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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

Opinion Number:

Filing Date: April 10, 2025

NO. S-1-SC-39689

SHOOK, HARDY & BACON LLP,

Petitioner,

v.

HON. MATTHEW J. WILSON,

District Court Judge,

First Judicial District Court,

Respondent,

and

HENRY TRUJILLO, SHAMIE SPENCE,

SAMUEL MONTOYA, THERESA

MONTOYA, and MICHAEL BARR,

Real Parties in Interest.

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3 **NO. S-1-SC-39706**

4 **WOMBLE BOND DICKINSON (US) LLP,**

5 Petitioner,

6 v.

7 **HON. MATTHEW J. WILSON and**

8 **HON. MARIA SANCHEZ-GAGNE,**

9 **District Court Judges,**

10 **First Judicial District Court,**

11 Respondents,

12 and

13 **HENRY TRUJILLO; SHAMIE SPENCE;**

14 **SAMUEL MONTOYA; THERESA MONTOYA;**

15 **MICHAEL BARR; CHRIS SANDOVAL;**

16 **ISABEL SANDOVAL; CICCELO SOLANO;**

17 **BRENDA MASSEY; PHILIP MORRIS USA, INC.;**

18 **SHOOK, HARDY & BACON LLP; COVINGTON**

19 **& BURLING LLP; ALLSUP'S CONVENIENCE**

20 **STORES, LLC; ALLSUP'S, LLC; G & J BROOKS**

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23 **AND**

24 **NO. S-1-SC-39725**

25 **COVINGTON & BURLING LLP,**

1 Petitioner,

2 v.

3 **HON. MATTHEW J. WILSON and**
4 **HON. MARIA SANCHEZ-GAGNE,**
5 **District Court Judges,**
6 **First Judicial District Court,**

7 Respondents,

8 and

9 **HENRY TRUJILLO; SHAMIE SPENCE;**
10 **SAMUEL MONTOYA; THERESA MONTOYA;**
11 **MICHAEL BARR; CHRIS SANDOVAL;**
12 **ISABEL SANDOVAL; CICCELO SOLANO;**
13 **BRENDA MASSEY; PHILIP MORRIS USA, INC.;**
14 **SHOOK, HARDY & BACON LLP;**
15 **WOMBLE BOND DICKINSON (US) LLP;**
16 **ALLSUP’S CONVENIENCE STORES, LLC;**
17 **ALLSUP’S, LLC; G & J BROOKS ENTERPRISES, INC.;**
18 **THE MICHAEL ROMERO FAMILY, INC.;**
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1 **OPINION**

2 **VIGIL, Justice.**

3 **I. INTRODUCTION**

4 {1} Before a state may render an enforceable judgment against a defendant, that
5 defendant must possess certain “minimum contacts” with the state “such that the
6 maintenance of the suit does not offend traditional notions of fair play and
7 substantial justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316-17 (1945)
8 (internal quotation marks and citation omitted). This personal jurisdiction
9 requirement can be satisfied in one of two ways: (1) through general personal
10 jurisdiction which extends to all claims against the defendant, or (2) through specific
11 personal jurisdiction which “extends only to claims that arise out of or relate to the
12 defendant’s contacts with the forum” state. *Chavez v. Bridgestone Ams. Tire*
13 *Operations, LLC*, 2022-NMSC-006, ¶ 23, 503 P.3d 332 (internal quotation marks
14 and citation omitted). A state may exercise general personal jurisdiction over a
15 defendant if the defendant is “essentially at home in the forum State.” *Id.* ¶¶ 3, 24
16 (emphasis omitted) (quoting *Daimler AG v. Bauman*, 571 U.S. 117, 139 (2014)). In
17 contrast, a state may exercise specific personal jurisdiction over a nonresident
18 defendant if the defendant has purposefully directed its activities towards the forum
19 state such that it can reasonably foresee being brought into court there. *Fed. Deposit*

1 *Ins. Co. v. Hiatt*, 1994-NMSC-044, ¶¶ 8-9, 117 N.M. 461, 872 P.2d 879. With the
2 narrow basis for general personal jurisdiction, specific personal jurisdiction has
3 become the primary means of ensuring that a nonresident defendant remains
4 answerable for the damages it causes in a state.

5 {2} In this extraordinary writ proceeding, we consider a theory of specific
6 personal jurisdiction premised on a defendant’s participation in a civil conspiracy.
7 For ease of reference, we refer to this theory as “conspiracy jurisdiction.” Conspiracy
8 jurisdiction permits a state to exercise specific personal jurisdiction over a
9 nonresident defendant who participates in a civil conspiracy if the acts that the
10 defendant’s co-conspirators take in furtherance of the civil conspiracy create
11 minimum contacts with the state. In *Santa Fe Technologies v. Argus Networks, Inc.*,
12 our Court of Appeals held that conspiracy jurisdiction is constitutionally permissible
13 and may serve as a basis for asserting specific personal jurisdiction in New Mexico.
14 2002-NMCA-030, ¶¶ 31-39, 131 N.M. 772, 42 P.3d 1221. We now consider three
15 petitions for writ of prohibition challenging that holding.

16 {3} The petitioners here—Shook, Hardy & Bacon LLP (Shook), Covington &
17 Burling LLP (Covington), and Womble Bond Dickinson (US) LLP (Womble)
18 (collectively, the Law Firms)—are alleged to have conspired with cigarette
19 manufacturers and other tobacco industry organizations to defraud the public about

1 the dangers of cigarette smoking. In two underlying lawsuits, the First Judicial
2 District Court cited *Santa Fe Technologies* and asserted jurisdiction over the Law
3 Firms on the basis of their involvement in the alleged civil conspiracy. The Law
4 Firms now ask us to disavow conspiracy jurisdiction, arguing that it violates due
5 process. The Law Firms further argue that, even if conspiracy jurisdiction satisfies
6 due process, Plaintiffs in the underlying lawsuits (Real Parties in Interest here) have
7 not made a prima facie case of conspiracy jurisdiction. The Law Firms thus seek an
8 extraordinary writ prohibiting the district court from asserting personal jurisdiction
9 over them.

10 {4} We conclude that conspiracy jurisdiction satisfies due process if tailored to
11 focus on those aspects of the defendant's conduct that evidence the defendant's
12 purposeful availment of the forum state through participation in the civil conspiracy.
13 Specifically, we conclude that conspiracy jurisdiction satisfies due process if tailored
14 to focus on the defendant's conduct in joining a civil conspiracy targeting the forum
15 state. We confirm that specific personal jurisdiction may be exercised over a
16 defendant who participates in a civil conspiracy that the defendant knows will
17 include acts creating minimum contacts with our state. Applying this standard to the
18 record of the underlying proceedings, we conclude that Plaintiffs have failed to show

1 grounds for specific personal jurisdiction over the Law Firms. The Law Firms must
2 be dismissed.

