N.J. STAT. ANN. § 14A:13–5 (West 2003); N.M. STAT. ANN. § 53-17-2 (2024); NY. BUS. CORP. LAW § 1314(b)(5) (2022); N.C. GEN. STAT. § 55-15-05(b) (2024); OHIO REV. CODE ANN. § 1703.04(B)(6) (West 2024); OKLA. STAT. tit. 18 § 1130(D) (2024); OR. REV. STAT. § 60.714 (2019); R.I. GEN. LAWS § 7-1.2-1402 (2023); S.C. CODE ANN. § 33-15-105(b) (2006); TENN. CODE ANN. § 48-25-105(b) (2024); TEX. BUS. ORGS. CODE ANN. § 9.203 (2024); VT. STAT. ANN. tit. 11A § 15.05(b) (2016); VA. CODE ANN. § 13.1-761(B) (2024); WASH. REV. CODE § 23.95.500(3) (2024); W. VA. CODE § 31D-15-1505(b) (2024); WIS. STAT. § 180.1505(2) (2022); WYO. STAT. ANN. § 17-16-1505(b) (2024).

23. *See* 42 PA. CONS. STAT. § 5301(a)(2)(i) (2024); KAN. STAT. ANN. § 17-7931(g) (2023). Note, however, that a strong argument exists that statutes in New Jersey and Illinois explicitly established "consent by registration" as well. *See* N.J. Ct. R. 4:4-4(6) (2024); 735 ILL. COMP. STAT. 5/2-209(b)(4) (2024).

B. Ten States and the District of Columbia Feature Statutes That Do Not Equate Registration with Consent.

With regard to personal jurisdiction, more explicit than the MBCA is the Model Registered Agents Act ("MRAA"), which the Uniform Law Commission issued in 2006. The MRAA states, in no uncertain terms, that "[t]he designation or maintenance . . . of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity[.]"[24] It has failed to gain broad traction though, having been enacted in only ten states and the District of Columbia.[25] But as to the ten states that have enacted the MRAA,[26] *Mallory* clearly will have no effect. A plain reading of the statutes there establishes that "consent by registration" will not apply.[27]

C. But Twenty-Four States—Including Pennsylvania—Feature Statutory Language That Was Relied on By the Majority in *Mallory*, and That Several State Judiciaries Have Interpreted as Establishing "Consent by Registration."

For sixty-three years—from the time of the MBCA's initial issuance, in 1950, up through 2013—the MBCA at least featured the following language:

> A foreign corporation with a valid certificate of authority has the same but no greater rights and the same but no greater privileges as, and except as otherwise provided by this Act is subject to *the same duties, restrictions, penalties, and liabilities* now or later imposed on, a domestic corporation of like character.[28]

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24. *See* MODEL REGISTERED AGENTS ACT § 15 (UNIF. L. COMM'N 2006).

25. *See* ARK. CODE ANN. § 4-20-115 (2024); HAW. REV. STAT. § 425R-12 (2018); IDAHO CODE § 30-21-414 (2024); IND. CODE § 23-0.5-4.12 (2024); ME. STAT. tit. 5, § 115 (2024); MISS. CODE ANN. § 79-35-15 (2022); MONT. CODE ANN. § 35-7-115 (2024); NEV. REV. STAT. § 77.440 (2018); N.D. CENT. CODE § 10-01.1-15 (2024); UTAH CODE ANN. § 16-17-401 (2024); D.C. CODE § 29-104.14 (2024).

26. Arkansas, Hawaii, Idaho, Indiana, Maine, Mississippi, Montana, Nevada, North Dakota, and Utah.

27. *See* ARK. CODE ANN. § 4-20-115 (2024); HAW. REV. STAT. § 425R-12 (2018); IDAHO CODE § 30-21-414 (2024); IND. CODE § 23-0.5-4.12 (2024); ME. STAT. tit. 5, § 115 (2024); MISS. CODE ANN. § 79-35-15 (2022); MONT. CODE ANN. § 35-7-115 (2024); NEV. REV. STAT. § 77.440 (2018); N.D. CENT. CODE § 10-01.1-15 (2024); UTAH CODE ANN. § 16-17-401 (2024); D.C. CODE § 29-104.14 (2024).

28. *See* MODEL BUS. CORP. ACT § 15.05(b) (1984) (AM. BAR ASS'N, amended 2016) (emphasis added); MODEL BUS. CORP. ACT § 107 (1969) (AM. BAR ASS'N, amended 2016); MODEL BUS. CORP. ACT § 100 (1950) (AM. BAR ASS'N, amended 2016).

Pennsylvania's inclusion of this language in its own registration statutes was significant enough to the *Mallory* majority that it saw fit to quote that language.[29]

Today, in addition to Pennsylvania, at least twenty-three other states feature statutes that track that same language.[30] Whether statutory language subjecting all registered foreign entities to the same "duties, restrictions, penalties, and liabilities" as comparable domestic entities can be interpreted to establish "consent by registration" has been a battleground in the state courts for some time now—even prior to the Supreme Court's holding in *Mallory*.[31]

III. STATES' INTERPRETATION OF THEIR REGISTRATION STATUTES, PRE- AND POST-*DAIMLER*.

Before *Mallory*, most courts viewed the constitutionality of "consent by registration" through the lens of general jurisdiction.[32] Particularly after the mid-2000s, relatively few courts looked all the way back to both *Pennsylvania Fire* and *International Shoe*, synthesizing a century's worth of personal jurisdiction jurisprudence to conclude that "consent" constitutes a third basis for personal jurisdiction that is separate from either specific or general jurisdiction[33]—as at least a plurality of the Supreme Court did in *Mallory*.

To the contrary, as *Pennsylvania Fire* grew increasingly dated, the trend among courts was to analyze "consent by registration" issues within the framework of a general jurisdiction analysis.[34] As such, the Supreme

29. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 134 (2023).

30. Those include Alaska, Arizona, Colorado, Connecticut, Georgia, Illinois, Louisiana, Michigan, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. *See* ALASKA STAT. § 10.06.740 (2024); ARIZ. REV. STAT. ANN. § 10-1505(B) (2019); COLO. REV. STAT. § 7-90-805(2) (2023); CONN. GEN. STAT. § 33-924(b) (2023); GA. CODE ANN. § 14-2-1505(b) (2003); 805 ILL. COMP. STAT. 5/13.10 (2024); LA. STAT. ANN. § 12:1347 (2024); MICH. COMP. LAWS § 450.2002(1) (2024); MO. REV. STAT. § 351.582(2) (2021); NEB. REV. STAT. § 21-2,207(b) (2020); N.H. REV. STAT. ANN. § 293-A:15.05(b) (2013); N.M. STAT. ANN. § 53-17-2 (2024); N.C. GEN. STAT. § 55-15-05(b) (2024); OKLA. STAT. tit. 18 § 1130(D) (2024); OR. REV. STAT. § 60.714 (2019); 15 PA. CONS. STAT. § 402(d) (2024); R.I. GEN. LAWS § 7-1.2-1402 (2023); S.C. CODE. ANN. § 33-15-105(b) (2006); TENN. CODE ANN. § 48-25-105(b) (2024); TEX. BUS. ORGS. CODE ANN. § 9.203 (2024); VT. STAT. ANN. tit. 11A § 15.05(b) (2016); WASH. REV. CODE § 23.95.500(3) (2024); W. VA. CODE § 31D-15-1505(b) (2024); WIS. STAT. § 180.1505(2) (2022); WYO. STAT. ANN. § 17-16-1505(b) (2024).

31. *See, e.g.*, Tonya J. Monestier, *Registration Statutes, General Jurisdiction, and the Fallacy of Consent*, 36 CARDOZO L. REV. 1343 (2015).

32. *See, e.g.*, Genuine Parts Co. v. Cepec, 137 A.3d 123, 145 (Del. 2016).

33. *See, e.g.*, Sae Han Sheet Co. v. Eastman Chem. Corp., No. 17 CIV. 2734 (ER), 2017 WL 4769394, at *4–7 (S.D.N.Y. Oct. 19, 2017) (evaluating a wealth of "consent by registration" case law, none of which pre-dates 1990).

34. *See id.*

Court's sharp limitation on "general jurisdiction" in *Daimler*, marked a major turning point in "consent by registration" jurisprudence across the country.[35] *Daimler* prompted a massive change in the way that state and lower federal courts approached "consent by registration" issues. As such, a navigable framework for the analysis of "consent by registration" cases is best established by separating them into those that were issued pre-*Daimler* and those that were issued post-*Daimler*.[36]

A. Pre-*Daimler*, It Was More Common for Courts to Apply "Consent by Registration" Than It Was for Them to Refuse to Apply It, Irrespective of the Language of the Registration Statute at Issue.

First, it should be noted that personal jurisdiction is generally a question of state, not federal, law.[37] Courts' analyses are guided by the forum state's long-arm statute,[38] together with any other statutes in the

35. *See Ex parte* Nissei Sangyo Am., Ltd., 577 So. 2d 912, 914 (Ala. 1991); Sternberg v. O'Neil, 550 A.2d 1105 (Del. 1988), *abrogated by* Genuine Parts Co. v. Cepec, 137 A.3d 123 (Del. 2016); Mittelstadt v. Rouzer, 328 N.W.2d 467, 469–70 (Neb. 1982), *overruled by* Lanham v. BNSF Ry. Co., 939 N.W.2d 363 (Neb. 2020); Bohreer v. Erie Ins. Exch., 165 P.3d 186, 191–94 (Ariz. Ct. App. 2007); Werner v. Wal-Mart Stores, Inc., 1993-NMCA-112, 861 P.2d 270, 272–73 (N.M. Ct. App. 1993), *overruled by* Chavez v. Bridgestone Americas Tire Operations, LLC, 2022-NMSC-006, 503 P.3d 332 (N.M. 2021); Augsbury Corp. v. Petrokey Corp., 470 N.Y.S.2d 787 (N.Y. App. Div. 1983), *abrogation recognized by* Aybar v. Aybar, 93 N.Y.S.3d 159 (N.Y. App. Div. 2d Dep't. 2019); Litton Indus. Sys., Inc. v. Kennedy Van Saun Corp., 117 N.J. Super. 52, 283 A.2d 551 (N.J. Super. Ct. Law Div. 1971). *But see* Chavez v. Bridgestone Americas Tire Operations, LLC, 2022-NMSC-006, 503 P.3d 332 (N.M. 2021); Lanham v. BNSF Ry. Co., 939 N.W.2d 363 (Neb. 2020); Facebook, Inc. v. K.G.S., 294 So. 3d 122, 133–34 (Ala. 2019); Genuine Parts Co. v. Cepec, 137 A.3d 123, 127 (Del. 2016); Aybar v. Aybar, 93 N.Y.S. 3d 159, 166 (N.Y. App. Div. 2019); Wal-Mart Stores, Inc. v. LeMaire, 395 P.3d 1116, 1119–21 (Ariz. Ct. App. 2017); Dutch Run-Mays Draft, LLC v. Wolf Block, LLP, 164 A.3d 435, 444–45 (N.J. Super. Ct. App. Div. 2017).

36. *See Ex parte Nissei*, 577 So. 2d at 914; *Sternberg*, 550 A.2d at 1105, *abrogated by Genuine Parts*, 137 A.3d at 123; *Mittelstadt*, 328 N.W.2d at 469–70, *overruled by Lanham*, 939 N.W.2d at 363; *Bohreer*, 165 P.3d at 191–94 ; *Werner*, 861 P.2d at 272–73, *overruled by Chavez*, 503 P.3d at 332; *Augsbury*, 470 N.Y.S.2d at 787, *abrogation recognized by Aybar*, 93 N.Y.S.3d at 159; *Litton*, 117 N.J. Super. 52, 283 A.2d at 551. *But see Chavez*, 503 P.3d at 332; *Lanham*, 939 N.W.2d at 363; *Facebook*, 294 So. 3d at 133–34; *Genuine Parts*, 137 A.3d at 127; *Aybar*, 93 N.Y.S. 3d at 166; *LeMaire*, 395 P.3d at 1119–21; *Dutch Run-Mays Draft*, 164 A.3d at 444–45.

37. *See, e.g.*, Walden v. Fiore, 571 U.S. 277, 283 (2014) ("Federal courts ordinarily follow state law in determining the bounds of their jurisdiction over persons.") (quoting Daimler AG v. Bauman, 571 U.S. 117, 125 (2014)).

38. *See, e.g.*, Ellicott Mach. Corp., Inc. v. John Holland Party Ltd., 995 F.2d 474, 477 (4th Cir. 1993) (outlining the familiar "two-step process" for the resolution of personal jurisdiction questions, looking first to state law and then to the Fourteenth Amendment Due Process Clause).

forum state that might provide a basis for personal jurisdiction over the defendant at issue.[39]

The only *federal* law applicable in the context of personal jurisdiction is the Due Process Clause of the Fourteenth Amendment.[40] So long as the exercise of personal jurisdiction, pursuant to an applicable state statute, does not deprive the defendant of due process, federal law should have no role in the court's analysis.[41]

Perhaps erroneously then, before the mid-2000s, courts commonly held that registration was tantamount to consent *without* considering the specific language of any applicable state statute.[42] An outlier existed in the New Mexico Court of Appeals, which held that the "duties, restrictions, penalties and liabilities" language in New Mexico's Business Corporation Act ("BCA") "support[ed] the reading of [New Mexico's] service of process statute as conferring state- court jurisdiction through consent."[43] Similarly, the Mississippi Supreme Court interpreted that same language, in its own state's BCA, as establishing "consent by registration."[44]

More common was the approach of the Eighth Circuit Court of Appeals in *Knowlton v. Allied Van Lines, Inc.*, holding, in broad strokes, that though consent by registration "is not one of the specific types of consent listed by the Supreme Court [in *Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee*] it is nevertheless a traditionally recognized and well-accepted species of general consent, possibly omitted from the Supreme Court's list because it is of such long standing as to be taken for granted."[45]

After *Mallory*, it now appears permissible for states to "take for granted" that "consent by registration" comports with due process—at least in states that subject registered foreign entities to the same "duties, restrictions, penalties and liabilities" as domestic entities.[46] What is not permissible is for courts to apply "consent by registration" in the absence of

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39. *See* L.B. Foster Co. v. R.R. Serv., Inc., 734 F. Supp. 818, 821 n.6 (N.D. Ill. 1990) (collecting long-arm statutes that extend to the limits of due process, each of which features a "catch-all" provision allowing "courts to exercise jurisdiction on any basis not inconsistent with the [state] or U.S. constitutions").

40. *See Ellicott*, 995 F.2d at 477.

41. *See id.*

42. *See, e.g.*, *Ex parte* Nissei Sangyo Am., Ltd., 577 So. 2d 912, 914 (Ala. 1991).

43. Werner v. Wal-Mart Stores, Inc., 1993-NMCA-112, 861 P.2d 270, 272–73 (N.M. Ct. App. 1993), *overruled by* Chavez v. Bridgestone Americas Tire Operations, LLC, 2022-NMSC-006, 503 P.3d 332 (N.M. 2021).

44. *See* Read v. Sonat Offshore Drilling, Inc., 515 So. 2d 1229, 1230 (Miss. 1987). *But see* K&C Logistics, LLC v. Old Dominion Freight Line, Inc., 374 So. 3d 515, 524–25 (Miss. 2023) (noting that *Read* was not controlling after the 2013 enactment of Mississippi Code Section 79-35-15).

45. Knowlton v. Allied Van Lines, Inc., 900 F.2d 1196, 1200 (8th Cir.1990) (referring to the Court's decision in Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 684, 703–04 (1982)).

46. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 134–36 (2023).

some state statute that can be interpreted to authorize the exercise of personal jurisdiction in that manner.[47] Before *Daimler* though, at least fifteen different states' appellate courts applied "consent by registration" either with or without reference to state statutory language authorizing its application.[48] Conversely, only eight state appellate courts refused to apply "consent byregistration" before *Daimler*, based on either the language of their state's registration statute, or as the result of due process concerns.[49]

B. *Daimler* Introduced New Constitutional Concerns to States' "Consent by Registration" Analysis.

Of the twenty-three pre-*Daimler* opinions from state appellate courts addressing "consent by registration," only four based their opinions on a notion that *Mallory* recently deemed a fallacy—that "consent by registration" is constitutionally impermissible.[50] The other four state appellate courts that refused to apply "consent by registration" did so based solely on the language of their individual state's registration statutes as opposed to any due process concerns.[51]

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47. *See id.*

48. *See* Merriman v. Crompton Corp., 146 P.3d 162, 176–77 (Kan. 2006); *Ex parte* Nissei Sangyo Am., Ltd., 577 So. 2d 912, 914 (Ala. 1991); Rykoff-Sexton, Inc. v. Am. Appraisal Assocs., Inc., 469 N.W.2d 88, 89–90 (Minn. 1991); White v. Pepsico, Inc., 568 So. 2d 886 (Fla. 1990); Sternberg v. O'Neil, 550 A.2d 1105 (Del. 1988), *abrogated by* Genuine Parts Co. v. Cepec, 137 A.3d 123 (Del. 2016); Read v. Sonat Offshore Drilling, Inc., 515 So. 2d 1229 (Miss. 1987); Mittelstadt v. Rouzer, 328 N.W.2d 467, 469–70 (Neb. 1982), *overruled by* Lanham v. BNSF Ry. Co., 939 N.W.2d 363 (Neb. 2020); Talenti v. Morgan & Bro. Manhattan Storage Co., 968 A.2d 933, 940–41 (Conn. App. Ct. 2009); Bohreer v. Erie Ins. Exch., 165 P.3d 186, 191–94 (Ariz. Ct. App. 2007); Packaging Store, Inc. v. Leung, 917 P.2d 361, 363 (Colo. App. 1996); Werner v. Wal-Mart Stores, Inc., 1993-NMCA-112, 861 P.2d 270, 272–73 (N.M. Ct. App. 1993), *overruled by* Chavez v. Bridgestone Americas Tire Operations, LLC, 2022-NMSC-006, 503 P.3d 332 (N.M. 2021); Augsbury Corp. v. Petrokey Corp., 470 N.Y.S.2d 787 (N.Y. App. Div. 1983), *abrogation recognized by* Aybar v. Aybar, 93 N.Y.S.3d 159 (N.Y. App. Div. 2d Dep't. 2019); Goldman v. Pre-Fab Transit Co., 520 S.W.2d 597 (Tex. Civ. App. 1975); Litton Indus. Sys., Inc. v. Kennedy Van Saun Corp., 283 A.2d 551 (N.J. Super. Ct. Law Div. 1971).

49. *See* Freeman v. Second Jud. Dist. Ct. ex rel. Cnty. of Washoe, 1 P.3d 963, 968 (Nev. 2000); Wainscott v. St. Louis-San Francisco Ry. Co., 351 N.E.2d 466, 474 (Ohio 1976); Renfroe v. Nichols Wire & Aluminum Co., 83 N.W.2d 590, 594 (Mich. 1957); Builder Mart of Am., Inc. v. First Union Corp., 563 S.E.2d 352 (S.C. Ct. App. 2002), *overruled in part on other grounds by* Farmer v. Monsanto Corp., 579 S.E.2d 325 (S.C. 2003); Wash. Equip. Mfg. Co., v. Concrete Placing Co., 931 P.2d 170, 171–72 (Wash. Ct. App. 1997); Conner v. ContiCarriers & Terminals, Inc., 944 S.W.2d 405, 416–17 (Tex. App. 1997); Thompson v. Ciboney Spa and Beach Resort, No. 01-A-01-9507-CV00297, 1995 WL 714280, at *3 (Tenn. Ct. App. Dec. 6, 1995); Goodyear Tire & Rubber Co. v. Ruby, 540 A.2d 482, 487 (Md. 1988).

50. *See Freeman*, 1 P.3d at 968; *Wainscott*, 351 N.E.2d at 466; *Conner*, 944 S.W.2d at 416–17; *Thompson*, 1995 WL 714280, at *3.

51. *See Renfroe*, 83 N.W.2d at 594; *Builder Mart*, 563 S.E.2d at 352; *Wash. Equip.*, 931 P.2d at 171–72; *Goodyear Tire*, 540 A.2d at 487.

So, in general, pre-*Daimler* courts were *not* concerned that a foreign entity's due process rights might be impermissibly affected by "consent via registration."[52] As summarized in *Mallory*, prior to the 1950 circulation of the Model Business Corporation Act ("MBCA"), the fifty states spent an eighty year period enacting unique registration statutes that subjected foreign entities to personal jurisdiction in all manners of diverse ways—including by consent via registration.[53] If those statutes did not raise any due process concerns then, why would consent by registration's application raise any such concerns when applied pursuant to the comparatively vanilla MBCA? Pre-*Daimler*, the "long standing" acceptance of consent by registration's application, as recognized by the Eighth Circuit in *Knowlton*,[54] made any due process analysis of its application seem frankly unnecessary.

The effect of the *Daimler* opinion, in 2014, was to inject an often lethal overdose of due process concerns into courts' analysis of "consent by registration" schemes.[55] As stated, *Daimler* essentially concluded that no state could exercise general personal jurisdiction over a defendant unless that state happened to be one where the defendant was either incorporated or had its principal place of business.[56] And the only purpose of "consent by registration" is to provide a means of exercising personal jurisdiction over a defendant whose acts and omissions occurred elsewhere than in the forum state. As such, by 2014, courts' analysis of "consent by registration" had shifted almost entirely into the realm of general jurisdiction—far from the concept's roots in *Pennsylvania Fire*, where it existed as a third form of personal jurisdiction, separate from either specific or general.[57]

Consequently, most courts across the country heard *Daimler* to ring the death knell of "consent by registration."[58] Specifically, after *Daimler*,

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52. *See Merriman*, 146 P.3d at 176–77; *Ex parte Nissei*, 577 So. 2d at 914; *Rykoff-Sexton*, 469 N.W.2d at 89–90; *White*, 568 So. 2d at 886; *Sternberg*, 550 A.2d at 1105; *Read*, 515 So. 2d at 1229; *Mittelstadt*, 328 N.W.2d at 469–70; *Talenti*, 968 A.2d at 940–4; *Bohreer*, 165 P.3d at 191–94; *Packaging Store*, 917 P.2d at 363; *Werner*, 861 P.2d at 272–73; *Augsbury Corp.*, 470 N.Y.S.2d at 787; *Goldman*, 520 S.W.2d at 597; *Litton*, 283 A.2d at 551; *see also Renfroe*, 83 N.W.2d at 594; *Builder Mart*, 563 S.E.2d at 352; *Wash. Equip.*, 931 P. 2d at 171–72; *Goodyear Tire*, 540 A.2d at 487.

53. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 130-31 (2023).

54. Knowlton v. Allied Van Lines, Inc., 900 F.2d 1196, 1200 (8th Cir. 1990).

55. *See* Chavez v. Bridgestone Americas Tire Operations, LLC, 503 P.3d 332, 332 (N.M. 2021); Lanham v. BNSF Ry. Co., 939 N.W.2d 363, 363 (Neb. 2020); Facebook, Inc. v. K.G.S., 294 So. 3d 122, 133–34 (Ala. 2019); Genuine Parts Co. v. Cepec, 137 A.3d 123, 127 (Del. 2016); Aybar v. Aybar, 93 N.Y.S. 3d 159, 166 (N.Y. App. Div. 2019); Wal-Mart Stores, Inc. v. LeMaire, 395 P.3d 1116, 1119–21 (Ariz. Ct. App. 2017); Dutch Run-Mays Draft, LLC v. Wolf Block, LLP, 164 A.3d 435, 444–45 (N.J. Super. Ct. App. Div. 2017).

56. *See* Daimler AG v. Bauman, 571 U.S. 117, 118 (2014).

57. *See, e.g.*, *Genuine Parts*, 137 A.3d at 133–36 (highlighting the importance of rendering a foreign corporation at home).

58. *See Chavez*, 503 P.3d at 332; *Lanham*, 939 N.W.2d at 363; *Facebook*, 294 So. 3d at 133–34; *Genuine Parts*, 137 A.3d at 127; *Aybar*, 93 N.Y.S. 3d at 166; *LeMaire*, 395 P.3d at 1119–21; *Dutch Run-Mays Draft*, 164 A.3d at 444–45.

no fewer than seven of the fifteen state appellate courts that had previously applied "consent by registration" reversed course, abandoning their application in reliance on *Daimler*'s sharp limitations on general jurisdiction.[59] Courts that reversed course included those in states like New Jersey and New York, both of which had previously featured "longstanding"[60] and "well-settled"[61] jurisprudence equating registration to do business with consent to personal jurisdiction.

Post-*Daimler* fears that the Supreme Court might strike down "consent by registration" schemes did cause one unintended benefit though: in their analyses of "consent by registration," state appellate courts began to consider the specific language of their respective registration statutes.[62] Undoubtedly, many of our states' most thoughtful opinions addressing "consent by registration" were issued during the nine-year interim between *Daimler* and *Mallory*.[63] That many of those opinions were at least seriously undermined by *Mallory*, in the summer of 2023, must have been viewed by those opinions' authors as a cruel twist.[64]

Other than the Georgia Supreme Court[65] and federal courts interpreting the laws of Kansas,[66] Minnesota,[67] and Iowa,[68] virtually every court to be presented with a "consent by registration" question in the interim between *Daimler* and *Mallory* either refused to apply "consent by registration,"[69] or was quickly overruled.[70] Today though, after *Mallory*, in

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59. *See Chavez*, 503 P.3d at 332; *Lanham*, 939 N.W.2d at 363; *Facebook*, 294 So. 3d at 133–34; *Genuine Parts*, 137 A.3d at 127; *Aybar*, 93 N.Y.S. 3d at 166; *LeMaire*, 395 P.3d at 1119–21; *Dutch Run-Mays Draft*, 164 A.3d at 444–45.

60. *Aybar*, 93 N.Y.S. 3d at 147.

61. STX Panocean (UK) Co., Ltd. v. Glory Wealth Shipping Pte Ltd., 560 F.3d 127, 131 (2d Cir. 2009).

62. *See, e.g.*, Aspen Am. Ins. Co. v. Interstate Warehousing, Inc., 90 N.E.3d 440 (Ill. 2017); Segregated Acct. of Ambac Assurance Corp. v. Countrywide Home Loans, Inc., 898 N.W.2d 70, 79–80 (Wis. 2017).

63. *See, e.g.*, *Aspen*, 90 N.E.3d at 440; *Countrywide Home Loans*, 898 N.W.2d at 79–80.

64. *See* BOB DYLAN, *Simple Twist of Fate*, *on* BLOOD ON THE TRACKS (A & R Recording Studios 1975).

65. *See* Cooper Tire & Rubber Co. v. McCall, 863 S.E.2d 81, 89 (Ga. 2021).

66. Skyline Trucking, Inc. v. Freightliner Truck Center Companies, 684 F. Supp. 3d 1128, 1138 (D. Kan. 2023) (citing a long line of post-*Daimler* District of Kansas cases applying "consent by registration," pursuant to Kansas law).

67. *See* Am. Dairy Queen Corp. v. W.B. Mason Co., Inc., No. 18-CV-693 (SRN/ECW), 2019 WL 135699, at *4–6 (D. Minn. Jan. 8, 2019).

68. *See* BH Mgmt. Servs., LLC v. B.H. Props., LLC, No. 422CV00046JEGHCA, 2022 WL 18780124, at *5 (S.D. Iowa Sept. 28, 2022); Spanier v. Am. Pop Corn Co., No. C15-4071-MWB, 2016 WL 1465400, at *4 (N.D. Iowa Apr. 14, 2016).

69. *See* K&C Logistics, LLC v. Old Dominion Freight Line, Inc., 374 So. 3d 515, 526–28 (Miss. 2023).

70. *See Dairy Queen*, 2019 WL 135699, at *4–6 (collecting post-*Daimler* opinions throughout Missouri federal courts applying "consent by registration" pursuant to Missouri law, all of which ceased to constitute even persuasive authority when the Missouri Supreme Court entered its opinion in State *ex rel.* Norfolk So. Ry. Co. v. Dolan, 512 S.W.3d 41, 52

at least Georgia, Kansas, Minnesota, and Pennsylvania, "consent by registration" is now the firmly established law of the land.[71]

As to the continued effect of those many post-*Daimler* and pre-*Mallory* decisions that refused to apply "consent by registration," the opinions can generally be sorted into three buckets– first, those which based their refusal on an analysis of the language in their state's registration statutes and thus should remain good law after *Mallory*; second, those which based their refusal on due process concerns and as such are no longer good law after *Mallory*; and third, those which based their refusal on *both* an analysis of their state's registration statutes *and* on due process concerns that *Mallory* has since deemed unfounded.[72] Opinions in this third bucket have created difficult questions to be resolved by their states' appellate courts in the future.

IV. LIFE AFTER *MALLORY*—REASONABLE INFERENCES, AND QUESTIONS THAT REMAIN

One of the major takeaways from *Mallory* is how little guidance it provides.[73] The short majority portions[74] are extremely limited in scope.[75] All the majority did was to quote four selectively chosen snippets of

(Mo. 2017), which held that Missouri law does not authorize "consent by registration."); Display Works, LLC v. Bartley, 182 F. Supp. 3d 166, 174–79 (D.N.J. 2016) (summarizing the post-*Daimler* split among federal district court judges in New Jersey, with regard to "consent by registration," which was put to rest the following year, when New Jersey's intermediate state appellate court entered its opinion in Dutch Run-Mays Draft, LLC v. Wolf Block, LLP, 164 A.3d 435, 444–45 (N.J. Super. Ct. App. Div. 2017), which held that New Jersey law does not authorize "consent by registration.").

71. *See* Cooper Tire & Rubber Co. v. McCall, 863 S.E.2d 81, 89–91 (Ga. 2021); Merriman v. Crompton Corp., 146 P.3d 162, 176–77 (Kan. 2006); Rykoff-Sexton, Inc. v. Am. Appraisal Assocs., Inc., 469 N.W.2d 88, 89–90 (Minn. 1991). *See also Skyline Trucking*, 684 F. Supp. 3d at 1138; *Dairy Queen*, 2019 WL 135699, at *4–6.

72. *See, e.g.*, Gulf Coast Bank & Tr. Co. v. Designed Conveyor Sys., L.L.C., 717 F. App'x 394, 397–99 (5th Cir. 2017) (interpreting Louisiana registration statutes and holding these do not confer jurisdiction); Brown v. Lockheed Martin Corp., 814 F.3d 619, 635 (2d Cir. 2016) (distinguishing this case from previous holdings in which the Court interpreted Connecticut registration statutes and then refusing to apply consent by registration based on Due Process concerns); Genuine Parts Co. v. Cepec, 137 A.3d 123, 127 (Del. 2016) (refusing to apply consent by registration based on Delaware's registration statutes and due process concerns).

73. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 135–36 (2023) ("To decide this case, we need not speculate whether any other statutory scheme and set of facts would suffice to establish consent to suit. It is enough to acknowledge that the state law and facts before us fall squarely within *Pennsylvania Fire*'s rule.").

74. *See id*. at 126–27, 134–36.

75. *See id*. at 135–36 ("To decide this case, we need not speculate whether any other statutory scheme and set of facts would suffice to establish consent to suit. It is enough to acknowledge that the state law and facts before us fall squarely within *Pennsylvania Fire*'s rule.").

Pennsylvania's Business Corporation Act[76] and then to hold that the application of "consent by registration" comports with due process.[77] That's it.

One of the four chosen snippets—Pennsylvania's unique statute that makes "consent by registration" explicit—even states that "'qualification as a foreign corporation shall permit [Pennsylvania] state courts to 'exercise *general* personal jurisdiction' over a registered foreign corporation, just as they can over domestic corporations.'"[78] Recall that *Daimler* clearly prohibited the exercise of exactly this form of general jurisdiction.[79]

Though the plurality described Pennsylvania's "general jurisdiction" statute as one that actually confers "tag" jurisdiction, the court's swing vote, Justice Alito, completely failed to address that issue in his concurrence.[80] As Justice Barrett pointed out on behalf of the four dissenters, this "makes no sense."[81]

A. Reasonable Inferences

Mallory does allow us to draw a few safe inferences though. First, consent by registration comports with due process.[82] Though that takeaway is obvious, it has the potential to upend the applecart in a large number of states, as set out in both the "Quick Chart" above and the more detailed chart below. Any constitutional concerns regarding the mere application of "consent by registration" have been swept away.[83] And after *Mallory*, opinions that refused to apply "consent by registration" based solely on due process concerns are no longer good law.[84]

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76. *See id.* at 134–35 (quoting 15 PA. CONS. STAT. §§ 402(d), 411(a), and 411(f), and 42 PA. CONS. STAT. §5301(a)(2)(i)).

77. *See id.* at 126–27, 134–36.

78. *Id.* at 134 (emphasis added) (quoting 42 PA. CONS. STAT § 5301(a)(2)(i)).

79. *See* Daimler AG v. Bauman, 571 U.S. 117, 118 (2014).

80. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 150–63 (2023) (Alito, J., concurring in part and concurring in the judgment).

81. *See id.* at 168 (Barrett, J., dissenting).

82. *See id.* at 135 ("[S]uits premised on these grounds do not deny a defendant due process of law.").

83. *See id.* Additionally, though the "swing vote" in *Mallory*, Justice Alito, openly questioned whether Pennsylvania's statute would survive scrutiny under the dormant commerce clause, at the present Justice Alito appears to be the only judge or justice in the country concerned that "consent by registration" laws may not comport with the dormant commerce clause. Not even Justice Barrett's dissent seized on the dormant commerce clause as a potential basis for striking down Pennsylvania's law. And no court, either before or after *Mallory*, has relied on the dormant commerce clause to hold a "consent by registration" law unconstitutional.

84. *See id.* Note also that *Mallory* did not focus on whether, or to what extent, Pennsylvania's statute provided notice, to the foreign registrant, of its consent to personal jurisdiction by virtue of its registration to do business in Pennsylvania. In fact, the word "notice" does not appear anywhere in the majority opinion.

Second, whether a state statute can be interpreted as establishing "consent by registration" is a question of *only* state law. Not even the *Mallory* court decided that Pennsylvania's statutory scheme establishes "consent by registration" there.[85] It was the Pennsylvania Supreme Court that did that in the underlying opinion.[86] The U.S. Supreme Court only granted certiorari to review the underlying opinion since that opinion also held that "consent by registration" was unconstitutional.[87]

Indeed, implicit in the *Mallory* majority's opinion is an instruction to the state courts to look to the specific language of their respective registration statutes.[88] From a structural standpoint, one of the most clear-eyed analyses of a "consent by registration" question—a proper application of *Mallory*, published prior to *Mallory*—was issued by the Fifth Circuit Court of Appeals in its 2017 opinion *Gulf Coast Bank & Trustee Co. v. Designed Conveyor Systems, LLC*.[89] *Gulf Coast* involved a question of Louisiana law.[90] To decide the issue, the Fifth Circuit first looked to the language of Louisiana's Business Corporation Act and that statute's mention of "duties, restrictions, penalties and liabilities" therein.[91] The Fifth Circuit then held that the quoted language did not establish "consent by registration."[92] The court acknowledged though that this question of statutory construction was one of state law, stating that it *would apply* "consent by registration" if there existed "a clear statement from [a Louisiana] state court construing the statute to require consent."[93]

Recall the traditional analysis for personal jurisdiction questions.[94] First, the court considers the applicable state long-arm statute,[95] together with any other state statutes that may provide a basis for the exercise of personal jurisdiction.[96] The court only then proceeds to a second step, looking to federal law to confirm that the exercise of personal jurisdiction comports with due process, if the court has concerns that the exercise of

85. *See id.* at 127.

86. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 127 (2023) (citing Mallory v. Norfolk S. Ry. Co., 266 A.3d 542, 561–63 (Pa. 2021)).

87. *See id.* (defining the limited question on appeal as "whether the Due Process Clause of the Fourteenth Amendment prohibits a State from requiring an out-of-state corporation to consent to personal jurisdiction to do business there.").

88. *See id.* at 134–36.

89. *See* Gulf Coast Bank & Tr. Co. v. Designed Conveyor Sys., L.L.C., 717 F. App'x 394, 397–99 (5th Cir. 2017).

90. *Id.* at 397.

91. *Id.* at 397–98.

92. *See id.*

93. *Id.* at 397.

94. *See* Ellicott Mach. Corp., Inc. v. John Holland Party Ltd., 995 F.2d 474, 477 (4th Cir. 1993); *see also* L.B. Foster Co. v. R.R. Serv., Inc., 734 F. Supp. 818, 821 n.6 (N.D. Ill. 1990).

95. *See Ellicott*, 995 F.2d at 477.

96. *See L.B. Foster Co.*, 734 F. Supp. at 821 n.6.

personal jurisdiction might *not* comply with due process.[97] With regard to "consent by registration," therefore, *Mallory* obviated that second step.[98]

As such, no state supreme court in any of the twenty-four states that features "duties, restrictions, penalties and liabilities" language in its Business Corporation Act should fear reversal for merely interpreting that language as establishing "consent by registration."[99] At least three state appellate courts have reached exactly that holding, at various points in time, without suffering any constitutional repercussions.[100] Today, after *Mallory*, no such constitutional repercussions can reasonably be expected.[101]

Similarly, the holdings of the Minnesota[102] and Georgia[103] Supreme Courts—consistently interpreting their respective state statutes as establishing "consent by registration" both before and after *Daimler*—are no longer at any risk of being reversed post-*Mallory*. As the Fifth Circuit acknowledged in *Gulf Coast*, the interpretation of such statutes involves a question of only state, not federal, law.[104] Assuming the Minnesota and Georgia Supreme Courts reaffirm those holdings in the future, any petition for certiorari thereafter filed with the U.S. Supreme Court is likely to be denied.[105] For its part, the Georgia Supreme Court has already reaffirmed its holding as recently as 2021.[106]

And after *Mallory*, federal district courts presented with "consent by registration" questions should follow that approach taken by the Fifth Circuit in *Gulf Coast*—first looking to the language of any applicable state statutes; then looking for case law from state appellate courts in the forum state for guidance on how to interpret those statutes; and finally issuing a holding based only on the result of its findings.[107]

Instructive is the way in which this process *should* play out in Connecticut. In opinions issued in 1987 and 2009, Connecticut's intermediate appellate court consistently interpreted its registration statutes

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97. *See Ellicott*, 995 F.2d at 477.

98. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 135 (2023) ("[S]uits premised on these grounds do not deny a defendant due process of law.").

99. *See id.* at 127.

100. *See* Allstate Ins. Co. v. Klein, 422 S.E.2d 863, 864 n.2 (Ga. 1992); Read v. Sonat Offshore Drilling, Inc., 515 So. 2d 1229, 1230 (Miss. 1987); Werner v. Wal-Mart Stores, Inc., 1993-NMCA-112, 861 P.2d 270, 272–73 (N.M. Ct. App. 1993), *overruled by* Chavez v. Bridgestone Americas Tire Operations, LLC, 2022-NMSC-006, 503 P.3d 332 (N.M. 2021).

101. *See Mallory*, 600 U.S. at 135 ("[S]uits premised on these grounds do not deny a defendant due process of law.").

102. *See* Rykoff-Sexton, Inc. v. Am. Appraisal Assocs., Inc., 469 N.W.2d 88, 89–90 (Minn. 1991).

103. *See* Cooper Tire & Rubber Co. v. McCall, 863 S.E.2d 81, 87–90 (Ga. 2021); *Klein*, 422 S.E.2d at 865 (Ga. 1992).

104. *See* Gulf Coast Bank & Tr. Co. v. Designed Conveyor Sys., L.L.C., 717 F. App'x 394, 397 (5th Cir. 2017).

105. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 135 (2023) ("[S]uits premised on these grounds do not deny a defendant due process of law.").

106. *See Cooper Tire*, 863 S.E.2d at 88–90.

107. *See Gulf Coast Bank & Tr. Co.*, 717 F. App'x at 397–99.

as establishing "consent by registration."[108] But in 2016, the Second Circuit Court of Appeals—in its application of Connecticut law—stopped applying those opinions, based on due process concerns engendered by *Daimler*.[109] Since *Mallory* has eliminated those concerns, a federal court interpreting Connecticut law today should first look to the language of Connecticut's applicable state statutes, then look to Connecticut's intermediate appellate court opinions interpreting those statutes, which have never been disturbed, and consequently find that Connecticut applies consent by registration.[110]

The flip side of this coin though is that state supreme courts that reach the opposite result in the future, holding that their state statutes do *not* establish "consent by registration," should not fear reversal either.[111] Since *Mallory* shifted courts' focus back to the language of applicable state statutes themselves,[112] state supreme courts—and state legislatures to the extent they choose to intervene—will be the final arbiters of "consent by registration" issues going forward.

The third broad takeaway from Mallory is that the majority there provided an easy "out" to most state supreme courts that simply do not want to apply "consent by registration." Pennsylvania's statute, making "consent by registration" explicit, is indeed unique. Only Kansas—and arguably New Jersey and Illinois—feature any such similar statutory language.[113] State supreme courts that do not want to analyze what it means to subject foreign entities to the same "duties, restrictions, penalties and liabilities" as domestic entities are thus free to merely point out that their state lacks any statutory language explicitly establishing "consent by registration." Those state supreme courts could therefore distinguish Mallory and refuse to apply "consent by registration" on that basis. [114] In the seven months since Mallory was issued, at least five federal district court judges—in "duties, restrictions, penalties and liabilities" states—have done just that.[115]

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108. *See* Talenti v. Morgan & Bro. Manhattan Storage Co., 968 A.2d 933, 940 (Conn. App. Ct. 2009); Wallenta v. Avis Rent A Car Sys., Inc., 522 A.2d 820, 824 (Conn. App. Ct. 1987).

109. *See* Brown v. Lockheed Martin Corp., 814 F.3d 619, 635 (2d Cir. 2016).

110. *See Mallory*, 600 U.S. at 135; Gulf Coast Bank & Tr. Co. v. Designed Conveyor Sys., L.L.C., 717 F. App'x 394, 397–99 (5th Cir. 2017).

111. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 134–36 (2023).

112. *Id.*

113. *See* 42 PA. CONS. STAT. § 5301(a)(2)(i) (2024); KAN. STAT. ANN. § 17-7931(g) (2023); N.J. CT. R. 4:4-4(6) (2024); 735 ILL. COMP. STAT. 5/2-209(b)(4) (2024).

114. *See Mallory*, 600 U.S. at 134–36.

115. *See* Sahm v. Avow Corp., No. 4:23-CV-00200-AGF, 2023 WL 8433158, at *4 (E.D. Mo. Dec. 5, 2023); Castillero v. Xtend Healthcare, LLC, No. CV 22-02099 (GC) (DEA), 2023 WL 8253049, at *5 n.8 (D.N.J. Nov. 29, 2023); AssetWorks USA, Inc. v. Battelle Mem'l Inst., No. 1:23-CV-731-RP, 2023 WL 7106878, at *2 (W.D. Tex. Oct. 23, 2023); Lumen Techs. Serv. Grp., LLC v. CEC Grp., LLC, 691 F. Supp. 3d 1282, 1290–91 (D. Colo. 2023); Pritchard v. Thompson, No. 22-CV-2838-JPM-TMP, 2023 WL 5817658, at *5–6 (W.D. Tenn. Aug. 3, 2023).

B. Questions That Remain

As stated, opinions based on analyses of states' registration statutes remain good law after *Mallory*, regardless of whether those opinions applied or refused to apply "consent by registration."[116] And opinions that refused to apply "consent by registration" based solely on due process concerns are no longer good law.[117]

But first, what of those courts whose interpretations of their registration statute were explicitly informed by a pre-*Mallory* era understanding of due process? For example, in the "consent by registration" context, the Delaware and Wisconsin Supreme Courts both noted that "[o]ur duty is to construe a statute in our state *in a manner consistent with the U.S. Constitution*, when it is possible to do so with no violence to its plain meaning."[118] At the time, both such courts believed "consent by registration" to be unconstitutional, under *Daimler*.[119] Those constitutional concerns informed both courts' interpretation of their respective registration statutes.[120]

Mallory, of course, made clear that both courts' concerns were unfounded.[121] Are the thoughtful, lengthy opinions from the Delaware and Wisconsin Supreme Courts—attempting to interpret their state statutes in a manner that comported with their understanding of due process—still good law, after *Mallory*? And how will these courts decide this issue in the future, when it is inevitably put back before them? As to opinions in this "third bucket," no clear or easy answer exists yet.

And second, do we really trust courts that issued flawed opinions pre-*Mallory* to reverse course now, after *Mallory*? For example, in 1982 the Nebraska Supreme Court interpreted its registration statute, which has not changed since that time, to establish "consent by registration."[122] In 2020, the Nebraska Supreme Court reversed course, based solely on due process concerns engendered by *Daimler*.[123] That 2020 Nebraska opinion thus clearly falls in the "second bucket" previously described. It is no longer good law after *Mallory*.[124] But do we really trust the Nebraska

116. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 134–36 (2023).

117. *See id.*

118. *See* Genuine Parts Co. v. Cepec, 137 A.3d 123, 142 (Del. 2016); Segregated Acct. of Ambac Assurance Corp. v. Countrywide Home Loans, Inc., 898 N.W.2d 70, 81 (Wis. 2017) (emphasis added) (quoting *Cepec*, 137 A.3d at 142).

119. *See Cepec*, 137 A.3d at 127; *Countrywide*, 898 N.W.2d at 79–80.

120. *See Cepec*, 137 A.3d at 127; *Countrywide*, 898 N.W.2d at 79–80.

121. *See Mallory*, 600 U.S. at 135 ("[S]uits premised on these grounds do not deny a defendant due process of law.").

122. *See* Mittelstadt v. Rouzer, 328 N.W.2d 467, 469–70 (Neb. 1982), *overruled by* Lanham v. BNSF Ry. Co., 939 N.W.2d 363 (Neb. 2020).

123. *See Lanham* , 939 N.W.2d at 371.

124. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 125–31, 139 (2023).

