



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

JEFFREY HAUSE,	§	No. 08-20-00197-CV
	§	Appeal from the
v.	§	34th Judicial District Court
LG CHEM, LTD.,	§	of El Paso County, Texas
	§	(TC# 2018DCV3420)
Appellant,		
Appellee.		

OPINION

Factual Background

This appeal is one of several others in the state of Texas involving allegedly defective battery cells used in vaping devices. At the time of the incident, Appellant, Jeffrey Hause, was a resident of Texas who purchased a vaping device containing a lithium-ion 18650 battery cell from the defendant-retailer JD Nova Group LLC (d/b/a “Vapolicy”). Vapolicy purchased the battery and vaping device from a vaping equipment wholesaler in California. Appellant left the device in his pants pocket when it exploded, causing severe burns. Appellee, LG Chem, Ltd. (“LG Chem”), is a manufacturer of lithium-ion 18650 battery cells, the same kind Appellant found in his vaping device. LG Chem manufactures these sells for use by “sophisticated companies,” who incorporate them into battery packs and place them in products like power tools, laptops, and other equipment.

Appellant sued LG Chem; its wholly owned subsidiary, LG Chem America, Inc. (“LGC America”); the retailer, Vapolocity; and the wholesaler, IE Vapor Inc. for products liability claims.

Procedural Background

Both LG Chem and LGC America filed special appearances, the former of which is the subject of this appeal. To rebut the propriety of asserting jurisdiction over it, LG Chem averred it is a Korean company based in Seoul, South Korea and has never been registered to do business in the state of Texas. It has no offices in Texas; no leased or owned real property in Texas; no registered agent for the service of process in Texas; and no telephone number, post office box, mailing address, or bank account in Texas. LG Chem further stated it does not foster a market for standalone batteries in Texas or anywhere else. Instead, it manufactures lithium-ion batteries for use in specific applications, not including electronic cigarettes or vaping devices, by sophisticated companies—meaning LG Chem does not sell to individual consumers like Appellant. Finally, LG Chem stated if the battery cell used in Appellant’s vaping device is an LG Chem battery cell, it was not manufactured in Texas, and LG Chem never authorized any party, including Vapolocity with whom it has no relationship, to advertise, distribute, or sell its battery cells as replaceable power cells for vaping devices to individual consumers.

In response to LG Chem’s special appearance, Appellant argued LG Chem targets the Texas market by shipping lithium-ion batteries, like the battery at issue here, directly into the State of Texas. Appellant pointed to a transcript in *Turner v. South Carolina*, a case in Houston where LG Chem was defending against a products liability claim involving very similar facts, for proof LG Chem conceded to shipping lithium-ion 18650 batteries directly into Texas. Appellant also obtained import data from U.S. Customs detailing imports from LG Chem between November 1, 2006 and May 29, 2019. Lastly, Appellant attached excerpts from Stanley Black and Decker’s

(“SBD”) website stating it has manufacturing facilities in Texas, and lists LG Chem as its “peers in innovation,” which, Appellant argues, demonstrates SBD is one of the sophisticated companies to whom LG Chem sells its products.

LG Chem filed written objections to many of Appellant’s exhibits for lack of authentication and hearsay. At the special appearance hearing, counsels on both sides called the court’s attention to the objections, but the trial court chose to rule on the objections at a later time, stating the court would indicate in LG Chem’s proposed order which objections it overruled or sustained. The trial court never ruled on LG Chem’s objections but ultimately granted LG Chem’s special appearance. This appeal ensued.

Issues

In their first issue, Appellant contends that the trial court erred in granting LG Chem’s special appearance because LG Chem directly targets the Texas market for its products, and there is a substantial connection between LG Chem’s Texas contacts and the underlying litigation. Therefore, Appellant asks this Court to reverse the trial court’s ruling granting LG Chem’s special appearance. As a conditional cross point, Appellant contends the trial court erred by not ruling on Appellant’s request for jurisdictional discovery.

In response, LG Chem asks this Court to affirm the trial court’s ruling granting its special appearance. First, LG Chem argues it has not engaged in any purposeful acts directed towards Texas, and its contacts, if any, are not substantially connected to the underlying litigation. Second, LG Chem argues we should affirm the trial court’s ruling because Appellant’s evidence is inadmissible hearsay and lacks authentication, and the trial court erred by impliedly overruling its objections to Appellant’s evidence. Because we find the issue regarding the trial court’s failure to

rule on LG Chem’s objections dispositive for our jurisdictional analysis, we address this first. For the reasons set forth below, we reverse the trial court’s granting of LG Chem’s special appearance.

Standard of Review

We review challenges to trial courts’ granting of special appearances *de novo*. *Fed. Corp., Inc. v. Truhlar*, 632 S.W.3d 697, 716 (Tex.App.—El Paso 2021, pet. denied). When, as here, the trial court did not issue any findings of fact or conclusions of law, we resolve all questions of fact in favor of the trial court’s ruling. *BMC Software Belg., N.V. v. Marchand*, 83 S.W.3d 789, 795 (Tex. 2002). A reviewing court must affirm the trial court’s judgment on any legal theory that can be supported by the evidence. *LeBlanc v. Kyle*, 28 S.W.3d 99, 102 (Tex.App.—Texarkana 2000, pet. denied). In challenges to personal jurisdiction, the parties bear shifting burdens. *Old Republic Nat’l Title Ins. Co. v. Bell*, 549 S.W.3d 550, 559 (Tex. 2018). The plaintiff bears the initial burden of pleading sufficient facts to bring the nonresident defendant within ambit of the Texas long-arm statute. *Id.* Once this is satisfied, the defendant then bears the burden “to negate all bases of personal jurisdiction alleged by the plaintiff,” which the defendant can do on legal or factual grounds. *Id.* For example, the defendant might challenge the factual basis for jurisdiction by presenting evidence of its lack of contacts with Texas. *Kelly v. Gen. Interior Const., Inc.*, 301 S.W.3d 653, 659 (Tex. 2010). Legally, the defendant might show that even if the plaintiff’s factual allegations were true, the “evidence is legally insufficient to establish jurisdiction; the defendant’s contacts with Texas fall short of purposeful availment; for specific jurisdiction, that the claims do not arise from the contacts; or that traditional notions of fair play and substantial justice are offended by the exercise of jurisdiction.” *Id.*

Waiver of LG Chem’s Objections to the Evidence

LG Chem contends the trial court erred in impliedly overruling its objections to Appellant's evidence supporting jurisdiction by failing to rule. LG Chem filed written objections with the trial court objecting to Appellant's jurisdictional evidence on the grounds of hearsay and lack of authentication. As stated above, the trial court did not rule on the objections at the special appearance hearing and stated it would rule on the objections at a later time, when it would designate on LG Chem's proposed order which objections it overruled and sustained. The trial court granted the special appearance without ruling on the objections.