3 **II. BACKGROUND**

4 {5} This proceeding has its origins in two lawsuits that Plaintiffs filed against
5 cigarette manufacturer Philip Morris USA, Inc. (Philip Morris), the Law Firms, and
6 several local cigarette retailers and distributors. *Sandoval v. Philip Morris USA, Inc.*,
7 D-101-CV-2022-00794 (1st Jud. Dist. Ct. filed May 5, 2022); *Trujillo v. Philip*
8 *Morris USA, Inc.*, D-101-CV-2022-00798 (1st Jud. Dist. Ct. filed May 5, 2022).
9 Plaintiffs allege that the Law Firms conspired with Philip Morris and other tobacco
10 industry organizations to misrepresent the dangers of cigarette smoking, leading to
11 Plaintiffs' personal injuries. Only the Law Firms, Philip Morris, and the tobacco
12 industry organizations are alleged to have participated in this conspiracy; Plaintiffs
13 do not claim the local distributors and retailers took part.

14 {6} Plaintiffs are all New Mexico residents. The Law Firms are all nonresidents:
15 Shook is established in and principally operates out of Missouri; Covington is
16 organized and primarily does business in the District of Columbia; and Womble is
17 based in North Carolina. None of the Law Firms have significant ties, contacts, or
18 relations in New Mexico. Plaintiffs concede that New Mexico lacks general personal
19 jurisdiction over the Law Firms. Plaintiffs instead allege that specific personal

1 jurisdiction is proper, in part, because the Law Firms joined with Philip Morris and
2 other tobacco organizations in a nationwide civil conspiracy to commit fraudulent
3 misrepresentation and that this nationwide civil conspiracy included New Mexico.

4 {7} The Law Firms filed motions to dismiss for lack of personal jurisdiction,
5 asserting that Plaintiffs could not show that they took any actions related to the suit
6 that specifically occurred in or were aimed at New Mexico. The Law Firms also
7 argued that conspiracy jurisdiction is unconstitutional. Plaintiffs responded that
8 jurisdiction is appropriate over the Law Firms under both conspiracy jurisdiction and
9 traditional due process principles, and attached several hundred pages of exhibits in
10 support of their responses.

11 {8} Plaintiffs proffered the exhibits to show that the Law Firms served on the
12 “Committee of Counsel,” an association of lawyers representing cigarette
13 manufacturers and tobacco industry organizations whose goal was to coordinate a
14 public relations campaign to defraud the public about the adverse health impacts of
15 smoking. The exhibits, which are not accompanied by an affidavit, appear to be
16 documents pulled from publicly available online archives about the tobacco
17 industry.¹ The exhibits mostly describe out-of-state conduct. But interspersed within

¹See Univ. of Cal. S.F., *Truth Tobacco Industry Documents*,
<https://www.industrydocuments.ucsf.edu/tobacco> (last visited Apr. 2, 2025).

1 the exhibits are a few references to New Mexico. For example, Plaintiffs attached a
2 few tobacco advertisements and pamphlets distributed in New Mexico. Other
3 exhibits include various letters and memoranda citing New Mexico laws or
4 regulations, identifying smoking-related state court litigation, discussing studies
5 conducted by New Mexico research institutions, or documenting campaign
6 contributions to local officials. We discuss Plaintiffs' exhibits in more detail below.

7 {9} The district court denied the Law Firms' motions to dismiss. The district court
8 specifically cited *Santa Fe Technologies*, 2002-NMCA-030, as the basis for
9 asserting personal jurisdiction over the Law Firms, explaining that Plaintiffs had
10 shown that the Law Firms actively participated in a civil conspiracy that "reached
11 into New Mexico." The district court also refused to certify the matter for
12 interlocutory appeal. *See* NMSA 1978, § 39-3-4 (1999).

13 {10} Each of the Law Firms separately petitioned this Court for a writ of
14 prohibition to restrain the district court from exercising personal jurisdiction over
15 them. We initially denied Covington's petition but later withdrew the order and
16 consolidated the three petitions. After oral argument, we granted the petitions and
17 issued an extraordinary writ instructing the district court to dismiss the Law Firms
18 from the underlying lawsuits. We held that conspiracy jurisdiction is constitutional

1 but determined that the district court lacked jurisdiction over the Law Firms on the
2 record presented. We now write to explain our reasoning.

3 **III. STANDARD FOR A PETITION FOR WRIT OF PROHIBITION**

4 {11} The Law Firms seek to invoke the Court’s original jurisdiction in prohibition.
5 N.M. Const. art. VI, § 3. The writ of prohibition is “an extraordinary writ, issued by
6 a superior court to an inferior court to prevent the latter from exceeding its
7 jurisdiction, either by prohibiting it from assuming jurisdiction in a matter over
8 which it has no control, or from going beyond its legitimate powers in a matter of
9 which it has jurisdiction.” *State ex rel. Harvey v. Medler*, 1914-NMSC-055, ¶ 17, 19
10 N.M. 252, 142 P. 376. In assessing the propriety of a writ of prohibition, “this Court
11 is concerned with whether the district court had jurisdiction over the subject matter
12 of the dispute and over each of the parties to the dispute.” *In re Extradition of*
13 *Martinez*, 2001-NMSC-009, ¶ 7, 130 N.M. 144, 20 P.3d 126. The relevant question
14 is “not whether the court had a right to decide the issue in a particular way, but did
15 it have the right to decide it at all.” *Id.* (quoting *State ex rel. Kermac Nuclear Fuels*
16 *Corp. v. Larrazolo*, 1962-NMSC-134, ¶ 23, 70 N.M. 475, 375 P.2d 118).

17 {12} A writ of prohibition “is never allowed to serve the purpose of appeal, writ of
18 error, or certiorari, or any other process known to the common law by which the
19 action of an inferior court may be reviewed.” *Lincoln-Lucky & Lee Mining Co. v.*

1 *Dist. Ct.*, 1894-NMSC-006, ¶ 14, 7 N.M. 486, 38 P. 580 (Freeman, J., dissenting);
2 *accord State v. Valerio*, 2012-NMCA-022, ¶ 23, 273 P.3d 12 (“It is well established
3 that the extraordinary writ of prohibition is generally available only in cases where
4 there is no adequate remedy at law.”). This Court may issue a writ of prohibition as
5 a matter of “sound judicial discretion, to be granted or withheld according to the
6 circumstances of each particular case, to be used with great caution for the
7 furtherance of justice when none of the ordinary remedies provided by law are
8 applicable.” *Medler*, 1914-NMSC-055, ¶ 23.

9 {13} This is one of those extraordinary occasions in which we will consider a writ
10 of prohibition based on an asserted lack of personal jurisdiction. The Law Firms’
11 petitions present a novel question of law addressing a unique theory of specific
12 personal jurisdiction. That question is of substantial public concern and implicates
13 the Law Firms’ fundamental due process rights. This Court first alluded to
14 conspiracy as a basis for asserting personal jurisdiction in *Sanchez v. Church of*
15 *Scientology of Orange Cnty.*, 1993-NMSC-034, ¶¶ 11-12, 115 N.M. 660, 857 P.2d
16 771, but had no occasion to consider whether to adopt the theory under the facts
17 presented in that matter. Based partly on *Sanchez*, our Court of Appeals adopted
18 conspiracy jurisdiction in 2002. *Santa Fe Techs.*, 2002-NMCA-030, ¶¶ 32, 34. This
19 Court has not had an opportunity to review the theory since then. Judicial economy

1 is promoted by considering the issues now rather than on any possible appeal. We,
2 therefore, exercise our discretion to entertain the Law Firms’ petitions due to the
3 novelty and importance of the questions involved.