Supreme Court to reverse itself now so quickly? Recall the easy "out" afforded to courts by the *Mallory* majority itself.[125]

In short, the likelihood that a state will apply "consent by registration" in the future, as set out in the "D," "F," "G," and "H" rows, in the "Quick Chart" above, should be taken with a grain of salt. Those are best guesses and nothing more. Careful practitioners should consult the more detailed chart below, together with (a) the case law cited therein and (b) any applicable case law issued between now and then, before filing suit in reliance on a "consent by registration" theory of personal jurisdiction.

CONCLUSION

Think of each of the states in rows B-H, in the "Quick Chart" above, as schoolkids huddled together on one side of a road. On the far side of the road is "consent by registration." Some kids—like Georgia and Minnesota—boldly crossed the road, despite the pre-*Mallory* era dangers of doing so. Other kids—like Arizona, New Jersey, and New Mexico—began to cross, but doubled back when *Daimler* sounded the approach of a speeding 18-wheeler.

What *Mallory* did was to eliminate traffic from the roadway, ensuring that—from a constitutional perspective—it's safe to cross. Which kids now choose to do so, and which stand pat where they are at, remains to be seen.

125. *See id.*

Table 2: **FIFTY STATE SUMMARY**

State	**Does the "registration to do business" statute either explicitly establish consent by registration or impose "the same duties, restrictions, penalties, and liabilities" on both domestic and registered foreign entities?**	**Has case law interpreted any current state statute to subject a registered foreign entity to either general or "tag" jurisdiction?**	**Has any state appellate court, or federal court, expressly considered or applied *Mallory*?**
Alabama	**No**. In 2018, Alabama adopted the 2016 iteration of the MBCA, which does *not* feature the "duties, restrictions, penalties, and liabilities" language from prior iterations of the MBCA. So pursuant to Alabama's current "registration to do business" statutes, the only "effect of registration" is to confer on the registrant "the same but no greater rights and privileges as the domestic entity to which it most	**Yes**, but that was prior to Alabama's adoption of the 2016 MBCA. In 1991, long prior to Alabama's adoption of the 2016 MBCA, the Alabama Supreme Court interpreted the 1984 MBCA it then had in effect as establishing consent to personal jurisdiction.[127] But, as noted in *Tyler v. Ford Motor Co.*[128], the Alabama legislature has since removed	**Not yet.**

	closely corresponds."[126] Note that though "rights and privileges" of domestic entities are conferred on the registered foreign entity, "duties, restrictions, penalties, and liabilities" of domestic entities are not.	the "duties, restrictions, penalties, and liabilities" language from that statute. And in 2019, after *Daimler*, the Alabama Supreme Court appeared to at least implicitly overrule *Nissei Sangyo*, quoting *Daimler* in holding that the United States "Supreme Court has firmly rejected any notion that a nonresident defendant's 'doing business' in a forum state is sufficient, in and of itself, to subject the out-of-state defendant to the general personal jurisdiction of the forum state."[129]	
Alaska	**Yes**. Alaska applies the 1969 iteration of the MBCA, which states that all foreign	**No.** It does not appear this issue has been litigated in Alaska's state appellate courts or in its federal	**Not yet.**

127. *See Ex parte* Nissei Sangyo Am., Ltd. v. Taylor, 577 So. 2d 912, 914 (Ala. 1991).

128. No. 2:20-CV-584-WKM, 2021 WL 5361069, at *20–21 (M.D. Ala. Nov. 17, 2021).

126. ALA. CODE § 10A-1-7.32 (2024); *see also* ALA. CODE § 10A-1-7.05 (2024).

129. Facebook, Inc. v. K.G.S., 294 So. 3d 122, 134 (Ala. 2019).

	corporations registered to do business in Alaska "enjoy[] [. . .] the same, but no greater, rights and privileges as a domestic corporations [. . .] and [are] subject to the duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character."[130]	district courts at all.[131]	
Arizona	**Yes.** Arizona applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Arizona have "the same but no greater rights and the same but no greater privileges as, [ ] and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[132]	**Yes**, but in 2007, the Arizona Court of Appeals held thatits state statute subjects registered foreign entities to general jurisdiction in Arizona.[133] But in 2017, the Arizona Court of Appeals reversed course, considering the statutory language to the left and holding that it does not establish registration by consent.[134]Thoug h the *LeMaire* court based its holding on the	**Not yet.**

130. ALASKA STAT. § 10.06.740 (2024).
131. *See id.*
132. ARIZ. REV. STAT. ANN. § 10-1505(B) (2024).

		plain language of the statute to the left, it reached that decision—in part—because of constitutional concerns that were eliminated by *Mallory*.[135] Whether Arizona courts apply *Mallory* to now hold that the statute to the left subjects registered foreign entities to personal jurisdiction in Arizona—as they did pre-*Daimler* in *Bohreer*—remains to be seen.[136]	
Arkansas	**Yes**, but Arkansas applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Arkansas have "the same but no greater rights and the same but no greater privileges as, . . . and [are]	**No.** Most federal district courts in Arkansas presented with this issue have held, pursuant to ARK. CODE ANN. § 4-20-115, that registration to do business in itself is insufficient to subject the registrant to personal	**Not yet.** Unless ARK. CODE ANN. § 4-20-115 is repealed, it will not be surprising if Arkansas's courts are never directly faced with a *Mallory* question.

133. *See* Bohreer v. Erie Ins. Exch., 165 P.3d 186, 191–94 (Ariz. Ct. App. 2007).

134. *See* Wal-Mart Stores, Inc. v. Lemaire, 395 P.3d 1116, 1119–20 (Ariz. Ct. App. 2017).

135. *See id.*

136. *See Bohreer*, 165 P.3d at 191–94; *Lemaire*, 395 P.3d at 1119–20.

	subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[137] But in 2007, Arkansas also adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[138]	jurisdiction in Arkansas.[139]No Arkansas state appellate court has yet been presented with this issue.[140]	
California	**No.** California has never adopted any iteration of the MBCA. And its "registration to do business" statutes, at CAL. CORP. CODE § 2102, *et*	**No.** "California does not require corporations to consent to general personal jurisdiction in that state when they designate an	**Yes.** In *Nicholas Phipps White v. Anywhere Real Estate, Inc.*,[143] the court considered

137. ARK. CODE ANN. § 4-27-1505 (2024).

138. ARK. CODE ANN. § 4-20-115 (2024).

139. *See* McDowell v. United Parcel Serv., Inc., No. 4:22-cv-4028, 2022 WL 17543352, at *4 (W.D. Ark. Dec. 8, 2022); Joe v. Union Pac., No. 4:21CV00286, 2021 WL 4200878, at *6 (E.D. Ark. Sept. 15, 2021); Antoon v. Securus Tech., Inc., No. 5:17-CV-5008, 2017 WL 2124466, at *4 (W.D. Ark. May 15, 2017); *see also* Merryman v. JPMorgan Chase Bank, N.A., No. 5:15-CV-5100, 2015 WL 7308666, at *3 n.3 (W.D. Ark. Nov. 19, 2015). *But see* Basham v. Am. Nat'l Cnty Mut. Ins. Co., No. 4:12-CV-4005, 2015 WL 1034186, at *7 (W.D. Ark. Mar. 10, 2015).

140. *See* Nat'l Fire Ins. Co. of Hartford v. Brierfield Ins. Co., No. 4:16-cv-00466-KGB, 2017 WL 11286620, at *6 (E.D. Ark. Mar. 29, 2017) (citing Davis v. St. John's Health Sys., Inc., 71 S.W.3d 55 (Ark. 2002)).

	seq., do not define the effect(s) of registration.[141]	agent for service of process or register to do business."[142]	*Mallory* and refused to apply it, since California does not have any statute similar to that which Pennsylvania has.[144]
Colorado	**Yes.** Colorado applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Colorado have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[145]	**Yes**, but in *Packaging Store, Inc. v. Leung*, Colorado's intermediate appellate court held that "[b]y contractually authorizing an agent to receive service of process, a defendant consents to the exercise of personal jurisdiction in any action that is within that agent's authority."[146] Fourteen years earlier, the Tenth Circuit, applying Colorado law,	**Yes.** In *Lumen Tech. Servs. Group, LLC v. CEC Group, LLC*, a federal court in Colorado noted that though Colorado's registration statutes featured the same "duties, restrictions, penalties, and liabilities" language present in Pennsylvania's statutes, Colorado still would not apply "consent by registration" since, based in

143. Nicholas Phipps White v. Anywhere Real Est., Inc., CV 22-4557-GW-MAAx, 2023 U.S. Dist. LEXIS 232054, at *6, n.4 (C.D. Cal. Nov. 9, 2023).

141. CAL. CORP. CODE § 2102 (2024).

142. AM Tr. v. UBS AG, 681 Fed. App'x 587, 588–89 (9th Cir. 2017) (citation omitted).

144. *See also* Rosenwald v. Kimberly Clark Corp., No. 3:22-cv-04993-LB, 2023 WL 5211625, at *6 (N.D. Cal. Aug. 14, 2023); Dormoy v. HireRight, LLC, No. 23-cv-02511-EMC, 2023 WL 5110942, at *6 (N.D. Cal. Aug. 9, 2023).

145. COLO. REV. STAT. § 7-90-805(2) (2024).

146. Packaging Store, Inc. v. Leung, 917 P.2d 361, 363 (Colo. Ct. App. 1996).

		had reached the same result.[147] But two federal district court judges in Colorado have refused to apply *Leung*.[148] The first based his decision on constitutional concerns that have since been eliminated by *Mallory*.[149] The second recently issued her opinion, acknowledging both *Mallory* and that state law controlled this issue but using contorted reasoning to distinguish *Leung*.[150]	part on the fact that, unlike Pennsylvania's statutes, Colorado's do not feature any language making "consent by registration" explicit.[151]
Connecticut	**Yes.** Connecticut applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Connecticut have	**Yes,** but before *Daimler*, in 2009, Connecticut's intermediate appellate court held that a foreign entity's registration to do business	**Not yet.**

147. *See* Budde v. Kentron Haw., Ltd. 565 F.2d 1145, 1147–49 (10th Cir. 1977).

148. *See* Allied Carriers Exch., Inc. v. All. Shippers, Inc., Civil Action No. 98-WM-2744, 1999 WL 35363796, at *4 (D. Colo Sept. 22, 1999); *see also* Lumen Techs. Serv. Grp., LLC v. CEC Grp., LLC, No. 23-cv-00253-NYW-KAS, 2023 WL 5822503, at *7–12 (D. Colo. Sept. 8, 2023) (citing Magill v. Ford Motor Co., 379 P.3d 1033 (Colo. 2016)).

149. *See Allied Carriers Exch., Inc.*, 1999 WL 35363796, at *4.

150. *See* Lumen Techs. Serv. Grp., LLC v. CEC Grp., LLC, 691 F. Supp. 3d 1282, 1291–97 (D. Colo. 2023) (citing *Magill*, 379 P.3d at 1033).

151. *Id.* at 1291.

	"the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[152]	amounted to "consent[] to the exercise of jurisdiction over it by the courts of this state."[153] But even before *Daimler*, federal courts in Connecticut questioned the scope of this holding.[154] And after *Daimler*, the Second Circuit Court of Appeals refused to apply *Talenti*, instead holding that *Talenti* no longer held constitutional muster in light of *Daimler*.[155] After *Mallory*, it would appear that *Brown v. Lockheed Martin Corp.* is no longer good law.[156] But whether Connecticut	

152. CONN. GEN. STAT. § 33-924(b) (2024).

153. Talenti v. Morgan and Bro. Manhattan Storage Co., Inc., 968 A.2d 933, 940 (Conn. App. Ct. 2009) ("This consent is effective even though no other basis exist for the exercise of jurisdiction over the corporation").

154. *See* Brown v. CBS Corp., 19 F. Supp. 3d 390, 395 n.2 (D. Conn. 2014); *see also* WorldCare Ltd. Corp. v. World Ins. Co., 767 F. Supp. 2d 341, 354–55 (D. Conn. 2011).

155. *See* Brown v. Lockheed Martin Corp., 814 F.3d 619, 635 (2d Cir. 2016) (holding that if "consent by registration" still passed constitutional muster, then "*Daimler*'s ruling would be robbed of meaning by a back-door thief").

156. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 166 (2023); *see generally id.*

		courts apply *Mallory* to now hold that the statute to the left subjects registered foreign entities to personal jurisdiction in Connecticut—as they did pre-*Daimler* in *Talenti*—remains to be seen.	
Delaware	**No.** Delaware has never adopted any iteration of the MBCA. And its "registration to do business" statutes, at DEL. CODE ANN. tit. 8, § 371, *et seq.*, do not define the effect(s) of registration.[157]	**Yes**, but even though Delaware's registration statutes do not feature any "duties, restrictions, penalties, and liabilities" language or state the effect(s) of registration at all, the Delaware Supreme Court held, prior to *Daimler*, that a foreign entity's registration to do business in Delaware was sufficient, in and of itself, for Delaware courts to exercise personal jurisdiction over the registrant.[158]	**Not yet.**

157. DEL. CODE ANN. tit. 8, § 371 (2024).
158. *See* Sternberg v. O'Neil, 550 A.2d 1105, 1116 (Del. 1988).

		But after *Daimler*, the Delaware Supreme Court reversed course, overruling *Sternberg*.[159] Whether Delaware courts apply *Mallory* to now hold that the statute to the left subjects registered foreign entities to personal jurisdiction in Delaware—as they did pre-*Daimler*, in *Sternberg*—remains to be seen.[160]	
District of Columbia	**No.** The District of Columbia overhauled its Business Corporations Act in 2011, at the same time it adopted the Model Registered Agents Act ("MRAA").[161] Today, D.C.'s "registration to do business" statutes, at D.C. CODE ANN. § 29-105.02, *et seq.*, do not define the	**No.** Unsurprisingly, no D.C. court has addressed this issue since the enactment of D.C. Code § 29-104.14 in 2011.[164]	**Not yet.** Unless D.C. Code § 29-104.14 is repealed, it will not be surprising if D.C.'s courts are never directly faced with a *Mallory* question.[165]

159. *See* Genuine Parts Co. v. Cepec, 137 A.3d 123, 127 (Del. 2016).
160. *See Sternberg*, 550 A.2d at 1116; *Genuine Parts*, 137 A.3d at 127.
161. Brown v. M St. Five, LLC, 56 A.3d 765, 769 n.6 (D.C. 2012).

	effect(s) of registration.[162] More importantly though, pursuant to its enactment of the MRAA, D.C. CODE ANN. § 29-104.14 states that "[t]he appointment or maintenance in the District of a registered agent shall not by itself create the basis for personal jurisdiction over the represented entity in the District."[163]		
Florida	**No**. Florida has adopted the 2016 iteration of the MBCA, which does *not* feature the "duties, restrictions, penalties, and liabilities" language from prior iterations of the MBCA.[166]	**Yes**, but that was prior to Florida's adoption of the 2016 MBCA.[167] In 1990, long prior to Florida's adoption of the 2016 MBCA, the Florida Supreme Court held that a foreign entity's registration to do business in Florida was sufficient, in and of itself, for Florida courts to	**Yes.** In both *Estate of Caviness v. Atlas Air, Inc.* and *Jastrjembskaia v. inCruises*, federal judges in the Southern District of Florida used *Waite* to distinguish Florida's registration to do business statute from the

164. *Id.*
165. *Id.*
162. D.C. CODE § 29-105.02 (2024).
163. D.C. CODE § 29-104.14 (2024).
166. FLA. STAT. § 607.1505 (2024).
167. *See* White v. Pepsico, Inc., 568 So. 2d 886, 887 (Fla. 1990).

		exercise personal jurisdiction over the registrant.[168] After *Daimler*, but before the adoption of the 2016 MBCA, the Eleventh Circuit refused to apply the Florida Supreme Court's holding in *White*, based in large part on its reading of *Daimler*.[169]	Pennsylvania statute at issue in *Mallory*, therefore refusing to apply "consent by registration."[170] While a better analysis would instead acknowledge that Florida's registration statute has changed since *Waite*, the result would be the same.[171]
Georgia	**Yes.** Georgia applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Georgia have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and	**Yes.** Even after *Daimler* and before *Mallory*, the Georgia Supreme Court held that the statutes to the left subject registered foreign entities to general personal jurisdiction in Georgia.[175] Since the long-arm includes only foreign entities that are not registered to do business in Georgia within	**Yes.** Unsurprisingly, after *Mallory*, courts have continued to apply *Cooper Tire*'s holding with even more confidence.[178]

168. *Id.*

169. *See* Waite v. All Acquisition Corp., 901 F.3d 1307, 1317–22 (11th Cir. 2018).