To preserve error on appeal, a party must timely object and obtain an explicit or implicit ruling from the trial court. TEX.R.APP.P. 33.1. If the trial court refuses to rule on the objection, the complaining party must object to the refusal. *Id.* Here, LG Chem did not object to the trial court's decision to rule on its objections at a later time. Instead, LG Chem argues the court's failure to rule on its objections amounts to an implicit overruling. However, the trial court's inaction is not indicative of its impliedly overruling LG Chem's objections. *See Trevino v. City of Pearland*, 531 S.W.3d 290, 299 (Tex.App.—Houston [14th Dist.] 2017, no pet.) (“An implicit overruling is one that, though unspoken, reasonably can be inferred from something else.”). A court's implicit ruling may be sufficient to preserve error on appeal. *In re Z.L.T.*, 124 S.W.3d 163, 165 (Tex. 2003). But the implicit ruling must be ascertainable from the record. *Strunk v. Belt Line Rd. Realty Co.*, 225 S.W.3d 91, 99 (Tex.App.—El Paso 2005, no pet.). The Texas Supreme Court has said that a ruling might be implied from the record when the implication is “clear.” *Seim v. Allstate Tex. Lloyds*, 551 S.W.3d 161, 166 (Tex. 2018)(citing *In re Z.L.T.*, 124 S.W.3d at 165)(finding where the trial court proceeded to trial without ruling on the request for a bench warrant, it was clear the trial court implicitly denied the request).

On the other hand, when a court rules on a motion without first addressing a party's objections to the evidence, the court's disposition on the objections is not as clear. *See id.* (observing an implied overruling of objections to summary judgment evidence could not be inferred where the trial court granted the summary judgment motion because granting the motion could just as easily be understood to mean the trial court did not find a fact issue).

Here, the trial court issued an order stating it considered the evidence submitted and sustained the special appearance. But Appellant's special appearance evidence consisted of fifteen exhibits, eight of which LG Chem objected to and none of which the court addressed in the proposed order granting the objections or in its order granting the special appearance. Accordingly, it is not clear whether the trial court granted the special appearance after determining Appellant's evidence was unreliable or unauthenticated or because the evidence was otherwise insufficient for finding personal jurisdiction. *See Seim*, 551 S.W.3d at 166 (suggesting the granting of motions is not always indicative of the court's ruling on the objections to the evidence). Thus, we find the record does not reveal the trial court implicitly overruled LG Chem's objections.

Further, to the extent that the trial court's failure to rule on the objections, even after LG Chem brought them to the court's attention, amounts to a refusal to rule, LG Chem did not preserve error by objecting to the trial court's refusal. *See* TEX.R.APP.P. 33.1 (requiring objection to court's refusal to rule to preserve error); *Doan v. TransCanada Keystone Pipeline, LP*, 542 S.W.3d 794, 807 (Tex.App.—Houston [14th Dist.] 2018, no pet.). The Texas Supreme Court has endorsed the view that in any context, it is incumbent on the advocate to obtain a trial court's ruling to his objections to evidence. *Seim*, 551 S.W.3d at 165 (summary judgment context). This Court has held even where a court notes a party's objection, it must rule on it for error to be properly preserved. *Iglesias v. State*, 564 S.W.3d 461, 467 (Tex.App.—El Paso 2018, no pet.). Because the trial court

did not rule on LG Chem’s objections to Appellant’s evidence, the evidence remains part of the record for this appeal. *See Roth v. JPMorgan Chase Bank, N.A.*, 439 S.W.3d 508, 513 (Tex.App.—El Paso 2014, no pet.)(stating when objection to summary judgment evidence is waived, the evidence remains part of the summary judgment record).

We turn to the heart of this appeal and determine whether the court erred in granting the special appearance.

Personal Jurisdiction

Courts may assert personal jurisdiction over a nonresident defendant when the Texas long-arm statute allows it, and the exercise of jurisdiction comports with federal and state due process guarantees. *Spir Star AG v. Kimich*, 310 S.W.3d 868, 872 (Tex. 2010). The Texas Supreme Court has read the Texas long-arm statute to be coextensive with federal due process limitations. *Id.* Consequently, a court’s exercise of jurisdiction over a nonresident defendant is said to comply with the statute’s requirements where it also comports with federal due process limitations. *Id.* Consistent with federal due process limitations, a court may exercise personal jurisdiction over a nonresident defendant when (1) the defendant has established minimum contacts with the state, and (2) the exercise of jurisdiction will not offend traditional notions of fair play and substantial justice. *Id.*

A showing of minimum contacts entails the nonresident defendant purposefully availed itself of conducting activities in the forum state, thus invoking the benefits and protections of its laws. *Michiana Easy Livin’ Country, Inc. v. Holten*, 168 S.W.3d 777, 784 (Tex. 2005). The defendant’s conduct can give rise to general or specific jurisdiction. *Spir Star*, 310 S.W.3d at 872. Under a theory of general jurisdiction, a state can exercise jurisdiction over a nonresident defendant where the defendant’s contacts with the state are so continuous and systematic as to

render it at home in the state. *Id.*; *Ford Motor Co. v. Mont. Eighth Jud. Dist. Court*, 141 S.Ct. 1017, 1019 (2021). Under specific jurisdiction, the defendant’s alleged liability must arise from or be related to the defendant’s purposeful contacts with the state; that is, there must be a substantial connection between the defendant’s forum-state contacts and the underlying litigation. *Spir Star*, 310 S.W.3d at 872; *Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 585 (Tex. 2007). The parties agree LG Chem is not at home in Texas. We therefore analyze LG Chem’s contacts with Texas to determine if there is specific jurisdiction.