4 **IV. DISCUSSION**

5 {14} The Law Firms advance two main arguments against the district court’s
6 assertion of personal jurisdiction: (1) conspiracy jurisdiction violates due process
7 because it relies on contacts created by the unilateral conduct of a third party and not
8 by the defendant itself, and (2) even if conspiracy jurisdiction does not violate due
9 process, Plaintiffs have failed to show that jurisdiction may be exercised over them.
10 We address each argument in turn.

11 **A. Conspiracy Jurisdiction Satisfies Due Process**

12 **1. Overview of personal jurisdiction requirements**

13 {15} “The Due Process Clause of the Fourteenth Amendment [to the United States
14 Constitution] limits the power of a state court to render a valid personal judgment
15 against a nonresident defendant.” *World-Wide Volkswagen Corp. v. Woodson*, 444
16 U.S. 286, 291 (1980); *Ins. Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*,
17 456 U.S. 694, 702 n.10 (1982) (explaining that personal jurisdiction limitations
18 “must be seen as ultimately a function of the individual liberty interest preserved by
19 the Due Process Clause”). Specifically, the Due Process Clause “does not

1 contemplate that a state may make binding a judgment in personam against an
2 individual or corporate defendant with which the state has no contacts, ties, or
3 relations.” *Int’l Shoe*, 326 U.S. at 319. Personal jurisdiction limitations also promote
4 comity and federalism by “ensur[ing] that States with little legitimate interest in a
5 suit do not encroach on States more affected by the controversy.” *Ford Motor Co. v.*
6 *Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 360 (2021) (internal quotation marks and
7 citation omitted).

8 {16} Under the Due Process Clause, a state may exercise personal jurisdiction over
9 a defendant if the defendant possesses “certain minimum contacts with [the forum
10 state] such that the maintenance of the suit does not offend ‘traditional notions of
11 fair play and substantial justice.’” *Int’l Shoe*, 326 U.S. at 316 (quoting *Milliken v.*
12 *Meyer*, 311 U.S. 457, 463 (1940)). The United States Supreme Court recognizes two
13 types of personal jurisdiction, specific and general. *Chavez*, 2022-NMSC-006, ¶ 23.
14 General personal jurisdiction extends to all claims against a defendant; specific
15 personal jurisdiction extends only to claims arising out of or related to the
16 defendant’s contacts with the forum state. *Id.*; *Helicopteros Nacionales de Colom.,*
17 *S.A. v. Hall*, 466 U.S. 408, 414 nn.8 & 9 (1984).

18 {17} Conspiracy jurisdiction is a type of specific personal jurisdiction. *Santa Fe*
19 *Techs.*, 2002-NMCA-030, ¶ 31. New Mexico courts may exercise specific personal

1 jurisdiction over a nonresident defendant when (1) the defendant committed an act
2 enumerated in our long-arm statute, NMSA 1978, § 38-1-16 (1971); (2) the
3 plaintiff's cause of action arises from or relates to the defendant's acts; and (3) the
4 defendant has minimum contacts with New Mexico necessary to satisfy due process.
5 *Sanchez*, 1993-NMSC-034, ¶ 8. We have construed our long-arm statute as
6 extending personal jurisdiction as far as constitutionally permissible, and thus, the
7 first and third steps of this test “collapse[] into a single search for the outer limits of
8 what due process permits.” *Hiatt*, 1994-NMSC-044, ¶ 7 (internal quotation marks
9 and citation omitted). While the overall inquiry into specific personal jurisdiction
10 considers whether the defendant has sufficient minimum contacts with the forum
11 state to render the exercise of jurisdiction fair, in practice, courts evaluating personal
12 jurisdiction often separate the inquiry into a “contacts” prong and a “reasonableness”
13 prong. *Daimler*, 571 U.S. at 144 (Sotomayor, J., concurring).

14 {18} In analyzing the sufficiency of contacts with the forum state, we “focus[] on
15 the relationship among the defendant, the forum, and the litigation.” *Calder v. Jones*,
16 465 U.S. 783, 788 (1984) (internal quotation marks and citation omitted). To
17 exercise specific personal jurisdiction over a nonresident defendant, the defendant
18 must have sufficient contacts with a forum state such that it “should reasonably
19 anticipate being haled into court there”; however, the foreseeability of litigation “has

1 never been a sufficient benchmark for personal jurisdiction under the Due Process
2 Clause.” *World-Wide Volkswagen*, 444 U.S. at 295, 297. Rather, “it is essential in
3 each case that there be some act by which the defendant purposefully avails itself of
4 the privilege of conducting activities within the forum State, thus invoking the
5 benefits and protections of its laws.” *Hanson v. Denckla*, 357 U.S. 235, 253 (1958).
6 {19} We have explained, “the purposeful availment test of *Hanson* is the ‘key
7 focus’ in analyzing minimum contacts questions.” *Hiatt*, 1994-NMSC-044, ¶ 9
8 (emphasis omitted) (citation omitted). This “purposeful availment requirement
9 ensures that a defendant will not be haled into a jurisdiction solely as a result of
10 random, fortuitous, or attenuated contacts, or of the unilateral activity of another
11 party or a third person.” *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475 (1985)
12 (internal quotation marks and citations omitted); *accord Hanson*, 357 U.S. at 253
13 (“The unilateral activity of those who claim some relationship with a nonresident
14 defendant cannot satisfy the requirement of contact with the forum State.”). The
15 defendant’s contacts with the forum state “must be the defendant’s own choice and
16 . . . show that the defendant deliberately reached out beyond its home—by, for
17 example, exploiting a market in the forum State or entering a contractual relationship
18 centered there.” *Ford Motor*, 592 U.S. at 359 (brackets, internal quotation marks,
19 and citation omitted).

{20} Even if the party asserting jurisdiction meets its burden regarding the contacts prong, the exercise of personal jurisdiction must still be reasonable. *Burger King*, 471 U.S. at 476-78. “This determination is made by balancing five factors: the burden on the defendant, New Mexico’s interest, the plaintiff’s interest, the interest in an efficient judicial system, and the interest in promoting public policy.” *Zavala v. El Paso Cnty. Hosp. Dist.*, 2007-NMCA-149, ¶ 12, 143 N.M. 36, 172 P.3d 173 (citing *Burger King*, 471 U.S. at 476-77). Of these factors, the burden on the defendant is of “primary” importance. *Bristol-Myers Squibb Co. v. Superior Ct.*, 582 U.S. 255, 263 (2017).