170. *See* Est. of Caviness v. Atlas Air, Inc., No. 1:22-cv-23519-KMM, 2023 WL 6802950, at *4–5 (Fla. Cir. Ct. Sept. 20, 2023); Jastrjembskaia v. inCruises, LLC, No. 22-61704-CV-MIDDLEBROOKS/Matthewman, 2023 WL 5246817, at *2–3 (Fla. Cir. Ct. Aug. 2, 2023).

171. *See Est. of Caviness*, 2023 WL 6802950, at *4 –5.

	liabilities now or later imposed on, a domestic corporation of like character."[172] Additionally, Georgia's long-arm statute "applies only to the exercise of personal jurisdiction over 'nonresidents.'"[173] The Georgia long-arm's definition of "nonresidents" includes "a corporation which is not organized under the laws of [Georgia] *and is not authorized* to do or transact business in this state."[174]	its definition of nonresidents, the Georgia Supreme Court has held that foreign entities that *are* registered in Georgia are "residents" that have consented to personal jurisdiction.[176] The Georgia Supreme Court relied on Georgia's statutory "duties, restrictions, penalties and liabilities" language as further support for that holding.[177]	
Hawaii	**Yes**, but Hawaii applies the 1984 iteration of the	**No.** Hawaii's state appellate courts have never	**Yes.** Without

175. *See generally* Cooper Tire & Rubber Co. v. McCall, 863 S.E.2d 81 (Ga. 2021); *Klein*, 422 S.E.2d at 863.

178. *See* Sloan v. Burist, No. 2:22-cv-00076-LGW-BWC, 2023 WL 730947, at *5 (S.D. Ga. Nov. 6, 2023) (rejecting Justice Alito's "dormant commerce clause" argument); HIDDA, LLC v. Sangha Hosp., LLC, No. 5:22-cv-21 (MTT), 2023 WL 6283320, at *3 n.6 (M.D. Ga. Sept. 26, 2023).

172. GA. CODE ANN. § 14-2-1505(b) (2024).

173. Allstate Ins. Co. v. Klein, 422 S.E.2d 863, 864 (Ga. 1992).

174. GA. CODE ANN. § 9-10-90 (2024).

176. *See Klein*, 422 S.E.2d at 864–65.

177. *See id.* at 864 n.2. *But see* Herndon v. AJ Servs. Joint Venture I, LLP, No. 1:15-cv-00612-LMM-AJB, 2015 WL 13777023, at *7 (N.D. Ga. Nov. 30, 2015) (where court failed to consider *Klein*, and instead relied on an Eleventh Circuit opinion to hold a foreign entity's registration to do business in Georgia, in itself, was insufficient to subject the entity to personal jurisdiction in Georgia).

	MBCA, which states that all foreign corporations registered to do business in Hawaii have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[179] But in 2009, Hawaii also adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[180]	addressed this issue.[181] And the one federal district court in Hawaii that was presented with this issue held, pursuant to HAW. REV. STAT. § 425R-12, that registration to do business in itself is insufficient to subject the registrant to personal jurisdiction in Hawaii.[182]	considering HAW. REV. STAT. § 425R-12, the Hawaii Supreme Court has implied, in dicta, that it will not use *Mallory* as a basis to apply consent by registration.[183]

179. HAW. REV. STAT. § 414-435(b) (2024).

180. HAW. REV. STAT. § 425R-12 (2024).

181. *See* Bralich v. Sullivan, No. 17-00547 ACK-RLP, 2018 WL 1938297, at *5 (D. Haw. Apr. 23, 2018).

182. *Id.*

Idaho	**No**. Idaho has adopted the 2016 iteration of the MBCA, which does *not* feature the "duties, restrictions, penalties, and liabilities" language from prior iterations of the MBCA.[184] Additionally, in 2015 Idaho adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[185]	**No.** Idaho's state appellate courts have never addressed this issue. And even before Idaho's enactment of either the MRAA or the 2016 iteration of the MBCA, the lone federal district court in Idaho to be presented with this question answered it in the negative.[186]	**Not yet.** Unless IDAHO CODE § 30-21-414 is repealed, it will not be surprising if Idaho's courts are never directly faced with a *Mallory* question.[187]
Illinois	**Yes.** Illinois has never adopted any	**No.** The Illinois Supreme Court	**Yes.**

183. *See* Womble Bond Dickinson (US) LLP v. Kim, 527 P.3d 1154, 1160 (Haw. 2023) ("For now, [in Hawaii,] plaintiffs and defendants are not paying 'tag' like it's 1868.").

184. *See* IDAHO CODE § 30-21-502 (2024).

185. IDAHO CODE § 30-21-414 (2024).

186. *See* Idaho Energy, LP. v. Harris Contracting Co., Case No. CV07-423-N-EJL., 2008 WL 4498809, at *8 (D. Idaho Sept. 30, 2008) ("[M]ere authority to do business is insufficient to establish personal jurisdiction."). *But see* Strickland v. BAE Sys. Tactical, Case No. 4:13-cv-00148-BLW, 2013 WL 2554671, at *4 (D. Idaho June 10, 2013) ("[T]he rule in Idaho is that the assertion of personal jurisdiction over a foreign corporation in an action arising out of a transaction similar—but not related—to other contacts with Idaho is valid if the corporation has appointed a statutory agent to receive process in Idaho.").

187. IDAHO CODE § 30-21-414 (2024).

	iteration of the MBCA.[188] But its "registration" statutes states that registered foreign entities "shall be subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon" domestic entities of like character.[189] Additionally, Illinois' long-arm statute states that "[a] court may exercise jurisdiction in any action arising within or without this State against any person who . . . [i]s a natural person or corporation doing business within this State."[190]	weighed in on this issue for the first time in 2017.[191] In *Aspen*, the Illinois Supreme Court held that the "duties, restrictions, penalties, and liabilities" language in Illinois Business Corporations Act ("BCA") did not establish consent by registration, since "[p]ersonal jurisdiction is not a 'duty,' but instead refers to the court's power to bring a person into its adjudicative process."[192] This portion of the *Aspen* opinion, which merely interprets the language of Illinois' BCA, should remain good law after *Mallory*.[193]	In dicta, one federal district court in Illinois suggested that it would not use *Mallory* to apply consent by registration in Illinois,[197] while another federal district court suggested that it would use *Mallory* to apply consent by registration.[198]

188. AM. BAR ASS'N., *MBCA Enactments by States*, (July 21, 2024), https://www.americanbar.org/content/dam/aba/administrative/business_law/mbca-resource-center-page-documents/corporate-laws-mbca-resource-centerlist-of-mbca-enactments-by-states.pdf [https://perma.cc/952N-RRQS].

189. 805 ILL. COMP. STAT. 5/13.10 (2024).

190. 735 ILL. COMP. STAT. 5/2-209(b)(4) (2024).

191. *See generally* Aspen Am. Ins. Co. v. Interstate Warehousing Inc., 90 N.E.3d 440 (Ill. 2017).

192. *Aspen*, 90 N.E.3d at 447.

193. *Id.*

		But the *Aspen* court went on to hold that subsection (b)(4) of Illinois' long-arm statute is unconstitutional under *Daimler*.[194]. That portion of the *Aspen* opinion is clearly no longer good law after *Mallory*.[195] Since *Mallory* eliminated those constitutional concerns, a strong argument exists that "consent by registration" exists in Illinois, pursuant to subsection (b)(4) of Illinois' long-arm statute, quoted to the left.[196]	
Indiana	**No.** In 2017, Indiana adopted the Model Registered Agents Act ("MRAA"),	**No.** Even prior to *Daimler* and prior to Indiana's enactment of the MRAA, the	**Yes.** *Mallory* will not be used to apply "consent

197. In re: Hair Relaxer Mktg., No. 23-cv-00818, 2023 WL 7531230, at *12 (N.D. Ill. Nov. 13, 2023).

198. Cityzenith Holdings, Inc. v. Liddell, No. 22 C 5101, 2023 WL 5277888, at *3 (N.D. Ill. Aug. 15, 2023).

194. *See Aspen*, 90 N.E.3d at 446 ("In light of *Daimler*, subsection (b)(4) cannot constitutionally be applied to establish general jurisdiction where, as here, there is no evidence that defendant's contacts with Illinois have rendered it 'essentially at home' in this state.")

195. *See generally id.*; Mallory v. Norfolk S. Ry. Co., 600 U.S. 122 (2023).

196. *See generally Mallory*, 600 U.S. at 122; 735 ILL. COMP. STAT. 5/2-209(b)(4) (2024).

	which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[199]	Seventh Circuit held that a foreign entity's registration to do business in Indiana, standing alone, was insufficient to subject the entity to personal jurisdiction in Indiana.[200]	by registration" in Indiana.[201]
Iowa	**No**. In 2021, Iowa adopted the 2016 iteration of the MBCA, which does *not* feature the "duties, restrictions, penalties, and liabilities" language from prior iterations of the MBCA.[202]	**Yes.** Iowa's state appellate courts have never addressed this issue.[203] But even after Iowa adopted the 2016 MBCA and after *Daimler*, federal district courts in Iowa continued to apply the Eighth Circuit's holding in *Knowlton v. Allied Van Lines, Inc.*[204], holding that registration to do business in Iowa is tantamount to consent.[205]	**Not yet.**
Kansas	**Yes.** Kansas requires all foreign entities registering	**Yes.** Before *Daimler*, the Kansas Supreme	**Yes.** In *Skyline*

199. *See* IND. CODE § 23-0.5-4.12 (2024).

200. *See* Wilson v. Humphreys (Cayman) Ltd., 916 F.2d 1239, 1245 (Ind. 1990).

201. *See* Tom James Co. v. Zurich Am. Ins. Co., 221 N.E.3d 1261, 1272 (Ind. 2023).

202. *See* IOWA CODE § 490.1502 (2024).

203. *See* BH Mgmt. Servs., LLC v. B.H. Props., No. 4:22-cv-00046-JEG-HCA, 2022 WL 18780124, at *6 (S.D. Iowa Sept. 28, 2022).

204. Knowlton v. Allied Van Lines, Inc., 900 F.2d 1196, 1200 (8th Cir. 1990).

205. *See BH Mgmt. Servs.*, 2022 WL 18780124, at *6; *see also* Spanier v. Am. Popcorn Co., No. C15-4071-MWB, 2016 WL 1465400, at *8 (N.D. Iowa Apr. 14, 2016).

	to do business there to provide "an irrevocable written consent . . . that actions may be commended against it in the proper court of any county where there is proper venue."[206] And as against foreign entities that have registered to do business in Kansas, venue is proper in the county where its registered agent is located.[207]	Court held that the statute to the left comports with due process.[208]. After *Daimler*, federal district courts applying Kansas law consistently continued to apply consent by registration, pursuant to *Merriman*.[209]	*Trucking, Inc. v. Freightliner Truck Center-companies*, a federal judge in the District of Kansas held that *Mallory* places *Merriman* on solid footing.[210]
Kentucky	**Yes**, but Kentucky applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Kentucky have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and	**No.** Kentucky narrowly construes its long-arm statute, noting that it does not extend to the limits of due process and strictly requiring one of the few bases for personal jurisdiction enumerated in its long-arm to be present before it will exercise personal jurisdiction over	**Not yet.**

206. KAN. STAT. ANN. § 17-7931 (2024).

207. *See* KAN. STAT. ANN. § 60-604(1) (2024).

208. Merriam v. Crompton Corp., 146 P.3d 162, 177 (Kan. 2006).

209. *See* Skyline Trucking Inc. v. Freightliner Truck Ctr. Cos., 684 F. Supp. 3d 1128, 1137 (D. Kan. 2023) (citing a long line of post-*Daimler* District of Kansas cases).

210. *Id.*

	liabilities now or later imposed on, a domestic corporation of like character."[211] But Kentucky's long-arm statute, at KY. REV. STAN. § 454.210, does not extend to the limits of due process.[212]	a nonresident.[213]	
Louisiana	**Yes.** Louisiana applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Louisiana have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[214]	**No.** Louisiana's state appellate courts have not explicitly decided this issue.[215] But in dicta, the Louisiana Supreme Court once noted that "[a] principal consequence of designating an agent for service of process is to subject the foreign corporation to jurisdiction in a Louisiana court."[216] Federal courts interpreting Louisiana law have thus far	**Not yet.** Though in dicta, one federal judge in Louisiana has suggested that she would apply consent by registration in Louisiana, in the aftermath of *Mallory*.[220]

211. KY. REV. STAT. ANN. § 14A.9-050(2) (2024).

212. *See, e.g.*, Caesars Riverboat Casino, LLC v. Beach, 336 S.W.3d 51, 51–52 (Ky. 2011).

213. *See id.*; Lubbers v. John R. Jurgensen Co., No. 20-115-DLB-CJS, 2021 WL 4066663, at *5 (E.D. Ky. Sept. 7, 2021) (noting that, pursuant to Kentucky's long-arm statute, "courts have rejected the argument that designating an agent for service of process is sufficient to establish personal jurisdiction.") (citation omitted).

214. LA. STAT. ANN. § 12:1347 (2024).

215. Philips Petrol. Co. v. OKS Ltd. P'ship, 634 So. 2d 1186, 1187 (La. 1994).

216. *Id.*

		refused to apply "consent by registration," noting (a) that the language from *Phillips* above was set out in only dicta and (b) that the *Phillips* court failed to consider the specific language of Louisiana's registration statutes.[217] And in 2017, the Fifth Circuit, interpreting Louisiana law, specifically considered Louisiana's statutory "duties, restrictions, penalties and liabilities" language, set out to the left, and hold that such language did not establish "consent by registration."[218] The Fifth Circuit acknowledged that this question was one of state law though, leaving open the	

220. *See* Martin v. Impact Health, No. 23-2497 DIVISION 2, 2023 WL 7498175, at *4 n.30 (E.D. La. Nov. 13, 2023).

217. *See, e.g.*, Gulf Coast Bank & Tr. Co. v. Designed Conveyor Sys., LLC, 717 F. App'x 394, 397–98 (5th Cir. 2017).

218. *See Gulf Coast Bank*, 717 F. App'x at 397–98.

		door that it would apply "consent by registration" in Louisiana if there existed "a clear statement from [a Louisiana] state court construing the statute to require consent."[219]	
Maine	**Yes**, but Maine applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Maine have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[221] But in 2008, Maine also adopted the Model Registered Agents Act	**No.** Maine's state appellate courts have never addressed this issue.[223] But even before *Daimler* and prior to Maine's enactment of the MRAA, the First Circuit held that a foreign entity's registration to do business in Maine, standing alone, was insufficient to subject the entity to personal jurisdiction in Maine.[224]	**Not yet.** Unless ME. REV. STAT. ANN. tit. 5 § 115 is repealed, it will not be surprising if Maine's courts are never directly faced with a *Mallory* question.[225]

219. *Id.* at 397.
221. ME. STAT. tit. 13-C, § 1505 (2024).
223. *See id.*
224. *See* Sandstrom v. Chemlawn Corp., 904 F.2d 83, 89–90 (1st Cir. 1990).
225. ME. STAT. tit. 5, § 1505 (2024).