Our focus remains on the relationship between LG Chem, its contacts with Texas, and the underlying litigation. *See Spir Star*, 310 S.W.3d at 873. To determine if LG Chem has purposefully availed itself of conducting activities in Texas, we assess its contacts with Texas in light of three factors: (1) “only the defendant’s contacts are relevant, not the unilateral activity of another party or a third person;” (2) “the contacts . . . must be purposeful rather than random, fortuitous, or attenuated;” and (3) “the defendant must seek some benefit, advantage or profit by availing itself of the jurisdiction.” *Moncrief Oil Intern. Inc. v. OAO Gazprom*, 414 S.W.3d 142, 151 (Tex. 2013) (citing *Retamco Operating, Inc. v. Republic Drilling Co.*, 278 S.W.3d 333, 339 (Tex. 2009)). In products liability cases, the Supreme Court of the United States has espoused the “stream of commerce” theory in two different flavors. *See Asahi Metal Indus. Co., Ltd. v. Superior Court of California, Solano Cnty.*, 480 U.S. 102, 112, 117 (1987). In *Asahi*, a four-member faction following Justice Brennan’s logic held that a defendant’s awareness its products were being swept into a forum state after it had placed its products into the stream of commerce would be sufficient to find the defendant had purposefully availed itself of the privileges of conducting activities in the state. *Id.* at 117. Under Justice O’Connor’s version of the stream of commerce theory, known as the “stream of commerce plus” theory, a defendant must do something more than merely place

its products into the stream of commerce. *Id.* at 112. This additional conduct is needed to ensure the defendant has purposefully targeted the forum state, and it might take the form of “designing the product for the market in the forum State, advertising in the forum State, establishing channels for providing regular advice to customers in the forum State, or marketing the product through a distributor who has agreed to serve as the sales agent in the forum State.” *Id.* Texas follows this latter approach, requiring a showing that the defendant directed some purposeful conduct towards the forum state before a court may exercise jurisdiction over the nonresident defendant. *Spir Star*, 310 S.W.3d at 873.

Cases involving LG Chem with nearly identical facts have been litigated for the same issues in the state of Texas in recent years. Like here, LG Chem has filed, and in some cases, won special appearances and has had those wins affirmed by the courts of appeals. We briefly review those cases before delving into our analysis of the case before us.

1. LG Chem, Ltd. v. Turner

Like Appellant in this case, the appellee in *Turner* was injured when his e-cigarette ignited in his pocket and caused severe burns. *LG Chem, Ltd. v. Turner*, No. 14-19-00326-CV, 2021 WL 2154075, at *3 (Tex.App.—Houston [14th Dist.] May 27, 2021, no pet.)(mem. op.). The appellee sued LG Chem for the allegedly defective battery contained inside his e-cigarette device. *Id.* The battery at issue in that case was manufactured by LG Chem and allegedly sold to a company in China, where it was “re-wrapped” with an “Efest wrapping.” *Id.* LG Chem denied having any physical presence in Texas or authorizing the re-wrapping of its batteries. *Id.* Much like the case here, LG Chem also averred it does not sell its batteries for use by individual consumers as rechargeable, replaceable batteries in e-cigarette devices, and it only sells its batteries to sophisticated companies. *Id.* In response, the appellee argued LG Chem “boasts of leading the

global market with its manufacture and sale of lithium-ion batteries,” and it has a network of wholly owned subsidiaries within the United States that sell its products nationwide and make nearly \$0.76 million every day in battery sales in the United States. *Id.* at *4. Further, the appellee argued LG Chem ships its batteries directly to companies in Texas, like SBD, for use in their power tools and therefore purposefully targets the Texas market. *Id.* According to the appellee, there is at least one LG plant in Texas, though the relationship between LG Chem and that plant is unclear. *Id.* Finally, LGC America, one of the LG Chem’s subsidiaries, maintains a license to do business in Texas and works with LG Chem to distribute batteries in the United States. *Id.*

The court of appeals reversed the trial court’s order denying LG Chem’s special appearance, stating, “while it is undisputed that appellant sells some amount and some types of lithium-ion batteries into Texas and has a relationship with [SBD], there is no evidence . . . that these connections with Texas are in any way connected to appellee’s claims.” *Id.* at *5. Specifically, there was no allegation the same batteries LG Chem ships to SBD end up in Texas smoke shops or that its subsidiaries sell or distribute its batteries to Texas smoke shops. *Id.* Further, there was no allegation LG Chem derived substantial revenue from the Texas market specifically, as opposed to the broader United States market. *Id.* There was also no detail on the amount or types of lithium-ion batteries that are shipped to Texas. *Id.* Because LG Chem denied selling replaceable, rechargeable batteries for electronic cigarettes, and the batteries sold to SBD were for use in power tools, LG Chem’s alleged liability could not have arisen out of or been related to its contacts with Texas. *Id.* Thus, the court found no basis for personal jurisdiction under the prong for substantial connection. *Id.* at *7.

2. LG Chem, Ltd. v. Granger

On a similar set of facts, the same court of appeals found jurisdiction lacking over LG Chem in *LG Chem, Ltd. v. Granger*. No. 14-19-00814-CV, 2021 WL 2153761, at *1 (Tex.App.—Houston [14th Dist.] May 27, 2021, no pet.)(mem. op.). Here, appellees, who were injured in the same or similar manner alleged in *Turner* and in our case, argued two SBD manufacturing plants in Texas are “devoted” to manufacturing “power and mechanics tools which are widely known to use lithium-ion 18650 batteries, the same model battery that exploded in [appellees’] pockets.” *Id.* Appellees similarly argued that LG Chem profits from its sales of batteries in the United States through household brands like Apple, HP, Dell, and nationwide retailers like Best-Buy and Wal-Mart. *Id.*