2. Santa Fe Technologies and conspiracy jurisdiction

{21} In *Santa Fe Technologies*, our Court of Appeals held that specific personal jurisdiction could be exercised over a nonresident defendant on the basis of the defendant’s participation in a civil conspiracy. 2002-NMCA-030, ¶¶ 31-36. The plaintiff in *Santa Fe Technologies* was a New Mexico corporation that had entered into an agreement with several nonresident defendants to pursue a bid on a federal government contract. *Id.* ¶¶ 4-5. The plaintiff alleged that the defendants later conspired to replace it with another corporation on the bid. *Id.* ¶¶ 9-11. The plaintiff sued under intentional tort theories, and the defendants moved to dismiss for lack of personal jurisdiction. *Id.* ¶ 11. The district court denied the motions to dismiss. *Id.*

1 {22} On appeal, the Court of Appeals affirmed that personal jurisdiction was proper
2 over the defendants who had either acted in New Mexico or who had sent agents to
3 New Mexico to act on their behalf. *Id.* ¶¶ 23, 27-29. However, one defendant,
4 DeNino, had neither come to New Mexico nor sent an agent here. *Id.* ¶¶ 6, 8, 30, 37.
5 Yet DeNino knew of and had agreed to the other defendants’ in-state acts. *Id.* ¶¶ 6,
6 8, 37. The Court of Appeals, therefore, considered whether jurisdiction could be
7 asserted over DeNino on the basis of his participation in a civil conspiracy with the
8 other defendants. *Id.* ¶ 30.

9 {23} The *Santa Fe Technologies* Court explained, “[p]ersonal jurisdiction based on
10 conspiracy is premised on the concepts that jurisdictional contacts of one in-state
11 conspirator may be imputed to a non-resident co-conspirator.” *Id.* ¶ 31. The Court
12 of Appeals acknowledged a split on the constitutionality of conspiracy jurisdiction,
13 noting that some courts hold that it violates due process because it relies on contacts
14 created by a co-conspirator rather than contacts created by the defendant itself. *Id.*
15 ¶¶ 32-33. The Court of Appeals nevertheless adhered to precedent approving of an
16 “appropriately limited” view of conspiracy jurisdiction. *Id.* ¶¶ 33-34. The Court
17 reasoned that conspiracy jurisdiction satisfies due process because it “is based on the
18 principles of agency,” as under the substantive law of civil conspiracy, the actions
19 of one co-conspirator may be attributed to the other co-conspirators. *Id.* ¶ 34. The

1 Court of Appeals further reasoned that a defendant who voluntarily participated in a
2 civil conspiracy with knowledge of its acts or effects in the forum state could be said
3 to have purposefully availed itself of the privilege of conducting activities there. *Id.*
4 ¶¶ 32, 34.

5 {24} The *Santa Fe Technologies* Court explained that DeNino had participated in
6 a civil conspiracy with the other defendants and had approved the other defendants’
7 in-state efforts to remove the plaintiff from the bid. *Id.* ¶ 37. The Court reasoned that
8 DeNino’s “activities were directed toward New Mexico because he knew or should
9 have known that [a co-conspirator], upon his agreement, would perform in New
10 Mexico the actions in furtherance of the conspiracy of which he had approved.” *Id.*
11 ¶ 38. Because DeNino “gave his approval” to the tortious in-state acts, the Court of
12 Appeals concluded “personal jurisdiction of the state’s courts over DeNino as a co-
13 conspirator . . . [was] sound.” *Id.* ¶ 39.

14 **3. Conspiracy jurisdiction satisfies due process if limited to focus on the**
15 **defendant’s conduct in joining a conspiracy targeting the forum state**

16 {25} The Law Firms ask this Court to limit *Santa Fe Technologies* to the extent
17 that the opinion adopts conspiracy jurisdiction as a basis to assert specific personal
18 jurisdiction. The Law Firms argue that conspiracy jurisdiction contravenes due
19 process because the theory relies on forum contacts unilaterally made by a third party
20 instead of contacts made by the defendant itself. The Law Firms suggest that two

1 recent United States Supreme Court opinions, *Walden v. Fiore*, 571 U.S. 277 (2014),
2 and *Bristol-Myers*, 582 U.S. 255, demonstrate that conspiracy jurisdiction is
3 incompatible with due process. Plaintiffs respond that neither *Walden* nor *Bristol-*
4 *Myers* addressed conspiracy jurisdiction and that *Santa Fe Technologies* remains
5 good law.

6 {26} Plaintiffs correctly note that neither *Walden* nor *Bristol-Myers* addressed
7 conspiracy jurisdiction; however, both opinions shed light on the validity of the
8 theory by clarifying that specific personal jurisdiction may be exercised by the forum
9 state only when the claim-related contacts of the *defendant* are sufficient. In *Walden*,
10 the Supreme Court considered whether Nevada courts could exercise jurisdiction
11 over a nonresident defendant for claims arising from the defendant's seizure of the
12 plaintiff's property in Georgia. 571 U.S. at 279. The defendant, a federal agent
13 working at the Hartsfield-Jackson Atlanta International Airport, seized the plaintiffs'
14 property during a flight layover. *Id.* at 280. The plaintiffs traveled home to Nevada
15 and brought suit there for intentional tort. *Id.* at 281.

16 {27} The *Walden* Court held that jurisdiction was not properly exercised over the
17 defendant in Nevada, explaining: "The proper focus of the 'minimum contacts'
18 inquiry in intentional-tort cases is 'the relationship among the defendant, the forum,
19 and the litigation.' And it is the defendant, not the plaintiff or third parties, who must

1 create contacts with the forum State.” *Id.* at 291 (internal quotation marks and
2 citation omitted). The Court explained that Nevada lacked personal jurisdiction
3 because all of the relevant conduct took place in Georgia; the fact that the defendant
4 knew the plaintiffs would be injured in Nevada was insufficient to confer
5 jurisdiction. *Id.* “The proper question is not where the plaintiff experienced a
6 particular injury or effect but whether the defendant’s conduct connects him to the
7 forum in a meaningful way.” *Id.* at 290.

8 {28} In *Bristol-Myers*, a large group of plaintiffs, including residents and
9 nonresidents, filed suit in California against a nonresident drug manufacturer for
10 injuries allegedly sustained from a medication. 582 U.S. at 258. The California
11 Supreme Court analyzed whether to assert jurisdiction over the manufacturer using
12 a sliding scale approach, reasoning that the plaintiffs’ claims could have less of a
13 connection with the forum state when the defendant possessed extensive contacts
14 with the state. *Id.* at 260. On review, the United States Supreme Court rejected this
15 sliding-scale approach, affirming that specific personal jurisdiction extends only to
16 claims connected to the defendant’s contacts with the forum state. *Id.* at 263-64.
17 “When there is no such connection, specific jurisdiction is lacking regardless of the
18 extent of a defendant’s unconnected activities in the State.” *Id.* at 264.