	("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[222]		
Maryland	**No.** Maryland has never adopted any iteration of the MBCA. And its "registration to do business" statutes, at MD. CODE ANN. § 7-101, *et seq.*, do not define the effect(s) of registration.[226]	**No.** Since Maryland has enacted neither the MBCA nor the MRAA and its statutes are not particularly instructive on the issue of whether registration is tantamount to consent, federal courts in Maryland have generally relied on the Fourth Circuit's holding in *Ratliff v. Cooper Laboratories, Inc.*[227]—a decision interpreting South Carolina law—for the proposition that a foreign entity's registration to do business in	**Not yet.**

222. ME. STAT. tit. 5, § 1505 (2024).
226. MD. CODE ANN., CORPS. & ASS'NS § 7-101 (2024).
227. Ratliff v. Cooper Lab'ys, Inc., 444 F.2d 745, 748 (4th Cir. 1971).

		Maryland, standing alone, is insufficient to subject the entity to personal jurisdiction in Maryland.[228] Maryland's appellate courts have not weighed in on the issue.[229]	
Massachusetts	**Yes**, but Massachusetts applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Massachusetts have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[230] But	**No.** Massachusetts' long-arm statute does not extend to the limits of due-process.[232] Pursuant to that statute, courts in Massachusetts may only exercise personal jurisdiction over nonresident defendants when the action "aris[es] from" an action undertaken by the defendant within Massachusetts.[233] In other words, Massachusetts' long-arm statute only authorizes the exercise of specific personal	**Not yet.**

228. *See, e.g.,* Advanced Datacomm Testing Corp. v. PDIO, Inc., Civil Action No. DKC 2008-3294, 2009 WL 2477559, at *5 (D. Md. Aug. 11, 2009); Brown v. Countryway Ins. Co., Civil Action No. MJG-07-25, 2007 WL 9780542, at *2 (D. Md. Mar. 8, 2007); Tyler v. Gaines Motor Lines, Inc., 245 F. Supp. 2d 730, 732 (D. Md. 2003); and Atlantech Distrib., Inc. v. Credit Gen. Ins. Co., 30 F. Supp. 2d 534, 536–37 (D. Md. 1998).

229. *See Advanced Datacomm Testing*, 2009 WL 2477559, at *5; *Brown*, 2007 WL 9780542, at *2; *Tyler*, 245 F. Supp. 2d at 732; *Atlantech Distrib., Inc*., 30 F. Supp. 2d at 536–37.

230. MASS. GEN. LAWS ch. 156D, § 15.05 (2024).

	Massachusett's long-arm statute, at MASS. GEN. LAWS ch. 223A §3, does not extend to the limits of due process.[231]	jurisdiction.[234] Neither general jurisdiction nor "tag" jurisdiction are recognized in Massachusetts.[235]	
Michigan	**Yes.** Though Michigan has never adopted the entirety of any iteration of the MBCA, MICH. COMP. LAWS § 450.2002 states that each foreign corporation that has registered to do business in Michigan is "subject to the same duties, restrictions, penalties, and liabilities of a similar domestic corporation."[236]	**No.** The Michigan Supreme Court has held that the language to the left does not confer consent by registration.[237] Though the opinion was issued sixty-seven years ago, federal courts in Michigan continue to apply it.[238]	**Not yet.**
Minnesota	**Yes.** Minnesota has never adopted	**Yes.** The Minnesota	**Not yet.**

232. *Id.*

233. MASS. GEN. LAWS ch. 223A, § 3 (2024).

231. *See, e.g.,* Von Schönau-Riedweg v. Rothschild Bank AG, 128 N.E.3d 96, 114 (Mass. App. Ct. 2019).

234. *Id.*

235. *See e.g*., Jiminian v. Famacar Int'l. Corp., 1998 Mass. App. Div. 120, 121 (Mass. App. Ct. 1998) (refusing, in its application of Massachusetts' long-arm statute, to exercise personal jurisdiction over a foreign corporation that was registered to do business in Massachusetts); Stars for Art Prod. FZ, LLC v. Dandana, LLC, 806 F. Supp. 2d 437, 444–45 (Mass. Dist. Ct. 2011); Fiske v. Sandvik Mining, 540 F. Supp. 2d 250, 256–57 (Mass. Dist. Ct. 2008).

236. MICH. COMP. LAWS § 450.2002 (2024).

237. *See* Renfroe v. Nichols Wire & Aluminum Co., 83 N.W.2d 590, 594 (Mich. 1957).

238. *See, e.g.*, Magna Powertrain De Mex. S.A. de C.V. v. Momentive Performance Materials USA, LLC, 192 F. Supp. 3d 824, 830 (E.D. Mich. 2016).

	any iteration of the MBCA.[239] But registration to do business in Minnesota requires the registrant to "irrevocably consent[] to the service of process upon it" pursuant to Minnesota's statute for service of process.[240]	Supreme Court has interpreted the statute to the left as establishing consent by registration.[241] And in *Knowlton v. Allied Van Lines, Inc.*, the Eighth Circuit Court of Appeals adopted Minnesota's approach.[242] Even after *Daimler*, federal courts throughout Minnesota have continued to apply consent by registration.[243]	
Mississippi	**Yes**, but Mississippi applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Mississippi have "the same but no greater rights and	**Yes**, but in 1987, the Mississippi Supreme Court interpreted its "duties, restrictions, penalties and liabilities" language as conferring consent by registration.[246] But in November	**Yes.** In an opinion that thoroughly considered *Mallory*, the Mississippi Supreme Court decided conclusively that Mississippi is *not* a "consent by

239. *See* AM. BAR ASS'N., *supra* note 188.

240. MINN. STAT. § 303.06 (2024).

241. *See* Rykoff-Sexton, Inc. v. Am. Appraisal Assocs., 469 N.W.2d 88, 90 (Minn. 1991).

242. Knowlton v. Allied Van Lines, Inc., 900 F.2d 1196, 1200 (8th Cir. 1990).

243. *See, e.g.*, Am. Dairy Queen Corp. v. W.B. Mason Co., 2019 WL 135699, at *4–6 (D. Minn. Jan. 8, 2019).

246. *See* Read v. Sonat Offshore Drilling, Inc., 515 So. 2d 1229, 1231 (Miss. 1987).

	the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[244] But in 2012, Mississippi also adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[245]	2023, after *Mallory*, the Mississippi Supreme Court reversed that opinion, in partial reliance on the Mississippi legislature's enactment of the MRAA.[247]	registration" state.[248]
Missouri	**Yes.** Though Missouri has never adopted the entirety of any iteration of the MBCA, MO. REV. STAT. § 351.582 states that each foreign	**Yes,** but . . . before *Daimler*, federal courts throughout Missouri routinely cited the Eighth Circuit's opinion in *Knowlton v.*	**Yes.** In dicta in *State ex rel. DKM Enterprises, LLC v. Lett*, the Missouri Court of Appeals stated that,

244. MISS. CODE ANN. § 79-4-15.05 (2024).

245. MISS. CODE ANN. § 79-35-15 (2024).

247. *See* K&C Logistics, LLC v. Old Dominion Freight Line, Inc., 374 So. 3d 515, 528 (Miss. 2023).

248. *Id.*

	corporation that has registered to do business in Missouri is "subject to the same duties, restrictions, penalties, and liabilities of a similar domestic corporation."[249]	*Allied Van Lines, Inc.*[250] as authority supporting the notion that the statutory language to the left established "consent by registration" in Missouri.[251] But after *Daimler*, the Missouri Supreme Court put an end to "consent by registration" in Missouri.[252] Since the *Dolan* court based its decision on its interpretation of Missouri's registration statutes, as opposed to just *Daimler*, the United States Supreme Court's holding in *Mallory* does not seem likely to convert Missouri back into a "consent by	pursuant to *Mallory*, Missouri will continue to apply the interpretation of MO. REV. STAT. § 351.582 it set out in *Dolan* and thus will not revert to its pre-*Daimler* status as a "consent by registration" state.[254] Additionally, in *Sahm v. Avco Corp.*, a federal court in Missouri considered but refused to follow the Northern District of Illinois' holding in *In re Abbott Laboratories*.[255]

249. MO. REV. STAT. § 351.582 (1990).

250. Knowlton v. Allied Van Lines, Inc., 900 F.2d 1196, 1200 (8th Cir. 1990).

251. *See, e.g.*, Hovsepian v. The Adel Wiggins Grp., No. 4:16–CV–00414–CEJ, 2016 WL 6577105, at *3 (E.D. Mo. Nov. 7, 2016); *see also* Am. Dairy Queen Corp. v. W.B. Mason Co., Inc., No. 18-cv-693, 2019 WL 135699, at *4–6 (D. Minn. Jan. 8, 2019) (collecting opinions throughout Missouri federal courts in that regard).

252. *See* State *ex rel.* Norfolk So. Ry. Co. v. Dolan, 512 S.W.3d 41, 52 (Mo. 2017).

		registration" state.[253]	
Montana	**No**. In 2019, Montana adopted the 2016 iteration of the MBCA, which does *not* feature the "duties, restrictions, penalties, and liabilities" language from prior iterations of the MBCA.[256] And in 2007, Montana adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[257]	**No.** Even prior to its adoption of the 2016 MBCA, the Montana Supreme Court held, based on its legislature's enactment of the MRAA, that Montana did not recognize "consent by registration."[258]	**Not yet.** Unless MONT. CODE ANN. § 35-7-115 is repealed, it will not be surprising if Montana's courts are never directly faced with a *Mallory* question.[259]
Nebraska	**Yes.** Nebraska applies the 1984 iteration of the MBCA, which	**Yes**, but before *Daimler*, the Nebraska Supreme Court	**Not yet.**

254. State *ex rel.* DKM Enters., LLC v. Lett, 675 S.W.3d 687, 694 (Mo. Ct. App. 2023).

255. In re Abbott Lab'ys, et al., Preterm Infant Nutrition Products Liab. Litig., 685 F.Supp. 3d 678, 682–83 (E.D. Ill. 2023).

253. *See id.*; *see also State ex rel. DKM Enters.*, 675 S.W.3d at 694–95. *But see* In re Abbott Labs, 685 F. Supp. 3d 678, 682 (N.D. Ill. 2023) (equating MO. REV. STAT. § 351.582 with the Pennsylvania statute at issue in *Mallory*, thereby holding that Missouri is a "consent to registration" state after *Mallory*).

256. *See* MONT. CODE ANN. § 35-14-1502 (2020).

257. MONT. CODE ANN. § 35-7-115 (2007).

258. *See* DeLeon v. BNSF Ry. Co., 426 P.3d 1, 6–8 (Mont. 2018).

259. MONT. CODE ANN. § 35-7-115 (2007).

	states that all foreign corporations registered to do business in Nebraska have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[260]	held that "[b]y designating an agent upon whom process may be served within [Nebraska], a defendant has consented to jurisdiction" in Nebraska.[261] After *Daimler*, the Nebraska Supreme Court reversed course, holding, based on *Daimler*, that "consent by registration" was inconsistent with due process.[262] Since the *Lanham* opinion relies on *Daimler* more so than it relies on any interpretation of Nebraska's registration statutes, it would appear that—after *Mallory*—*Lanham* is no longer good law. But whether Nebraska courts apply *Mallory* to now hold that the statute to the left subjects registered foreign entities to personal	

260. NEB. REV. STAT. § 21-2,207 (2017).
261. Mittelstadt v. Rouzer, 328 N.W.2d 467, 469 (Neb. 1982).
262. *See* Lanham v. BNSF Ry. Co., 939 N.W.2d 363, 371 (Neb. 2020).

		jurisdiction in Nebraska—as they did pre-*Daimler* in *Mittelstadt*—remains to be seen.[263]	
Nevada	**No.** Nevada has never adopted any iteration of the MBCA.[264] And its "registration to do business" statutes, at NEV. REV. STAT. § 80.010, *et seq.*, do not define the effect(s) of registration.[265] And in 2007, Nevada adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[266]	**No.** Even prior to Nevada's enactment of the MRAA, in *Freeman v. Second Judicial Dist. Court ex rel. County of Washoe*, the Nevada Supreme Court held that an insurance company's appointment of agent to receive service of process, pursuant to Nevada's service statute applicable to insurance policies, was not tantamount to consent to jurisdiction.[267]	**Not yet.** Unless NEV. REV. STAT. § 77.440 is repealed, it will not be surprising if Nevada's courts are never directly faced with a *Mallory* question.[268]

263. *See id. But see Mittelstadt*, 328 N.W.2d at 467–68.

264. *See* AM. BAR ASS'N, *supra* note 188.

265. NEV. REV. STAT. § 80.010 (2013).

266. NEV. REV. STAT. § 77.440 (2008).

267. Freeman v. Second Judicial District Court, 1 P.3d 963, 968 (Nev. 2000); *see also* Hunt v. Auto-Owners Ins. Co., No. 2:15–cv–00520–JCM–NJK, 2015 WL 3626579, at *5 n.2 (D. Nev. June 10, 2015). *But see* Knudsen v. Queenstake Res. U.S.A., Inc., No. 3:09-CV-00385-RCJ-(VPC), 2010 WL 11571247, at *3–4 (D. Nev. May 24, 2010) (holding that the defendant "consented to personal jurisdiction in Nevada by registering to do business in

New Hampshire	**Yes.** New Hampshire applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in New Hampshire have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[269]	**Yes.** The New Hampshire Supreme Court has held that a motor carrier that has designated an agent for service of process in New Hampshire, under the federal Motor Carrier Act, has thereby consented to personal jurisdiction in New Hampshire.[270] The New Hampshire Supreme Court has not addressed this issue outside the context of the federal Motor Carrier Act.[271] The only two opinions from federal district court judges in New Hampshire on this issue conflict with each other.[272]	**Not yet.**
New Jersey	**Yes**, but New Jersey has never	**Yes**, but before *Daimler*, New	**Yes.**

Nevada" without citing to any applicable authority or considering NEV. REV. STAT. § 77.440).

268. NEV. REV. STAT. § 77.440 (2008).

269. N.H. REV. STAT. ANN. § 293-A:15.05 (2014).

270. *See* Chick v. C & F Enters., LLC, 938 A.2d 112, 115 (N.H. 2007).

271. *See id.*

272. *See* Crosfield Hastech, Inc. v. Harris Corp., 672 F. Supp. 580, 585 (D.N.H. 1987) (applying consent by registration). *But see* Cossaboon v. Me. Med. Ctr., No. 1:08–cv–00260–JL, 2009 WL 903826, at *7 (D.N.H. Mar. 31, 2009) (refusing to apply consent by registration).

	adopted any iteration of the MBCA.[273] And its "effect of registration" statute does not feature any language equating foreign entities with domestic entities, instead merely stating that the registered foreign entity is authorized to do business in New Jersey.[274] But New Jersey's "personal jurisdiction" statute states that the "primary method of obtaining *in personam* jurisdiction over a defendant in this State is by causing the summons and complaint to be personally served within this State" in one of several ways.[275] As to corporations, one of the means of obtaining personal	Jersey's intermediate appellate court held that a foreign entity's designation of an agent for service of process in New Jersey was tantamount to consent to personal jurisdiction in New Jersey courts.[277] After *Daimler*, federal district courts in New Jersey were initially in disagreement regarding whether to continue applying "consent by registration."[278] But in 2017, New Jersey's intermediate appellate court appeared to put the issue to rest, holding that "New Jersey's foreign corporate registration and registered agent statutes do not	One New Jersey federal district court has already held, in reliance on *Dutch Run-Mays Draft*, that *Mallory* will not change the law in New Jersey, since New Jersey's "registration to do business" statute differs from Pennsylvania's statute.[281]

273. *See* AM. BAR ASS'N, *supra* note 188.