The court assumed without deciding LG Chem established “purposeful contacts” with Texas and held the evidence was legally insufficient to establish jurisdiction because there was no indication the appellees’ claims arose from or were related to LG Chem’s Texas contacts. *Id.* at *5. The court echoed its opinion in *Turner*, stating while LG Chem might direct some of its batteries to SBD, there is no allegation the same batteries LG Chem manufactures for SBD are those used in Texas smoke shops. *Id.* Appellees argued that this Court’s opinion in *Semperit Technische Produkte Gesellschaft M.B.H. v. Hennessy* was supportive of jurisdiction under this set of facts because in that case, the defendant’s sales in Texas of the precise product at issue was a “substantial enough connection to an operative fact of the litigation even if the specific item that injured plaintiff was not shown to be sold to them in Texas.” *Id.* at *6 (citing *Semperit Technische Produkte Gesellschaft M.B.H. v. Hennessy*, 508 S.W.3d 569, 584 (Tex.App.—El Paso 2016, no pet.)). But unlike in *Semperit*, there was no evidence that LG Chem sold or shipped a “significant amount” of lithium-ion 18650 batteries in Texas. *Id.* The unnegated allegation LG Chem sold an unknown amount of lithium-ion 18650 batteries to SBD for use in its power tools was an

insufficient tie to the allegation LG Chem's batteries were being used for electronic cigarettes in Texas smoke shops. *Id.* Thus, the court reversed the trial court's order denying LG Chem's special appearance. *Id.* at *7.

3. Schexnider v. E-Cig Central, LLC

The *Turner* and *Granger* court relied on the Texarkana Court of Appeals decision in *Schexnider* in opining that the substantial connection between LG Chem's Texas contacts and the litigation was missing, only the *Schexnider* court also found there was no purposeful availment of the Texas market. *Schexnider v. E-Cig Cent., LLC*, No. 06-20-00003-CV, 2020 WL 6929872, at *8 (Tex.App.—Texarkana Nov. 25, 2020, no pet.)(mem. op.). Schexnider's main allegations were that LG Chem sells its products to battery packers and power tool companies nationwide and to SBD in Texas. *Id.* at *5. LG Chem did not deny to the trial court that its battery cells are sold in Texas. *Id.* at *6. As it has done in every one of these cases, LG Chem only argued it manufactures batteries for use in specific applications by sophisticated companies, which do not include companies in the e-cigarette industry. *Id.* The court noted plaintiff did not make any allegations that LG Chem, its distributors, or SBD supplied any retailers with individual batteries for use in e-cigarettes. *Id.* at *7.

Citing *Spir Star* and this Court's decision in *Semperit*, the court found the additional-conduct requirement lacking in this case. *Id.* at *7–8. In *Spir Star*, the Texas Supreme Court found the exercise of jurisdiction over a nonresident defendant appropriate where a foreign defendant had marketed its product through a distributor that agreed to serve as its sales agent in Texas, profited significantly from its Texas sales, and created a sales entity that was based in Houston. 310 S.W.3d at 875–77. In *Semperit*, the additional-conduct requirement was met where the defendant had delivered millions of dollars' worth of its product to Texas customers and sold its

product through a nationwide distributor who had in turn sold it to a sub-tier distributor that targeted the Texas market. 508 S.W.3d at 582. Conversely, this case was “devoid of any evidence that LG Chem sold . . . batteries . . . through a sales agent that agreed to market them in Texas, that LG Chem delivered a significant amount of its batteries in Texas, or that LG Chem . . . establish[ed] an office for any distributor in Texas” *Schexnider*, 2020 WL 6929872, at *8. As such, *Schexnider* failed to show purposeful availment of the Texas market. *Id.* On the same grounds, the court also found no substantial connection between any alleged Texas contacts and the litigation, stating that there was no evidence that LG Chem sold or shipped its batteries for use in e-cigarettes. *Id.* at *9. Thus, the court affirmed the trial court’s order dismissing *Schexnider*’s claims against LG Chem. *Id.* at *10.

4. LG Chem America, Inc. v. Morgan

Our record is most similar to the record in *LG Chem America, Inc. v. Morgan*, the only case affirming a trial court’s exercise of personal jurisdiction over LG Chem. The facts of *Morgan* are very similar to the facts of the aforementioned cases. In this case, LG Chem did not deny it manufactures the lithium-ion 18650 battery that injured plaintiff or that it markets, distributes, and sells those batteries—in some cases, through its wholly owned subsidiary, LGC America—to at least some Texas customers. *LG Chem Am., Inc. v. Morgan*, No. 01-19-00665-CV, 2020 WL 7349483, at *1 (Tex.App.—Houston [1st Dist.] Dec. 15, 2020, pet. filed)(mem. op.). Notably, unlike the other cases, plaintiff in this case produced more than 2,200 pages of spreadsheets that plaintiff argued showed LG Chem directly sold or shipped its products to Texas customers. *Id.* at *2. Further, plaintiff produced printouts of LG Chem’s website, boasting of its position as a global leader in the battery market. *Id.* Plaintiff produced printouts of SBD’s website, showing SBD has three facilities in Texas, and it lists LG Chem as its “peers in innovation.” *Id.* Plaintiff also

produced an excerpt in another lawsuit, purportedly showing LG Chem has conceded to shipping its batteries into Texas; two orders from another lawsuit, showing LG Chem serves the United States market; and a document that was intended to show LG Chem owns LGC America though the document itself was unintelligible. *Id.*

The First Court of Appeals stated while LG Chem denied designing or manufacturing batteries for sale as standalone batteries or distributing, advertising, or selling the batteries at issue directly to individual consumers, it did not deny that it designed, manufactured, distributed, marketed, or sold the type of battery at issue to Texas customers for at least some applications. *Id.* at *7. It further did not deny LGC America is its distributor in the United States. *Id.* LG Chem did not produce evidence rebutting the voluminous spreadsheets showing it ships many of its products, including its batteries, to customers in Texas. *Id.* Therefore, the court concluded LG Chem designs and manufactures batteries, like the one that injured plaintiff, for the Texas market, and it markets, sells, and distributes those batteries to Texas customers. *Id.* The court found the additional-conduct requirement met where LG Chem had marketed and shipped many lithium-ion 18650 batteries into Texas through its wholly owned distributor, LGC America. *Id.* Because plaintiff's evidence showed LG Chem, directly or indirectly through its distributor, marketed and distributed numerous batteries at least to "sophisticated manufacturers" in Texas, it was subject to suit in Texas. *Id.*

As for the substantial-connection prong, LG Chem posited the same arguments it does here—namely, there is no substantial connection between its contacts with sophisticated manufacturers of power tools and the underlying litigation involving the use of a vaping device. *Id.* at *9. The *Morgan* court disagreed, finding there was a substantial connection given the litigation would focus on whether the product LG Chem sold and distributed in Texas was

defective. *Id.* Any argument about the foreseeability of a consumer's misuse of the product goes to the merits of the product liability claim, not to jurisdiction. *Id.* at *10.