1 {29} The *Bristol-Myers* Court held that California could not exercise jurisdiction
2 over the manufacturer because the nonresidents' claims were not connected to the
3 state. *Id.* at 264-65. This lack of connection between the forum and the nonresident
4 plaintiffs' claims defeated jurisdiction in spite of the fact that California could
5 exercise jurisdiction over identical claims raised by the plaintiffs who were residents
6 of the forum. *Id.* "As we have explained, a defendant's relationship with a third
7 party, standing alone, is an insufficient basis for jurisdiction. This remains true even
8 when third parties (here, the plaintiffs who reside in California) can bring claims
9 similar to those brought by the nonresidents." *Id.* at 265 (ellipsis, internal quotation
10 marks, and citation omitted).

11 {30} Neither *Walden* nor *Bristol-Myers* addressed the question presented here,
12 namely, whether specific personal jurisdiction may be asserted over a nonresident
13 defendant based on the defendant's participation in a civil conspiracy. However,
14 both opinions emphasize that the defendant itself must make the relevant forum
15 contacts and that the defendant's relationship with others, standing alone, is
16 insufficient to confer jurisdiction. *Walden*, 571 U.S. at 291; *Bristol-Myers*, 582 U.S.
17 at 264-65. Thus, *Walden* and *Bristol-Myers* seemingly undermine conspiracy
18 jurisdiction to the extent that the theory attributes contacts to a defendant based on
19 its relationship with its co-conspirators. Indeed, several courts have rejected

1 conspiracy jurisdiction because the theory arguably shifts the focus of the
2 jurisdictional inquiry away from “the relationship among the defendant, the forum,
3 and the litigation” and commingles the jurisdictional inquiry with the potential
4 merits of a civil conspiracy claim. *Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 775
5 (1984) (internal quotation marks and citation omitted); *see, e.g., Ashby v. State*, 779
6 N.W.2d 343, 361 (Neb. 2010) (“The difficulty with establishing personal jurisdiction
7 based on an alleged conspiracy is that it merges the jurisdiction issue with the merits
8 of the case.”); *Nat’l Indus. Sand Ass’n v. Gibson*, 897 S.W.2d 769, 773 (Tex. 1995)
9 (“Conspiracy as an independent basis for jurisdiction has been criticized as
10 distracting from the ultimate due process inquiry: whether the out-of-state
11 defendant’s contact with the forum was such that it should reasonably anticipate
12 being haled into a court in the forum state.”).

13 {31} Yet *Walden* and *Bristol-Myers* do not foreclose conspiracy jurisdiction. And
14 other jurisdictions have recognized that conspiracy jurisdiction is constitutionally
15 permissible after *Walden* and *Bristol-Myers* because the law of civil conspiracy is
16 closely related to principles of agency. *See, e.g., Womble Bond Dickinson (US) LLP*
17 *v. Kim*, 537 P.3d 1154, 1162 (Haw. 2023) (“*Walden* recognized that an agent’s in-
18 state acts operate as a ‘relevant contact’ for due process purposes. . . . While
19 conspiracy and agency relationships are not exactly the same, they are closely

1 related.”); *Raser Techs., Inc. v. Morgan Stanley & Co., LLC*, 2019 UT 44, ¶ 79, 449
2 P.3d 150 (“[B]ecause a conspiracy is a type of agency relationship, an act taken
3 during the course of a conspiracy relationship may lead to specific personal
4 jurisdiction over a defendant.”); *Tricarichi v. Coop. Rabobank, U.A.*, 440 P.3d 645,
5 652-53 (Nev. 2019) (“[B]ecause co-conspirators are deemed to be each other’s
6 agents, the contacts that one co-conspirator made with a forum while acting in
7 furtherance of the conspiracy may be attributed for jurisdictional purposes to the
8 other co-conspirators.” (internal quotation marks and citation omitted)). And there
9 are sound policy reasons for recognizing the theory, as a state has an interest in
10 providing an accessible forum for plaintiffs to sue defendants for conduct that bears
11 a substantial connection with the state. *Burger King*, 471 U.S. at 473.

12 {32} We accept this policy justification and agree with the underlying rationale that
13 conspiracy jurisdiction is constitutionally sound because it is aligned with principles
14 of agency. As noted by our Court of Appeals, under a claim for civil conspiracy, the
15 acts of one co-conspirator in furtherance of the civil conspiracy become the acts of
16 all co-conspirators. *Santa Fe Techs.*, 2002-NMCA-030, ¶ 34. Indeed, a substantive
17 claim for civil conspiracy is not a separately actionable tort, *Armijo v. Nat’l Sur.*
18 *Corp.*, 1954-NMSC-024, ¶¶ 28-29, 58 N.M. 166, 268 P.2d 339, but is instead a
19 means “to impute liability to make members of the conspiracy jointly and severally

1 liable for the torts of any of its members.” *Ettenson v. Burke*, 2001-NMCA-003, ¶
2 12, 130 N.M. 67, 17 P.3d 440. Accordingly, the acts that a co-conspirator takes in
3 furtherance of a civil conspiracy “are not unilateral because conspiratorial acts have
4 at their foundation an agreement and the involvement of other co-conspirators.”
5 *Santa Fe Techs.*, 2002-NMCA-030, ¶ 34.

6 {33} In this regard, conspiracy jurisdiction merely recognizes that a defendant can
7 purposefully direct its activities towards a forum state by agreeing that a co-
8 conspirator may perform acts targeted at the state in furtherance of their joint
9 objective. Our long-arm statute permits a court to exercise specific personal
10 jurisdiction based on the acts of an agent. *See* § 38-1-16(A) (“Any person, whether
11 or not a citizen or resident of this state, who in person *or through an agent* does any
12 of the acts enumerated in this subsection thereby submits himself or his personal
13 representative to the jurisdiction of the courts of this state.” (emphasis added)). And,
14 despite emphasizing the importance of basing jurisdiction on a defendant’s own
15 conduct, *Walden* recognizes that a defendant may make relevant forum contacts
16 through indirect or vicarious means, such as through the acts of an agent. 571 U.S.
17 at 285. We agree that such vicariously created contacts encompass contacts created
18 by a defendant’s co-conspirator when acting in furtherance of a joint civil
19 conspiracy.

1 {34} The Law Firms nevertheless contend that there is one crucial difference
2 between an agent and a co-conspirator: control. The Law Firms reason “[a]gency
3 relationships are premised on control,” and thus “[i]t follows that in the jurisdictional
4 context, an in-state agent’s contacts are imputed to an out-of-state principal only
5 when the principal controls the agent and consents to the agent’s acts.” We disagree.