274. *See* N.J. STAT. ANN. § 14A:13-5 (1968).

275. N.J. CT. R. 4:4-4 (emphasis added).

277. *See* Litton Indus. Sys., Inc. v. Kennedy Van Saun Corp., 283 A.2d 551, 555–56 (N.J. Super. Ct. Law Div. 1971).

278. *See, e.g.*, Display Works, LLC v. Bartley, 182 F. Supp. 3d 166, 174–79 (D.N.J. 2016) (summarizing the split).

	jurisdictions so prescribed is "by serving a copy of the commons and complaint . . . on [ ] any person authorized by appointment or by law to receive service of process on behalf of the corporation."[276]	contain jurisdictional repercussions of registration."[279]Since the *Dutch Run* opinion relies on both *Daimler* and the language of New Jersey's "registration to do business" statute—but did *not* consider New Jersey's "personal jurisdiction" statute, at N.J. Ct. R. 4:4-4—it is unclear how New Jersey's appellate courts will decide this issue after *Mallory*.[280]	
New Mexico	**Yes**. New Mexico applies the 1969 iteration of the MBCA, which states that all foreign corporations registered to do business in New Mexico "enjoy[] . . . the same, but no greater, rights and privileges as a domestic	**Yes,** but in *Werner v. Wal-Mart Stores, Inc.*, New Mexico's intermediate appellate court interpreted New Mexico's "registration to do business" statutes as establishing "consent by registration."[283]	**Not yet.**

281. *See* Castillero v. Xtend Healthcare, LLC, No. 22-02099, 2023 WL 8253049, at *5 n.8 (D.N.J. Nov. 29, 2023).

276. N.J. CT. R. 4:4-4(6).

279. Dutch Run-Mays Draft, LLC v. Wolf Block, LLP, 164 A.3d 435, 444 (N.J. Super. Ct. App. Div. 2017).

280. *Id.*

283. Werner v. Wal-Mart Stores, Inc., 861 P.2d 270, 272–73 (N.M. Ct. App. 1993).

	corporations . . . and [are] subject to the duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character."[282]	After *Daimler*, the New Mexico Supreme Court reversed course, holding that the language of New Mexico's "registration to do business" statutes did "not clearly, unequivocally, and unambiguously express an intent to require a foreign corporation to consent to general personal jurisdiction in New Mexico."[284] Since the *Chavez* opinion is based not only on a *Daimler*-era understanding of due process but also the New Mexico Supreme Court's interpretation of the language of New Mexico's "registration" statute itself, it does not appear likely that *Mallory* will prompt the New	

282. N.M. STAT. ANN. § 53-17-2 (2024).

284. Chavez v. Bridgestone Americas Tire Operations, LLC, 503 P.3d 332, 349 (N.M. 2021).

		Mexico Supreme Court to revert to its pre- *Daimler* jurisprudence.[285]	
New York	**No.** "New York's business registration statutes do not expressly require consent to general jurisdiction as a cost of doing business in New York, nor do they expressly notify a foreign corporation that registering to do business here has such an effect."[286] "[P]ost-*Daimler*, some New York lawmakers . . . proposed amending [New York] Business Corporation Law § 1301 to expressly provide that a corporation's application to do business in New York constitutes consent to personal jurisdiction . . . ."[287] No such changes in the law	**Yes**, but before *Daimler*, there was "longstanding judicial construction [. . .] by New York courts and federal courts interpreting New York law, that registering to do business in New York and appointing an agent for service of process constitutes consent to general jurisdiction."[289]After *Daimler*, three of New York's four intermediate appellate divisions reversed course, based on *Daimler*.[290] And in its interpretation of New York law, the Second Circuit, cautiously,	**Not yet.**

285. *Id.*

286. Aybar v. Aybar, 93 N.Y.S.3d 159, 166 n.3 (N.Y. App. Div. 2019). *But see* N.Y. BUS. CORP. LAW § 1314.

287. S*ee* 2015 N.Y. S. B. S4846, A6714.

	have been effected to date."[288]	followed suit.[291] Since *Mallory* instructs the state courts to look to the specific language of their respective "registration" statutes, it is unclear whether New York courts will invoke *Mallory* to revert to their pre-*Daimler* jurisprudence.[292]	
North Carolina	**Yes.** North Carolina applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in North Carolina have "the same but no greater rights and the same but no greater privileges as, . . . and [are]	**No.** The issue has not been litigated in North Carolina's state appellate courts since 1955.[294] The only two federal district courts to be presented with this issue, prior to *Mallory*, held based on *Ratliff v. Cooper*	**Yes.** Both a federal judge in the Eastern District of North Carolina and a "business court" judge in the Superior Court for Forsyth County, North Carolina—admittedly a

289. *Aybar*, 93 N.Y.S.3d at 166*; see also* STX Panocean (UK) Co., Ltd. v. Glory Wealth Shipping Pte Ltd., 560 F.3d 127, 131 (2d Cir. 2009); The Rockefeller Univ. v. Ligand Pharm, 581 F. Supp. 2d 461, 465–66 (S.D.N.Y. 2008).

290. *See Aybar*, 93 N.Y.S.3d at 166–70; Fekah v. Baker Hughes, Inc., 110 N.Y.S.3d 1, 2 (N.Y. App. Div. 2019); *see also* Best v. Guthrie Med. Grp., P.C., 107 N.Y.S.3d, 258, 260 (N.Y. App. Div. 2019).

288. *Aybar*, 93 N.Y.S.3d at 166 n.3.

291. *See* Chufen Chen v. Dunkin' Brands, Inc., 954 F.3d 492, 498–99 (2d Cir. 2020).

292. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 130–33 (2023).

294. *See* Espin v. Citibank, N.A., No. 5:22-CV-383-BO-RN, 2023 WL 6447231, at *3–4 (E.D.N.C. Sept. 29, 2023) (citing Babb v. Cordell Indus., Inc., 87 S.E.2d 513, 514 (N.C. 1955)).

	subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[293]	*Laboratories, Inc.*,[295] a Fourth Circuit opinion interpreting South Carolina law, that a foreign entity's registration to do business in North Carolina, standing alone, is insufficient to subject the entity to personal jurisdiction in North Carolina.[296]	low authority in the state—have interpreted North Carolina's "registration" statute to mean that North Carolina is a "consent by registration" state, in the aftermath of *Mallory*.[297]
North Dakota	**No.** North Dakota has never adopted any iteration of the MBCA. And its "registration to do business" statutes, at N.D. CENT. CODE § 10-19.1-135, *et seq.*, do not define the effect(s) of registration.[298] And in 2007, North Dakota adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in	**No.** The closest any state or federal court applying North Dakota law has come to addressing this issue was in 1978, when the North Dakota Supreme Court held that a foreign entity's registering with the North Dakota highway department truck regulatory division and the purchasing of a	**Not yet.** Unless N.D. CENT. CODE § 10-01.1-15 is repealed, it will not be surprising if North Dakota's courts are never directly faced with a *Mallory* question.[302]

293. N.C. GEN. STAT. § 55-15-05 (2001).

295. *See* Ratliff v. Cooper Lab'ys, 444 F.2d 745, 748 (4th Cir. 1971).

296. *See* Sebastian v. Davol, Inc., No. 5:17-cv-00006-RLV-DSC, 2017 WL 3325744, at *11 (W.D.N.C. Aug. 3, 2017); *see also* Pub. Impact, LLC v. Boston Consulting Grp., 117 F. Supp. 3d 732, 738–40 (M.D.N.C. 2015).

297. *See Espin*, 2023 WL 6447231, at *3–4; *see also* Harris Teeter v. ACE Am. Ins. Co., No. 22 CVS 5279, 2023 WL 6568766, at *11–14 (N.C. Super. Oct. 10, 2023).

298. N.D. CENT. CODE § 10-19.1-135 (2023).

302. N.D. CENT. CODE § 10-01.1-15 (2008).

	this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[299]	trip permit constituted contacts that were insufficient to warrant the exercise of general personal jurisdiction over the foreign entity.[300] And that opinion, of course, was issued long before North Dakota's 2007 enactment of the MRAA.[301]	
Ohio	**No.** Ohio has never adopted any iteration of the MBCA.[303] And its "registration to do business" statutes, at OHIO REV. CODE ANN. § 1703.04, *et seq.*, do not define the effect(s) of registration.[304]	**No.** In *Wainscott v. St. Louis-San Francisco Ry. Co.*, the Ohio Supreme Court held that service of process on a foreign entity in Ohio was insufficient to subject the foreign entity to personal jurisdiction in Ohio's courts.[305] The Sixth Circuit, interpreting Ohio law, has relied on *Wainscott* to	**Yes.** In Union Home Mtg. Corp. *v. Everett Financial, Inc.*, a federal judge in the Northern District of Ohio noted that Ohio's registration statute does not feature the "consent to jurisdiction" language contained in Pennsylvania's

299. N.D. CENT. CODE § 10-01.1-15 (2008).

300. *See* Lumber Mart, Inc. v. Haas Int'l Sales & Serv., Inc., 269 N.W.2d 83, 89 (N.D. 1978).

301. N.D. CENT. CODE § 10-01.1-01-1-17 (2008).

303. *See* AM. BAR ASS'N, *supra* note 188.

304. OHIO REV. CODE ANN. § 1703.4 (LexisNexis 2021).

305. Wainscott v. St. Louis-San Francisco Ry. Co., 351 N.E.2d 466, 474–75 (Ohio 1976).

		reach the same result.[306]	statute and thus held that *Mallory* had no effect on *Wainscott*'s operability as good law in Ohio.[307]
Oklahoma	**Yes.** Though Oklahoma has never adopted the entirety of any iteration of the MBCA, OKLA. STAT. tit. 18 § 1130(D) states that each foreign corporation that has registered to do business in Oklahoma is "subject to the same duties, restrictions, penalties, and liabilities of a similar domestic corporation."[308]	**No.** Oklahoma's state appellate courts have never addressed this issue.[309] But the two federal district courts in Oklahoma to have addressed it have both concluded that Oklahoma law would not apply "consent by registration."[310]However, neither opinion considered the statutory language to the left. And *Samuelson*'s holding, noting that "consent by registration" is unconstitutional, is no longer good law after *Mallory*.[311]	**Not yet.**

306. *See* Pittock v. Otis Elevator Co., 8 F.3d 325, 330 (6th Cir. 1993).

307. Union Home Mortg. Corp. v. Everett Fin., Inc., No. 1:23 CV 00996, 2023 WL 6465171, at *8 n.6 (N.D. Ohio Oct. 4, 2023).

308. OKLA. STAT. tit. 18, § 1130(D) (1986).

309. *Id.*

310. *See* Aclin v. PD-RX Pharm., Inc., 189 F. Supp. 3d 1294, 1304–06 (W.D. Okla. 2016); *see also* Samuelson v. Honeywell, 863 F. Supp. 1503, 1507–08 (E.D. Okla. 1994).

311. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 134–35 (2023).

Oregon	**Yes.** Oregon applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Oregon have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[312]	**No.** In 2017, the Oregon Supreme Court entered a lengthy and detailed opinion holding that Oregon's registration statutes do not establish "consent by registration."[313] Since that opinion bases its holding on the actual language and the legislative history of those statutes, as opposed to constitutional concerns raised by *Daimler*, Oregon does not appear likely to apply "consent by registration" after *Mallory*.[314]	**Not yet.**
Pennsylvania	**Yes**. Though Pennsylvania has never adopted any iteration of the MBCA, as noted by the majority in *Mallory*, PA. CONS. STAT. § 402(d) states that registered foreign entities shall enjoy the same rights and privileges as a	**Yes.**[317]	**Yes.** A federal district court for the Eastern District of Pennsylvania has already applied *Mallory* in support of its holding that "the defendant

312. OR. REV. STAT. § 60.714 (1987).
313. *See* Figueroa v. BNSF Ry. Co., 390 P.3d 1019, 1021–22 (Or. 2017).
314. *Id.*
317. *See id.* at 122, 134.

	domestic entity and be subject to the same liabilities, restrictions, duties and penalties . . . imposed on domestic entities."[315] Additionally, as also noted by the *Mallory* majority, "Pennsylvania law is explicit that 'qualification as a foreign corporation' shall permit state courts to 'exercise general personal jurisdiction' over a registered foreign corporation, just as they can over domestic corporations."[316]		corporations consented to jurisdiction when they registered to do business in Pennsylvania."[318] The court then, appropriately, proceeded to consider the defendants' *forum non conveniens* argument under 28 U.S.C. § 1404.[319]
Rhode Island	**Yes.** Rhode Island applies a pre-2013 iteration of the MBCA, which states that all foreign corporations registered to do business in Rhode Island have "the same but no greater rights and	**No.** Rhode Island's state appellate courts have never addressed this issue.[321] But the two federal district courts in Rhode Island to have addressed it have both concluded that	**Not yet.**

315. *See Mallory*, 600 U.S. at 134.
316. *Id.* (quoting PA. CONS. STAT. § 5301(a)(2)(i)).
318. Robinson v. Home Goods, Inc., No. 23-1945, 2023 WL 5401630, at *1 (E.D. Pa. Aug. 22, 2023).
319. *See id.*
321. *See id.*

	the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[320]	Rhode Island would not apply "consent by registration."[322] Since *Harrington* was based not only on constitutional concerns but also on the language of Rhode Island's registration statutes themselves—holding that those statutes do not "equate receipt of process or appointment of an agent with submission to *in personam* jurisdiction"—a Rhode Island state appellate court could find the *Harrington* decision persuasive even after *Mallory*.[323]	
South Carolina	**Yes**, but South Carolina applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in South Carolina have "the	**No.** In *Builder Mart of Am., Inc. v. First Union Corp.*, the South Carolina Court of Appeals held—in reliance on the underlined "Reporters' Comments" to	**Yes.** In *In re Aqueous Film-Forming Foams Product Liability Litig.*, a federal district judge in South Carolina

320. 7 R.I. GEN. LAWS § 7-1.2-1402 (2004).

322. *See* Phoenix Ins. Co. v. Cincinnati Indem. Co., No. 16-223 S, 2017 WL 2983879, at *2 (D.R.I. July 13, 2017); *see also* Harrington v. C.H. Nickerson & Co., Inc., No. 10-104-ML, 2010 WL 3385034, at *3–4 (D.R.I. Aug. 25, 2010).