With these cases in mind, we proceed to our analysis of whether Appellant has established specific personal jurisdiction in this case.

A. Purposeful Availment

In the case at bar, the battery cell was first sold to a California wholesaler and then to the Texas retailer that sold the battery and vaping device to Appellant. It is well settled in the Texas Supreme Court's jurisprudence on personal jurisdiction that the mere placing of a product into the stream of commerce, without more, will not support a Texas court's exercise of jurisdiction over a nonresident defendant. *See Spir Star*, 310 S.W.3d at 873. Thus, LG Chem cannot be made answerable to a Texas court on the basis of these facts alone. LG Chem argues the product's trajectory precludes a finding of jurisdiction in this case. But as Appellant correctly points out, the particular trajectory of a product that causes injury will not bar a finding of jurisdiction so long as there is some showing the nonresident defendant intended on hitting its target state anyway. *Michelin N. Am., Inc. v. De Santiago*, 584 S.W.3d 114, 131–32 (Tex.App.—El Paso 2018, pet. dismissed). Therefore, evidence of additional conduct is necessary to determine whether LG Chem purposefully availed itself of the privilege of conducting business in Texas. *See id.*

Appellant presented various exhibits in response to LG Chem's special appearance purportedly evidencing this additional conduct. Namely, Appellant offered an order denying LG Chem's special appearance in a Texas case involving the same issues and a transcript of that same case, where, Appellant claims, LG Chem admitted to shipping lithium-ion 18650 battery cells into

Texas.¹ Appellant also presented the order of the above-described *Morgan* case, showing the Brazoria court denied LG Chem's special appearance. Additionally, Appellant presented excerpts of LG Chem's website, where it boasts of its position as a global leader in the lithium-ion battery market and its continuously increasing sales volume in this market. Appellant also provided a totally unintelligible financial statement of LG Chem and its subsidiaries, which Appellant argues proves LG Chem maintains a network of wholly owned subsidiaries in the United States that sell its products nationwide. Appellant presented two orders of the same case in another state also involving LG Chem, where LG Chem made admissions it profits substantially by exploiting the United States market, and it sells to businesses like Apple, Dell, Best-Buy, Wal-Mart, and others.

Most of Appellant's evidence shows LG Chem is a major player in the battery industry in the United States. But unless the evidence shows LG Chem targeted Texas specifically, as opposed to the broader United States, this will not suffice to show purposeful availment of the Texas market. *See J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 884 (2011)(recognizing a defendant may be subject to jurisdiction of the courts of the United States but not of a particular state). Thus, to demonstrate LG Chem targets the Texas market specifically, Appellant relies on LG Chem's alleged relationship with SBD. In particular, Appellant presented excerpts from SBD's website, showing SBD manufactures power tools, and it considers LG Chem its "peers in innovation." Another excerpt shows SBD has three manufacturing plants in Texas. To show at least some of the battery packs used in SBD's power tools contain LG Chem battery cells, Appellant provided a paper by Inventus Power, which contains information of LG Chem's impressive market share in

¹ We are aware of cases allowing us to take judicial notice of another court's record so long as the parties provide proof. *See Richards v. Comm'n for Lawyer Discipline*, 35 S.W.3d 243, 251 (Tex.App.—Houston [14th Dist.] 2000, no pet.). Assuming we were to take judicial notice of the record of that court, we understand LG Chem's counsel in that case to speak in terms of hypotheticals, which do not amount to admissions of shipments to Texas.

the lithium-ion battery market. Appellant relies on SBD's enigmatic line stating LG Chem is a "peer[] in innovation" to show LG Chem serves the Texas market through its contacts with SBD. While it is not clear what any of this evidence might mean in terms of LG Chem's sales of lithium-ion 18650 battery cells in Texas, at the special appearance hearing, counsel for LG Chem argued the undisputed evidence shows LG Chem sells its lithium-ion 18650 battery cells to customers like SBD for use in power tools.

To further buttress its Texas-specific contacts, Appellant proffered spreadsheets of import data from US Customs showing LG Chem made many shipments of its products, including some batteries, to Texas customers. Appellant argues the import data shows:

- 168 shipments from LG Chem came through the ports of Houston, Texas, and Texas City, Texas;
- 111 of the 168 imports were consigned by an LG Chem entity with the vast majority being consigned by its subsidiary, LGC America;
- a search of all imports from LG Chem to consignees with a Texas address identified 271 shipments to over 30 different companies with locations in the State, 23 of which arrived in the port of Houston, and the remaining arrived in non-Texas ports with their ultimate destination being a company in Texas;
- a search of all imports from LG Chem to any Texas address listed as the notifying party showed 823 shipments to over 60 Texas entities, 30 of which arrived in the port of Houston, and the remainder arrived via non-Texas ports.²

In response, LG Chem argues at most, this evidence shows it sent its products to or through the port of Houston. Citing Texas Supreme Court cases *Zinc Nacional, S.A. v. Bouche Trucking, Inc.* and *CSR Ltd. v. Link*, LG Chem argues shipments going to or through a state are not purposeful contacts. In *Zinc Nacional, S.A. v. Bouche Trucking, Inc.*, the Texas Supreme Court found

² These are the same figures the First Court of Appeals was presented with in the *Morgan* case. 2020 WL 7349483, at *2. This evidence was absent in *Shexnider, Turner*, and *Granger* though the courts in *Schexnider* and *Turner* found LG Chem did sell its battery cells for use in power tools in Texas. *Turner*, 2021 WL 2154075, at *5; *Schexnider*, 2020 WL 6929872, at *8.

shipments passing through Texas on their way to another state were not jurisdictionally significant for establishing personal jurisdiction over the company who hired a third party to ship its products through Texas. 308 S.W.3d 395, 398 (Tex. 2010). In *CSR Ltd. v. Link*, the Texas Supreme Court found where a manufacturer of asbestos sold its product to a distributor, who then shipped the product to Texas, the manufacturer was not subject to jurisdiction in Texas because it did not participate in the decision to ship its products to the state or otherwise intend to serve the Texas market. 925 S.W.2d 591, 595–96 (Tex. 1996).