6 {35} Under the substantive law of agency, the requirement of control is essential to
7 a finding of respondeat superior liability. *See, e.g.*, Restatement (Third) of Agency
8 § 1.01, at 17 (2005) (“Agency is the fiduciary relationship that arises when one
9 person (a ‘principal’) manifests assent to another person (an ‘agent’) that the agent
10 shall act on the principal’s behalf and *subject to the principal’s control*, and the agent
11 manifests assent or otherwise consents so to act.” (emphasis added)); UJI 13-402
12 NMRA (providing that for a principal to be liable for acts of its agent, the principal
13 must have “had the right to control the manner in which the details of the work were
14 to be performed at the time of the occurrence, even though the right of control may
15 not have been exercised”). But all that due process requires for an assertion of
16 specific personal jurisdiction is that the defendant “deliberately reached out” to the
17 forum state, *Ford Motor*, 592 U.S. at 359 (internal quotation marks and citation
18 omitted), such that it can be said to have fairly “invok[ed] the benefits and
19 protections of its laws.” *Hanson*, 357 U.S. at 253. We assess that a defendant can

1 deliberately reach out to a forum state by participating in a civil conspiracy directed
2 at the state even if the defendant does not control the details of its co-conspirator's
3 acts for purposes of respondeat superior.

4 {36} The United States Supreme Court has previously held that an intentional
5 tortfeasor may be held to account for out-of-state conduct that is aimed at and
6 foreseeably causes injuries in a forum state. *Calder*, 465 U.S. at 788-91. This is true
7 even if the intentional tortfeasor does not control the entities or instrumentalities that
8 carry out the effects of the defendant's intentional conduct in the state. *Id.* at 789-90
9 (permitting jurisdiction over a defendant for an allegedly libelous article targeted at
10 the forum state even though the defendant was not responsible for distributing the
11 article in the forum state). A defendant's control over its co-conspirators is therefore
12 irrelevant to the question of specific personal jurisdiction. *See Schwab Short-Term*
13 *Bond Mkt. Fund v. Lloyds Banking Grp. PLC*, 22 F.4th 103, 124-25 (2d Cir. 2021)
14 (rejecting a requirement of the defendant's direction, supervision, or control of a co-
15 conspirator for conspiracy jurisdiction). Nevertheless, we discern that the purposeful
16 availment requirement demands that a defendant have intentionally targeted the
17 forum state for specific personal jurisdiction to apply. For jurisdiction to lie based
18 on intentionally tortious conduct, the United States Supreme Court has emphasized
19 that a "forum State's exercise of jurisdiction over an out-of-state intentional

1 tortfeasor must be based on intentional conduct by the defendant that creates the
2 necessary contacts *with the forum*.” *Walden*, 571 U.S. at 286 (emphasis added). Due
3 process requires that the defendant committed an intentional act that is directed at
4 the forum state, not just at the plaintiff. *Calder*, 465 U.S. at 789-90.

5 {37} Thus, even though a defendant does not need to control its co-conspirator, we
6 conclude that a defendant, in participating in a civil conspiracy, must have
7 intentionally targeted the forum state for specific personal jurisdiction to apply. We
8 concur with *Santa Fe Technologies* that a defendant’s intent to target a forum state
9 can be shown through the defendant’s active participation in a civil conspiracy and
10 knowledge that, on its agreement, a co-conspirator will perform acts in furtherance
11 of the civil conspiracy that are targeted at the forum state. *Santa Fe Techs.*, 2002-
12 NMCA-030, ¶¶ 32, 36. With this knowledge requirement, conspiracy jurisdiction
13 focuses on the defendant’s own conduct in knowingly joining a conspiracy targeted
14 at the forum state and not merely on the defendant’s relationship with its co-
15 conspirators.

16 {38} We, therefore, endorse the following limited standard for evaluating an
17 assertion of specific personal jurisdiction on the basis of the defendant’s
18 participation in a civil conspiracy. A plaintiff seeking to establish personal
19 jurisdiction over a defendant on the basis of a civil conspiracy must allege with

1 particularity or, on challenge, show that: (1) the defendant actively and voluntarily
2 participated in a civil conspiracy, (2) the defendant knew of a co-conspirator's acts
3 in furtherance of the civil conspiracy that occurred in or were aimed at New Mexico,
4 and (3) these acts created minimum contacts with New Mexico such that the
5 defendant could reasonably foresee being brought into court here. As with other
6 exercises of specific personal jurisdiction, the plaintiff's claims must arise from or
7 relate to the contacts imputed to the defendant on the basis of its participation in the
8 civil conspiracy. *Ford Motor*, 592 U.S. at 361-62. The defendant's contacts must
9 also "be considered in light of other factors to determine whether the assertion of
10 personal jurisdiction would comport with fair play and substantial justice." *Burger*
11 *King*, 471 U.S. at 476 (internal quotation marks and citation omitted).

12 **4. We limit *Santa Fe Technologies* to the extent it conflicts with our holding**

13 {39} We thus agree with *Santa Fe Technologies* that conspiracy jurisdiction
14 satisfies due process. 2002-NMCA-030, ¶ 36. We also agree that the facts of *Santa*
15 *Fe Technologies* supported an assertion of conspiracy jurisdiction over the
16 nonresident defendant in that case. In *Santa Fe Technologies*, DeNino knew that his
17 co-conspirators, on his agreement, would take tortious actions in New Mexico,
18 which foreseeably caused injuries here. *Id.* ¶¶ 8, 44. DeNino was, therefore, properly
19 brought into our courts based on his conduct in participating in a civil conspiracy

1 that he knew would involve acts creating minimum contacts with our state. *Id.* ¶¶
2 37-39.

3 {40} Although we approve of the result in *Santa Fe Technologies*, we nevertheless
4 must correct and limit that opinion to the extent that its analysis of conspiracy
5 jurisdiction conflicts with our own.

6 {41} First, we disapprove of *Santa Fe Technologies*' suggestion that a defendant's
7 knowledge of a conspiracy's *effects* in a forum state is sufficient to satisfy due
8 process. *Id.* ¶¶ 32, 34. It is not enough that a defendant anticipated that a civil
9 conspiracy would have effects in the forum state. *Walden*, 571 U.S. at 286. Rather,
10 the defendant's conduct in participating in the civil conspiracy must demonstrate an
11 intent to target the forum, which may be shown by the defendant's knowledge of
12 conspiratorial acts directed towards the forum state.

13 {42} Second, *Santa Fe Technologies* improperly injected an objective knowledge
14 inquiry into the analysis of conspiracy jurisdiction. The Court of Appeals stated,
15 "DeNino's activities were directed toward New Mexico because he knew *or should*
16 *have known* that [a co-conspirator], upon his agreement, would perform in New
17 Mexico the actions in furtherance of the conspiracy of which he had approved."
18 *Santa Fe Techs.*, 2002-NMCA-030, ¶ 38 (emphasis added). Due process demands
19 that a defendant purposefully direct its activities at a forum, *Hanson*, 357 U.S. at

1 253, so the defendant must actually know about a co-conspirator’s in-state or forum-
2 targeted acts. We, therefore, limit *Santa Fe Technologies* to the extent it suggests
3 that personal jurisdiction may be exercised over a defendant who “should have
4 known” of a co-conspirator’s acts in or aimed at our state. As we have explained,
5 conspiracy jurisdiction will lie only when the defendant has actual knowledge of the
6 relevant conspiratorial acts.