323. *Harrington*, 2010 WL 3385034, at *3–4.

	same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[324] But the South Carolina Reporters' comments accompanying that statute instruct that "[a] corporation can be qualified to do business in South Carolina and have appointed an agent for service of process *but still not be conducting sufficient activities to be subject to suit here*."[325]	the left—that South Carolina's "duties, restrictions, penalties and liabilities" language did *not* establish "consent by registration."[326] The Fourth Circuit, interpreting South Carolina law, has relied on *Builder Mart* to reach the same result.[327]	considered *Mallory* but continued to follow *Fidrych*, since South Carolina's registration statutes do not explicitly establish "consent by registration."[328]
South Dakota	**Yes**, but South Dakota applies the 1984 iteration of the MBCA, which states that all foreign	**No.** South Dakota's state appellate courts have never addressed this issue. But in	**Not yet.** Unless S.D. CODIFIED LAWS § 59-11-21 is repealed,

324. S.C. CODE ANN. § 33-15-105 (1976).

325. S.C. CODE ANN. § 33-15-105, S.C. Reporters' Comments § 2 (emphasis added).

326. Builder Mart of Am., Inc. v. First Union Corp., 563 S.E.2d 352, 355 (S.C. Ct. App. 2002) (*overruled in part on other grounds by* Farmer v. Monsanto Corp., 579 S.E.2d 325 (S.C. 2003)) (emphasis added).

327. *See* Fidrych v. Marriott Int'l, Inc., 952 F.3d 124, 137–38 (4th Cir. 2020).

328. In re Aqueous Film-Forming Foams Prod. Liab. Litig., No. CV 2:18-2873-RMG, 2023 WL 6846676, at *4 (D.S.C. Oct. 17, 2023).

	corporations registered to do business in South Dakota have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[329] But in 2008, South Dakota also adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[330]	*Sondergard v. Miles, Inc.*, the Eighth Circuit held that a proper interpretation of South Dakota law would result in the application of "consent by registration."[331] However, the *Sondergard* opinion was issued fifteen years before South Dakota adopted the MRAA.[332] No federal court interpreting South Dakota law has addressed this issue since that time.[333]	it will not be surprising if South Dakota's courts are never directly faced with a *Mallory* question.[334]
Tennessee	**Yes.** Tennessee applies a pre-2013 iteration of the MBCA, which states that all	**No.** Though it failed to analyze any of Tennessee's registration	**Yes.** In *Pritchard v. Thompson*, a federal district

329. S.D. CODIFIED LAWS § 47-1A-1505 (2005).
330. S.D. CODIFIED LAWS § 59-11-21 (2008).
331. Sondergard v. Miles, Inc., 985 F.2d 1389, 1395 (8th Cir. 1993).
332. MODEL REGISTERED AGENTS ACT, S.D. CODIFIED LAWS § 59-11-1 to -28 (2008).
333. *Sondergard*, 985 F.2d at 1395.
334. S.D. CODIFIED LAWS § 59-11-21 (2008).

	foreign corporations registered to do business in Tennessee have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[335]	statutes, including that which is quoted to the left, the Tennessee Court of Appeals held that "the mere designation of an agent in compliance with the service of process statute does not automatically eliminate the requirement of minimum contacts to establish personal jurisdiction."[336] The *Thompson* court lifted that quote wholesale from *Pittock v. Otis Elevator Co.*—a Sixth Circuit opinion applying Ohio law.[337] Each federal district court in Tennessee presented with this question has held that "consent by registration" would not apply	judge in Tennessee considered *Mallory* but held that Tennessee will not apply "consent by registration" since, unlike Pennsylvania's statutes, Tennessee's registration statutes do not *explicitly* state that registration is tantamount to consent.[339] And in *Baskin v. Pierce & Allred Constr., Inc.*, the Tennessee Supreme Court pointed out, in dicta, this difference between Pennsylvania's and Tennessee's respective registration statutes without deciding whether Tennessee would apply

335. TENN. CODE ANN. § 48-25-105 (2017).

336. Thompson v. Ciboney Spa and Beach Resort, No. 94C-3066, 1995 WL 714280, at *3 (Tenn. Ct. App. Dec. 6, 1995).

337. Pittock v. Otis Elevator Co., 8 F.3d 325, 329 (6th Cir. 1993).

339. Pritchard v. Thompson, No. 22-cv-2838-JPM-tmp, 2023 WL 5817658, at *5–6 (W.D. Tenn. Aug. 3, 2023).

		in Tennessee, at least in partial reliance on the quote from *Pittock*—again, a Sixth Circuit opinion applying Ohio law—above.[338] Since (a) Ohio's registration statute lacks the "duties, restrictions, penalties and liabilities" language contained in Tennessee's statute, and (b) at least in states deemed to have established "consent by registration," the quote from *Pittock* above is no longer good law post-*Mallory*, it is unclear how Tennessee's state appellate courts would resolve this issue today	"consent by registration" after *Mallory*.[340]
Texas	**Yes.** Though Texas has never adopted the entirety of any iteration of the MBCA, TEX.	**Yes**, but in *Goldman v. Pre-Fab Transit Co.*, one of Texas's intermediate appellate courts	**Yes.** In *AssetWorks USA, Inc. v. Battelle Memorial Inst.*,

338. *See* Relyant Glob., LLC v. Gibraltar Caddell, No. 3:22-cv-183, 2023 WL 3267757, at *2–4 (E.D. Tenn. Mar. 31, 2023); Thompson v. Medtronic, Inc., Nos. 2:19-cv-2038; 2:16-cv-3013, 2020 WL 6468228, at *1 (W.D. Tenn. Nov. 3, 2020); *see also* W. Express, Inc. v. Villanueva, No. 3:17–cv–01006, 2017 WL 4785831, at *6–7 (M.D. Tenn. Oct. 24, 2017).

340. Baskin v. Pierce & Allred Constr., Inc., 676 S.W.3d 554, 568 n.14 (Tenn. 2023).

	BUS. ORG. CODE ANN. § 9.203 states that each foreign corporation that has registered to do business in Texas is "subject to the same duties, restrictions, penalties, and liabilities of a similar domestic corporation."[341]	held, pursuant to Texas's Business Corporation Act, that registration to do business is tantamount to "consent[] to amenability to jurisdiction for purposes of all lawsuits within the state."[342] But in *Conner v. ContiCarriers and Terminals, Inc.*, that same appellate court reversed *Goldman*, holding that since "a foreign corporation cannot logically enjoy the same privileges as a domestic corporation unless it actually does business in the state . . . , [b]y registering to do business a foreign corporation only *potentially* subjects itself to jurisdiction."[343] To actually so consent, the foreign entities "contacts in	a federal district judge in the Western District of Texas considered *Mallory* but held "given that the Texas statute concerning registration of nonresident corporations neither mentions general jurisdiction nor mirrors the structure of the Pennsylvania statute, this Court sees no need to" hold that Texas law would apply "consent by registration."[347]

341. TEX. BUS. ORGS. CODE ANN. § 9.203 (West 2006).

342. Goldman v. Pre-Fab Transit Co., 520 S.W.2d 597, 598 (Tex. Civ. App. 1975).

343. Conner v. ContiCarriers & Terminals, Inc., 944 S.W.2d 405, 418 (Tex. Ct. App. 1997).

		Texas [must be] continuous [and] systematic."[344] *Wenche Siemer* is no longer good law after *Mallory*.[345] And since the *Conner* opinion is based on *both* the language of TEX. BUS. ORG. CODE ANN. § 9.202 as well as constitutional concerns that have been eliminated by *Mallory*, it is unclear whether Texas is likely apply "consent by registration" post-*Mallory*.[346]	
Utah	**Yes**, but Utah applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Utah have "the same but no greater rights and the same but no greater privileges	**No.** Utah's state appellate courts have never addressed this issue. The one federal district court in Utah to have addressed it refused to apply "consent by registration," without examining the substance of	**Not yet.** Unless UTAH CODE ANN. § 16-17-401 is repealed, it will not be surprising if Utah's courts are never directly faced with a *Mallory* question.[352]

347. AssetWorks USA, Inc. v. Battelle Mem'l Inst., No. 1:23-CV-731-RP, 2023 WL 7106878, at *2 (W.D.Tex. Oct. 23, 2023).

344. *Id.*; *see also* Wenche Siemer v. Learjet Acquisition Corp., 966 F.2d 179, 183 (5th Cir. 1992) (holding, in a case applying Texas' law, that the application of "consent by registration" would be unconstitutional).

345. *See* Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 134–35 (2023).

346. *Conner*, 944 S.W.2d at 418.

	as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[348] But in 2008, Utah also adopted the Model Registered Agents Act ("MRAA"), which states that "[t]he appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state."[349]	Utah's registration statutes themselves.[350] Today, a cursory examination of UTAH CODE ANN. § 16-17-401 would likely result in the same outcome—Utah would not apply "consent by registration."[351]	
Vermont	**Yes.** Vermont applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Vermont have "the same but no	**No.** Vermont's state appellate courts have never addressed this issue. But the two federal district courts in Vermont to have addressed it have both concluded that Vermont	**Not yet.**

352. *Id.*

348. UTAH CODE ANN. § 16-10a-1505 (1992).

349. *Id.*

350. *See* Miller v. Robinson, No. 2:05–CV–0190BSJ, 2008 WL 270761, at *3–5 (D. Utah Jan. 29, 2008).

351. UTAH CODE ANN. § 16-17-401 (2008).

	greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[353]	would not apply "consent by registration."[354] Since *Viko* was based not only on constitutional concerns but also on the language of Vermont's registration statutes themselves, a Vermont state appellate court could find the *Viko* decision persuasive even after *Mallory*.[355]	
Virginia	**No**. Virginia has adopted the 2016 iteration of the MBCA, which does *not* feature the "duties, restrictions, penalties, and liabilities" language from prior iterations of the MBCA.[356]	**No.** Virginia's state appellate courts have never addressed this issue.[357] But the two federal district courts in Virginia to have addressed it have both concluded that Virginia would not apply "consent by registration."[358]	**Not yet.**
Washington	**Yes.** Though Washington overhauled its	**No.** In 1997, Washington's intermediate	**Not yet.**

353. VT. STAT. ANN. tit. 11A § 15.05 (1994).

354. *See* Viko v. World Vision, Inc., No. 2:08–CV–221, 2009 WL 2230919, at *4–10 (D. Vt. July 24, 2009); Bertolini-Mier v. Upper Valley Neurology Neurosurgery, P.C., No. 5:16–cv–35, 2016 WL 7174646, at *4 (D. Vt. Dec. 7, 2016).

355. *Viko*, 2009 WL 2230919, at *4–10; *Bertolini-Mier,* 2016 WL 7174646, at *4.

356. *See* VA. CODE ANN. § 13.1-761 (2021).

357. *But see* Yelp, Inc. v. Hadeed Carpet Cleaning, Inc., 770 S.E.2d 440, 445–46 (Va. 2015) (J. Mims and J. Millette, concurring in part and dissenting in part).

358. *See* NSA Auto Transp., LLC v. Cont. Freighters, Inc., No. 3:22CV671, 2023 WL 2815142, at *3 (E.D. Va. Apr. 6, 2023); *see also* Reynolds & Reynolds Holdings, Inc. v. Data Supplies, Inc., 301 F. Supp. 2d 545, 550–51 (E.D. Va. 2004).

	Business Corporation Act in 2016, its statutes continue to subject registered foreign entities "the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic entity of the same type."[359]	appellate court considered the entirety of its Business Corporation Act ("BCA") and held that, despite the presence of the statutory language to the left, those statutes did not "state[], or impl[y], that by complying with [Washington's] mandatory [registration] requirements a foreign corporation consents to general jurisdiction in Washington."[360] That court reaffirmed its holding as recently as 2022, six years after Washington overhauled its BCA.[361] Since (a) these holdings rely on the language of Washington's BCA itself, as opposed to constitutional	

359. WASH. REV. CODE § 23.95.500 (2016).

360. Wash. Equip. Mfg. Co., Inc. v. Concrete Placing Co., Inc., 931 P.2d 170, 171–72 (Wash. Ct. App. 1997).

361. *See* Bradley v. Globus Med., Inc., No. 38490-0-III, 2022 WL 2373441, at *3 (Wash. Ct. App. June 3, 2022).

		concerns and (b) both iterations of Washington's BCA featured the "duties, restrictions, penalties and liabilities" language to the left—*see* WASH. REV. CODE § 23B.15.050 (effective until January 1, 2016)—Washington does not appear likely to apply "consent by registration" post- *Mallory*.[362]	
West Virginia	**Yes.** West Virginia applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in West Virginia have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic	**No.** West Virginia's state appellate courts have never addressed this issue. The federal district courts in West Virginia to have addressed it have each refused to apply "consent by registration," typically in reliance on *Ratliff v. Cooper Laboratories Inc.*[364]—a Fourth Circuit opinion applying South Carolina law.[365] None of these	**Not yet.**

362. *Id.*

	corporation of like character."[363]	opinions analyzed, or even cited, West Virginia's registration statutes.[366]	
Wisconsin	**Yes.** Wisconsin applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Wisconsin have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[367]	**No.** In *Segregated Account of Ambac Assurance Corporation v. Countrywide Home Loans, Inc.*, the Wisconsin Supreme Court considered the specific statutory language set out to the left, and refused to interpret it as establishing "consent by registration," instead holding that "[i]t is too great a leap to characterize consent to general jurisdiction as a 'duty' imposed on every foreign corporation that registers to do	**Not yet.**

364. Ratliff v. Cooper Lab'ys, 444 F.2d 745, 748 (4th Cir. 1971).

365. *See* Lane v. Gray Transp., Inc., 2021 WL 4392668, at *5 (N.D.W. Va. Sept. 24, 2021); Weirton Area Water Bd. v. 3M Co., 2020 WL 8184442, at *3 (N.D.W. Va. Nov. 20, 2020); Blaniar v. Sw. Energy Co., No. 5:20-CV-169, 2020 WL 12654265, at *5 (N.D.W. Va. Oct. 26, 2020); *see also* Gallaher v. KBR, Inc., No. 5:09CV69, 2010 WL 2901626, at *10 (N.D.W. Va. July 21, 2010).

363. W. VA. CODE § 31D-15-1505 (2002).

366. *See Lane,* 2021 WL 4392668, at *5; *Weirton Area Water*, 2020 WL 8184442, at *3; *Blaniar*, 2020 WL 12654265, at *5; *see also Gallaher*, 2010 WL 2901626, at *10.

367. WIS. STAT. § 180.1505 (1989).

		business in Wisconsin, particularly where the actual statutory language offers no warning that exposure to suits in Wisconsin for claims arising elsewhere is a consequence of registration."[368] That holding was also explicitly based on *Daimler* though, since "[t]reating general jurisdiction as a 'duty' of domestic corporations that extends to *all* registered foreign corporations by default would extend Wisconsin's exercise of general jurisdiction beyond the tapered limits recently described by the Supreme Court" in *Daimler*.[369] But since the *Segregated Account* holding	

368. Segregated Acct. of Ambac Assurance Corp. v. Countrywide Home Loans, Inc., 898 N.W.2d 70, 79–80 (Wisc. 2017).

369. *Id.* (emphasis added).

		was based not only on *Daimler* but also on the Wisconsin Supreme Court's interpretation of its registration statutes themselves, it does not appear likely that Wisconsin will apply "consent by registration" post-*Mallory*.[370]	
Wyoming	**Yes.** Wisconsin applies the 1984 iteration of the MBCA, which states that all foreign corporations registered to do business in Wisconsin have "the same but no greater rights and the same but no greater privileges as, . . . and [are] subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character."[371]	**No.** It does not appear this issue has been litigated in Wyoming's state appellate courts, or in its federal district courts, at all.[372]	**Not yet.**

370. *Id.*

371. WYO. STAT. ANN. § 17-16-1505 (1989).

372. *But see* Avus Designs, Inc. v. Grezxx, LLC, 644 F. Supp. 3d 963, 980 (D. Wyo. 2022) (discussing the concept of "consent by registration" in dicta).