We find these cases distinguishable. *Zinc* stands for the single proposition that a product passing through a state is not a fact of jurisdictional significance standing alone. 308 S.W.3d at 398. *CSR* underscores that a single shipment to Texas, made without the urging, instruction, or command of the nonresident defendant, is also insufficient to establish jurisdiction. 925 S.W.2d at 595–96. Although we agree with LG Chem that some of Appellant’s evidence establishes at most LG Chem’s products passed through the port of Houston, other evidence shows products were sent to Texas businesses, who are listed as consignees. The data displays Texas addresses as the addresses of several consignees and notifying parties. Taken together, the evidence of LG Chem’s direct shipments of its products to Texas businesses shows that LG Chem directly sells its products to customers in Texas. Thus, this is not a case of a single, fortuitous shipment to a Texas resident or of products merely passing through the forum state.

The Texas Supreme Court’s opinion in *CMMC v. Salinas* is similarly supportive of our understanding of the relevance of shipments for jurisdictional purposes. In that case, a French manufacturer of winepresses sold its winepress to an independent distributor, who in turn sold the winepress to a Texas winery. *CMMC v. Salinas*, 929 S.W.2d 435, 436 (Tex. 1996). The Texas winery sued the French manufacturer for products liability and negligence, and the trial court

granted the manufacturer's special appearance. *Id.* at 437. The Texas Supreme Court affirmed the trial court's granting of the special appearance, finding the manufacturer's knowledge its product would be shipped to Texas is not enough to demonstrate purposeful availment. *Id.* 439–40. The French manufacturer sold most of its products in Europe, making only sporadic sales in the United States, and at least one previous sale to a customer in Texas. *Id.* at 436–37. It did not advertise or market its products in Texas or engage in any additional conduct that would evince its intent to serve the Texas market. *Id.* at 439. Because the manufacturer's products did not regularly find their way into Texas, and its sale to the Texas winery was but an isolated occurrence, the manufacturer could not be subject to suit in Texas. *Id.*

Citing to the court's decision in *CMMC*, the Texas Supreme Court in *Michiana Easy Livin' Country, Inc. v. Holten* said single sales are insufficient to establish jurisdiction over a nonresident defendant, especially one who does not initiate the transaction. 168 S.W.3d at 787. Likewise, knowledge that a product will be shipped to a state is not the same as targeting the state. *See id.* at 788 (“Delivery in Texas was at [the customer's] sole request and sole expense.”). The case before us, unlike *CMMC*, presents evidence of more than just isolated sales to Texas entities. The spreadsheet produced shows pages which the consignees are consumers with Texas addresses, particularly Texas businesses. Other evidence of direct sales of lithium-ion batteries to Texas customers, coupled with LG Chem's failure to deny its lithium-ion 18650 cells are sold in Texas, including to SBD, prove that LG Chem's battery cells are not fortuitously ending up in Texas. *See Old Republic Nat'l Title Ins. Co. v. Bell*, 549 S.W.3d 550, 559 (Tex. 2018)(stating once plaintiff satisfies her initial burden to allege jurisdictional facts, the burden shifts to defendant to negate *all bases* of personal jurisdiction alleged by plaintiff). Moreover, the spreadsheets show a little more than mere “knowledge” that LG Chem's products would end up in Texas—LG Chem shipped

them there itself. *See Semperit*, 508 S.W.3d at 582 (noting the manufacturer’s contacts went beyond foreseeability its products would be used in Texas because it actually shipped those products to Texas).

Admittedly, most cases involving direct sales and shipments from nonresident manufacturers to consumers in the forum state have involved other conduct that buttresses a finding of purposeful availment. *See id.* at 579–580 (finding that aside from direct sales to Texas customers, the nonresident manufacturer sold its products to its nationwide distributor, who sold the product to a sub-tier distributor that targets the Texas marketplace); *LeBlanc*, 28 S.W.3d at 104 (finding purposeful availment of the Texas market where a nonresident manufacturer contracted with a distributor to sell its products in the 50 states, and the parties shipped 452 of manufacturer’s products into Texas).³ In the *Morgan* case, the Houston court found the additional-conduct requirement met where, aside from the import data, LGC America acts as LG Chem’s US distributor, and it was conceded LGC America makes a profit from its sales to Texas customers.⁴ *Morgan*, 2020 WL 7349483, at *7,*12. That evidence is not before this Court and neither is LGC America. Nonetheless, we find LG Chem purposefully targeted Texas as a marketplace for its products.

³ Some courts have held that the *LeBlanc* conflicts with the United States Supreme Court’s decision in *McIntyre*, where the Court found it insufficient for purposes of finding purposeful availment that a defendant targets the United States market as a whole. *See Trokamed GmbH v. Vieira*, No. 01-17-00485-CV, 2018 WL 2436610, at *6 (Tex.App.—Houston [1st Dist.] May 31, 2018, no pet.)(mem. op.)(citing *McIntyre*, 564 U.S. at 888 for the proposition that selling products through a nationwide distributor will not, by itself, subject a manufacturer to jurisdiction in a particular state). We cite *LeBlanc* for the unrelated proposition that shipments have in some cases been found to be evidence a defendant targeted a specific market.