7 {43} Third, we clarify that conspiracy jurisdiction does not require the in-state
8 presence of a co-conspirator. In *Santa Fe Technologies*, our Court of Appeals
9 suggested that a co-conspirator must have a “physical, in-state presence,” or have
10 committed acts inside the state for conspiracy jurisdiction to apply. 2002-NMCA-
11 030, ¶¶ 32, 36. Other jurisdictions have similarly required that a plaintiff show that
12 the defendant knew of the acts a co-conspirator took inside the state. *See EIG Energy*
13 *Fund XIV, L.P. v. Petróleo Brasileiro, S.A.*, 246 F. Supp. 3d 52, 91 (D.D.C. 2017)
14 (“[F]ollowing *Walden*, a plaintiff who seeks to establish jurisdiction over a
15 defendant based on a co-conspirator’s contacts must plead, at a minimum, that the
16 defendant knew his co-conspirator was carrying out acts in furtherance of the
17 conspiracy in the forum.” (emphasis omitted)); *Kim*, 537 P.3d at 1163 (adopting
18 conspiracy jurisdiction with a standard requiring the plaintiff to show that “the
19 defendant knew of the co-conspirator’s acts in the forum”). However, *Calder*

1 recognizes that a defendant may be subject to jurisdiction for out-of-state conduct
2 intentionally aimed at a forum state. *Calder*, 465 U.S. at 789. Thus, we disagree that
3 a co-conspirator’s in-state presence is required. A defendant can be subjected to
4 personal jurisdiction based on its knowledge of a co-conspirator’s acts expressly
5 aimed at a forum state, as well as a co-conspirator’s acts occurring in the forum state.
6 We, therefore, limit *Santa Fe Technologies* to the extent that the opinion may have
7 required an in-state co-conspirator.

8 **B. The District Court Lacks Jurisdiction Over the Law Firms**

9 {44} We now consider whether jurisdiction may be exercised over the Law Firms
10 in the two civil lawsuits underlying this writ proceeding. The Law Firms argue that
11 the district court exceeded its jurisdiction in denying each of their motions to dismiss
12 Plaintiffs’ lawsuits. The district court concluded that Plaintiffs had shown a civil
13 conspiracy that “reached into New Mexico” but did not make any specific findings
14 of fact. In the absence of any specific findings, we review the record de novo to
15 determine whether Plaintiffs have shown personal jurisdiction over the Law Firms.
16 *Tercero v. Roman Cath. Diocese of Norwich*, 2002-NMSC-018, ¶ 5, 132 N.M. 312,
17 48 P.3d 50.

18 {45} Because no evidentiary hearing was held in the underlying suits, Plaintiffs
19 bear the burden to make a prima facie showing that jurisdiction may be properly

1 exercised over the Law Firms. *Doe v. Roman Cath. Diocese of Boise, Inc.*, 1996-
2 NMCA-057, ¶ 9, 121 N.M. 738, 918 P.2d 17. With respect to conspiracy jurisdiction,
3 a “prima facie showing consists of specific facts that, if proven, would allow a
4 factfinder to find the existence of a conspiracy” that the defendant knew involved
5 acts occurring in or directly aimed at our state. *Santa Fe Techs.*, 2002-NMCA-030,
6 ¶ 41. “Mere allegations are not sufficient, but all factual disputes are resolved in [the
7 plaintiff’s] favor.” *Id.* (citation omitted). Notwithstanding the holding today and its
8 procedural posture, we acknowledge that a plaintiff’s burden of showing a prima
9 facie case of conspiracy jurisdiction may not be best suited in all cases for a decision
10 by the court on a motion to dismiss. It might require, in most circumstances,
11 jurisdiction discovery so the court can properly apply the test set forth in this opinion,
12 and the parties have the opportunity to gather the facts necessary to advance their
13 arguments.

14 {46} A civil conspiracy is “a combination by two or more persons to accomplish
15 an unlawful purpose or to accomplish a lawful purpose by unlawful means.” *Las*
16 *Luminarias of the N.M. Council of the Blind v. Isengard*, 1978-NMCA-117, ¶ 5, 92
17 N.M. 297, 587 P.2d 444. A claim for “civil conspiracy unlike criminal conspiracy,
18 is not of itself actionable; the gist of the action is the damage arising from the acts
19 done pursuant to the conspiracy.” *Armijo*, 1954-NMSC-024, ¶ 28. Thus, “[w]ithout

1 an actionable civil case against one of the conspirators, . . . an agreement, no matter
2 how conspiratorial in nature, is not a separate, actionable offense.” *Ettenson*, 2001-
3 NMCA-003, ¶ 12.

4 {47} Plaintiffs allege that the Law Firms conspired with Philip Morris and other
5 tobacco industry organizations to commit fraudulent misrepresentation. Plaintiffs
6 describe a civil conspiracy starting in the early 1950s wherein Philip Morris and
7 other tobacco industry organizations combined together to engage in a public
8 relations campaign designed to downplay and create controversy about growing
9 scientific research into the adverse health effects of smoking. Plaintiffs’ complaints
10 describe the acts of tobacco industry executives in some detail. However, Plaintiffs’
11 allegations against the Law Firms are not supported by particularized facts.

12 {48} Instead, Plaintiffs broadly allege that the Law Firms participated in the civil
13 conspiracy by screening and directing scientific studies favorable to the tobacco
14 industry, carrying out document destruction policies protecting tobacco
15 organizations, sheltering behind baseless assertions of attorney-client privilege,
16 overseeing public positions and statements, clearing advertisements, providing false
17 and misleading testimony and submissions to governmental agencies, and hiding the
18 source of money for special projects. Plaintiffs proffer that, as members of the
19 Committee of Counsel, the Law Firms served as the “supreme authority” of the

1 alleged conspiracy and set the “high policy of the industry on *all* smoking and health
2 matters.” But, in the absence of specific allegations of fact showing the Law Firms’
3 conduct, Plaintiffs have failed to prima facie show the Law Firms’ active
4 participation in a civil conspiracy to fraudulently misrepresent the health effects of
5 tobacco use.

6 {49} Plaintiffs have also failed to demonstrate the Law Firms knew of acts in
7 furtherance of the alleged civil conspiracy, which create minimum contacts with our
8 state. In an effort to demonstrate a connection between the alleged civil conspiracy
9 and New Mexico, Plaintiffs submitted hundreds of pages of exhibits, including a few
10 advertisements published in New Mexico promoting filtered or low-tar cigarettes,
11 the transcript of a national television interview of a Philip Morris executive that aired
12 in New Mexico, a “Tobacco Facts” pamphlet distributed by the New Mexico
13 Tobacco & Candy Distributors organization, and a list of tobacco industry members
14 in the region. Plaintiffs, in particular, suggest that the publication of a full-page
15 advertisement titled *A Frank Statement to Cigarette Smokers* in the *Albuquerque*
16 *Journal* on January 4, 1954, “was the first of many messages to the New Mexican
17 public intended to create doubt about whether smoking is linked to disease or death.”

18 {50} While these exhibits show that the alleged conspiracy reached into New
19 Mexico, none of these exhibits mention the Law Firms. Nor do the exhibits show

1 that the Law Firms knew of any co-conspirator's acts in or aimed at New Mexico.
2 Plaintiffs broadly allege that the Law Firms, as members of the Committee of
3 Counsel, "vetted" documents such as these exhibits. But the referenced exhibits do
4 not substantiate these allegations. And Plaintiffs' mere allegations are insufficient to
5 demonstrate the Law Firms' participation and knowledge in a conspiracy targeting
6 our state.

7 {51} As additional support for an assertion of jurisdiction, Plaintiffs proffer several
8 exhibits that can fairly be described as the Law Firms' attorney work product. Some
9 of these documents mention New Mexico alongside numerous other states. For
10 example, Plaintiffs submitted a report distributed by Shook on regulatory
11 developments relating to cigarette smoking, including developments in New
12 Mexico. Similarly, Plaintiffs identify several documents prepared by Womble that
13 mention New Mexico, including an "R&D Weekly Highlights" memo which
14 mentions a Santa Fe study on burn rate control, a memo noting another New Mexico
15 study on tobacco effects on a small Hispanic population, an agenda for a meeting
16 held in Womble's offices which briefly mentions New Mexico, and a memo listing
17 New Mexico as a state with employment discrimination laws related to smoking.
18 Other exhibits include the minutes from a Tobacco Institute meeting showing that a
19 Covington attorney attended the meeting. The agenda for the meeting lists a smoking

1 restriction initiative in Los Alamos, New Mexico. And yet another exhibit from
2 Covington includes a legislative summary that referenced proposed indoor smoking
3 ordinances in Carlsbad and Mesilla, New Mexico.

4 {52} When viewed in Plaintiffs' favor, these attorney work product documents
5 suggest that the Law Firms participated in discussions with their clients about state
6 laws and regulations or studies occurring in New Mexico. However, these
7 documents do not reveal an agreement to defraud between the Law Firms and their
8 clients. The documents also do not mention any actions in furtherance of the alleged
9 civil conspiracy that occurred in or were aimed at New Mexico. Nor do these
10 documents reveal the Law Firms' knowledge of any in-state or forum-targeted
11 conspiratorial acts.

12 {53} In the absence of this targeted conduct, we cannot attribute any forum contacts
13 to the Law Firms from these documents. Simply "[r]epresenting a client is not
14 enough." *Kim*, 537 P.3d at 1165-66. Due process demands that Plaintiffs show the
15 Law Firms participated in some act purposefully directed towards New Mexico.
16 *Hiatt*, 1994-NMSC-044, ¶¶ 8-9. The Law Firms are not subject to our courts'
17 jurisdiction simply because they may have advised their clients about our state's
18 laws and regulations or kept track of scientific studies being conducted in our state.

1 {54} Plaintiffs also proffered a few exhibits that mention the Law Firms and acts
2 occurring in or aimed at New Mexico. But even these exhibits fail to show that the
3 Law Firms knew of overt acts in furtherance of the alleged civil conspiracy such that
4 they could reasonably foresee being haled into court here. For example, Plaintiffs
5 suggest that one exhibit shows that Covington advised a client regarding New
6 Mexico lobbying laws, while another exhibit later indicates that an alleged co-
7 conspirator made campaign contributions to New Mexico regulators. Another
8 exhibit shows that Covington retained local counsel for a New Mexico resident's
9 smoking-related lawsuit against her employer and monitored the progress of the
10 litigation. Viewing these exhibits in Plaintiffs' favor, these documents suggest that
11 Covington was aware of some actions that an alleged co-conspirator may have taken
12 in New Mexico and perhaps directly participated in another forum-related act. But
13 these few exhibits are isolated among the hundreds of pages proffered against
14 Covington, and personal jurisdiction cannot be based on "random, isolated, or
15 fortuitous" contacts. *Keeton*, 465 U.S. at 774. These exhibits simply do not connect
16 the alleged conspiracy with New Mexico in a meaningful way. *See Walden*, 571 U.S.
17 at 290 ("The proper question is . . . whether the defendant's conduct connects him
18 to the forum in a meaningful way.").

1 {55} Similarly, Plaintiffs proffered several documents about a grant application for
2 a research study at the University of New Mexico Hospital and a letter addressed to
3 a Shook lawyer commenting on the grant application. Plaintiffs also submitted a
4 letter written by a New Mexico resident quoting a Shook lawyer's advice about not
5 putting anything in writing. Viewing these exhibits in Plaintiffs' favor, these
6 documents suggest that Shook knew that a tobacco industry organization vetted and
7 sponsored a scientific study in New Mexico and that a Shook lawyer spoke with a
8 New Mexico resident. But these isolated acts do not demonstrate a substantial
9 connection between the alleged conspiracy and New Mexico such that Shook could
10 reasonably foresee being brought into court here.

11 {56} In sum, Plaintiffs' allegations and exhibits do not show that the Law Firms
12 participated in a civil conspiracy to commit fraudulent misrepresentation or that the
13 Law Firms knew of acts in furtherance of this alleged civil conspiracy creating
14 minimum contacts with this state. The record, therefore, does not support a prima
15 facie case of personal jurisdiction over the Law Firms on the basis of civil
16 conspiracy. Additionally, even though the district court did not consider whether
17 jurisdiction was appropriate under a traditional analysis, on de novo review, we
18 determine that Plaintiffs' allegations and exhibits do not support any traditionally
19 recognized basis for asserting personal jurisdiction over the Law Firms. Therefore,

1 Plaintiffs have not established that the Law Firms had “minimum contacts” with
2 New Mexico “such that the maintenance of the suit does not offend traditional
3 notions of fair play and substantial justice.” *Int’l Shoe*, 326 U.S. at 316 (internal
4 quotation marks and citation omitted). We do not reach the reasonableness prong of
5 the due process analysis, *Burger King*, 471 U.S. at 476-77, because the minimum
6 contacts prong is not satisfied and the parties have not briefed the issue.

7 {57} A writ of prohibition is warranted. Thus, in the interests of justice, we
8 previously ordered the district court to dismiss the Law Firms from the underlying
9 suits.

10 **V. CONCLUSION**

11 {58} We hold that conspiracy jurisdiction comports with due process if properly
12 limited to focus on the defendant’s conduct in actively participating in a civil
13 conspiracy that the defendant knows will target a forum state. We endorse
14 conspiracy jurisdiction under the limited standard articulated herein. We additionally
15 limit *Santa Fe Technologies* as discussed in this opinion. On review of the record,
16 we determine that Plaintiffs have not shown that specific personal jurisdiction may
17 be properly exercised over the Law Firms. We, therefore, direct that the Law Firms
18 be dismissed.

19 {59} **IT IS SO ORDERED.**

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MICHAEL E. VIGIL, Justice

WE CONCUR:

DAVID K. THOMSON, Chief Justice

C. SHANNON BACON, Justice

JULIE J. VARGAS, Justice

BRIANA H. ZAMORA, Justice