⁴ The parties in this case conceded LGC America generates approximately 6.37% of its revenue from Texas. *Morgan*, 2020 WL 7349483, at *3. Further, while LGC America denied manufacturing, assembling, testing, inspecting, or advertising lithium-ion power cells in Texas or having sold or distributed such cells in the state for use in e-cigarette or vaping devices, it did not deny that it marketed, sold, and distributed LG Chem’s products, including the lithium-ion 18650 battery cells, to at least some Texas customers. *Id.*

In *Semperit*, this Court recognized that certain factual scenarios will not fit squarely with the examples of additional conduct Justice O'Connor outlined in *Asahi*. *Semperit*, 508 S.W.3d at 579; *see also Michiana*, 168 S.W.3d at 786 (“It is less clear whether a nonresident ‘purposefully avails’ itself of a forum when it benefits from a major market without doing any of the marketing.”); *Michelin*, 584 S.W.3d at 132 (“A huge manufacturer that does business in all fifty states and intends for its products to be sold nationwide is more likely to be subject to personal jurisdiction more often in more places.”). The test for personal jurisdiction is not a mechanical one, and courts ought not approach these cases poised to check off boxes to determine if there is additional conduct. *Semperit*, 508 S.W.3d at 579. The bottom line of the need for additional conduct is to ensure that nonresident defendants took some purposeful action directed towards the forum state such that making them answerable to claims in that state would not offend due process. *See Asahi*, 480 U.S. at 112 (“The placement of a product into the stream of commerce, without more, is not an act of the defendant purposefully directed toward the forum State.”); *Ford*, 141 S.Ct. at 1025 (“These rules derive from and reflect two sets of values—treating defendants fairly and protecting ‘interstate federalism.’”). Aside from the unnegated allegations LG Chem ships its batteries to SBD in Texas and uses a distributorship-intermediary to reach Texas customers,⁵ LG Chem makes substantial direct sales and shipments to Texas consumers, making it difficult to find LG Chem did not intend for its products to end up in Texas.

The common denominator in all the cases involving LG Chem and its sales of allegedly defective batteries in Texas is there seems to be an understanding at least some of LG Chem’s battery cells end up in Texas, either through its connection to SBD, its relationship with LGC

⁵ Appellant alleged LGC America serves the Texas market by distributing LG Chem’s battery cells in the state, an issue that we do not analyze because that party is not before us. Still, Appellant alleged LG Chem’s battery cells reach Texas consumers through SBD’s power tools—something LG Chem does not deny.

America, or through its direct sales to other Texas entities. *See Turner*, 2021 WL 2154075, at *5 (stating it is undisputed LG Chem sells some amount of lithium-ion batteries to Texas customers and has a relationship with SBD); *Granger*, 2021 WL 2153761, at *5 (same); *Schexnider*, 2020 WL 6929872, at *8 (stating LG Chem’s only contacts with Texas were that it sold an undetermined amount of batteries to SBD); *Morgan*, 2020 WL 7349483, at *8 (finding LG Chem targeted the Texas market by shipping its batteries to Texas through its wholly owned distributor). In this case, LG Chem does not deny the same and does not deny it markets, sells, or ships its products directly into Texas. In fact, LG Chem argued to the trial court the evidence shows it designs and manufactures the precise product at issue in this case to customers like SBD, which has three facilities in Texas. Amidst all the allegations LG Chem sells these battery cells, at least to “sophisticated companies,” in Texas, LG Chem bore the burden of negating these facts, which it did not do, instead focusing its argument on the fact that its contacts do not evince purposeful availment of the e-cigarette or vaping industry or the market for standalone consumer batteries in Texas. *See Kelly v. Gen. Interior Constr. Inc.*, 301 S.W.3d 653, 658–59 (Tex. 2010)(stating defendant bears the burden to negate all bases of purposeful jurisdiction and can do so on either a legal or factual basis). This nuance is not relevant for jurisdictional purposes because the longstanding inquiry is whether LG Chem targeted the Texas market, not whether it targeted the market in a particular industry. *See Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco Cnty.*, 137 S.Ct. 1773, 1779 (2017)(“The primary focus of our personal jurisdiction inquiry is the defendant’s relationship to the forum State.”); *Moki Mac*, 221 S.W.3d at 575 (stating personal jurisdiction is proper when a defendant establishes minimum contacts with the forum state). We therefore find the facts legally sufficient to meet the purposeful-availment prong of the

jurisdictional test and turn to what LG Chem believes is the crux of this case—whether there is a substantial connection between Appellant’s claims and LG Chem’s Texas contacts.

B. Substantial Relationship

Specific jurisdiction is established only where a nonresident defendant’s contacts with the forum state are substantially related to the operative facts of the litigation. *Moki Mac*, 221 S.W.3d at 585. The United States Supreme Court has couched this requirement as requiring that the litigation arise out of or relate to the defendant’s contacts with the forum. *See, e.g., Bristol-Myers*, 137 S.Ct. at 1780. In *Ford*, the Supreme Court of the United States clarified that while the “arise out of” language does implicate a causal connection, the alternative “relatedness” inquiry allows for a finding of jurisdiction even without this causal connection. 141 S.Ct. at 1026. Thus, the Court found there was a sufficient connection between the plaintiffs’ claims and Ford’s contacts with the states where Ford had advertised, sold, and serviced the two car models that were the subject of the litigation in both forum states, the accidents made the bases of the suits occurred in the forum states, and the suits were brought by the resident-car owners of the forum states. *Id.* at 1028. It was immaterial that the precise vehicles that allegedly malfunctioned were first sold out of state and brought into the forum by the acts of the injured or deceased car owner. *Id.* at 1029. In sum, the Court noted, “Ford had systematically served a market in [the forum states] for the very vehicles that the plaintiffs allege malfunctioned and injured them in those [s]tates, [so] there is a strong ‘relationship among the defendant, the forum, and the litigation.’” *Id.* at 1028.

Here, LG Chem argues this substantial connection between its alleged Texas contacts and the litigation is absent for several reasons. First, Appellant’s claims cannot arise out of LG Chem’s contacts because the product at issue was first sold to a California wholesaler and then to a Texas retailer, who sold the vaping device with the incorporated battery cell to Appellant. Second,

Appellant's claims do not relate to LG Chem's Texas contacts because LG Chem did not purposefully serve a market for standalone consumer batteries in Texas. To this end, LG Chem argues the precise model of battery cell at issue in this case is only sold as an industrial component. According to the United States Supreme Court's decision in *Ford*, LG Chem argues, the relatedness requirement is only met where the nonresident defendant "deliberately, systematically, and extensively" served a market for the precise product at issue in the litigation. Because LG Chem's products are intended to be industrial components and not standalone consumer batteries, the substantial connection is absent. We disagree and find Appellant's claims are substantially related to LG Chem's contacts in Texas.

The United States Supreme Court's decision in *Ford* disposes of LG Chem's first argument. In our case, where Appellant bought his vaping device and battery cell from a Texas retailer, who bought the products from a California wholesaler, a finding of jurisdiction is not barred just because the product was not first sold in Texas. This fact only precludes a finding that Appellant's claims arose out of—or are causally connected to—LG Chem's Texas contacts. *See Ford*, 141 S.Ct. at 1026. Nevertheless, the relatedness standard preserves the possibility for jurisdiction if LG Chem served a market in Texas for the sale of its lithium-ion 18650 batteries, and Appellant's claims relate to the sale of LG Chem's allegedly defective batteries in Texas. *See Spir Star*, 310 S.W.3d at 874 ("So when a nonresident's only contacts with Texas involve indirect sales through a distributor or subsidiary, specific jurisdiction is limited to claims arising out of those sales.").

For the reasons stated above, we find LG Chem fostered a market for its lithium-ion batteries and the precise product at issue in this case in Texas. Appellant's claim that these products are defective and therefore caused his vaping device to catch fire and injure him is precisely the

kind of claim the Court in *Ford* found sufficiently related to a defendant's contacts where the defendant serves a market for the allegedly defective products in the forum state. *See Ford*, 141 S.Ct. at 1027. That is, where the defendant serves a market for allegedly defective products in a forum state and a plaintiff sues for injury related to the defect, jurisdiction over the defendant is proper. *Id.* Nonetheless, LG Chem insists that because it does not intend to foster a market for standalone consumer batteries in the vaping industry, the substantial connection is missing. We disagree.

In deciding that a substantial connection is met in this case, we separate LG Chem's jurisdictional arguments from its arguments on the merits. LG Chem has adamantly argued it only sells its battery cells to "sophisticated companies" for use in products like power tools, not to individual consumers for use in vaping devices. LG Chem has embellished its argument with nuances that pertain to the merits of a products liability case. *See Morgan*, 2020 WL 7349483, at *10 (stating the same). That a consumer abuses a defendant's product by using it in an application it was not designed for or in a manner the defendant did not intend, thereby causing injury, is not jurisdictionally relevant. *See Bell*, 549 S.W.3d at 560 ("Jurisdiction cannot turn on whether a defendant denies wrongdoing—as virtually all will."). As seen in the *Ford* case, so long as the nonresident defendant targets the forum market for the precise product at issue in the litigation, the defendant is subject to jurisdiction for any claims arising out of or related to its sale of the allegedly defective products. *Ford*, 141 S.Ct. at 1027. Thus, we do not agree with LG Chem it should not be subject to jurisdiction in Texas because it does not aim to sell its product for use as standalone batteries in the vaping industry.

Our decision in *Michelin* is directly on point. There, we held where a Texas resident was injured by a defective tire in Mexico, the manufacturer was subject to jurisdiction in Texas even

though the specific tire at issue was sold on a secondary market not controlled or authorized by the manufacturer because the manufacturer had targeted the Texas market for the precise model of tire at issue in the case. *Michelin*, 584 S.W.3d at 133–34. The manufacturer argued intervening forces took the product out of its predictable trajectory and placed it in a secondary market such that by the time it reached the plaintiff, the tire was used and not like the new tires the manufacturer sold in the state. *Id.* at 134. We observed this distinction was compelling initially because of the “implicit idea that the tire’s condition may have been altered by intervening downstream purchasers in different locales.” *Id.* LG Chem appears to make a similar argument: because it does not intend for its batteries to be used in vaping devices, only the acts of a third party who placed them there would explain any alleged defects in the battery cell. To echo what we said in *Michelin*, “that, to us, sounds like a merits question on whether the [battery cell’s] failure was actually [LG Chem’s] fault.” *See id.*

Finally, LG Chem argues the United States Supreme Court’s holding in *Bristol-Meyers* supports a finding of no substantial connection in this case. In *Bristol-Meyers*, the Court found that where a manufacturer of a drug sold its product in California, had research labs in California, and employed 250 sales representatives in California, it was not subject to jurisdiction in California for claims related to the ingestion of the drug by non-California residents, who bought, ingested, and were injured by the drug in another state. *Bristol-Myers*, 137 S.Ct. at 1778, 1781. LG Chem argues this case underscores the importance of the principle of fair warning in personal jurisdiction cases. That is, because the drug manufacturer did not have fair warning its contacts in California would give rise to suits by non-Californians who did not use and were not injured by its product in California, it was unfair to subject the manufacturer to jurisdiction in that state. Here, LG Chem claims it is equally unfair to subject it to jurisdiction in Texas where it did not have fair warning

its products would be misused as standalone consumer batteries. But unlike in *Bristol-Meyers*, this case involves injury to a Texas resident who used LG Chem’s battery cell in Texas, where LG Chem sold the same product. It may not have had notice of how its products would be misused, but that is true of virtually every case involving products that are not used as designed and thereby cause injury. LG Chem would certainly have had fair notice if its product malfunctioned in a power tool, it would be subject to jurisdiction here irrespective of whether the consumer abused the battery cell in the power tool. Hence, it is irrelevant that LG Chem’s product allegedly malfunctioned in the manner it did, for that is a merits issue. *See Hernandez v. Tokai Corp.*, 2 S.W.3d 251, 257 (Tex. 1999)(“[M]isuse of a product is a factor that must be considered in allocating responsibility for the injury.”). We therefore find that the substantial-connection requirement is also met in this case.

C. Fair Play and Substantial Justice

We lastly consider whether subjecting LG Chem to jurisdiction in Texas comports with traditional notions of fair play and substantial justice. We note “[o]nly in rare cases . . . will the exercise of jurisdiction not comport with fair play and substantial justice when the nonresident defendant has purposefully established minimum contacts with the forum state.” *Spir Star*, 310 S.W.3d at 878 (citing *Guardian Royal Exch. Assur., Ltd. v. English China Clays, P.L.C.*, 815 S.W.2d 223, 231 (Tex. 1991)). To evaluate the fairness of subjecting LG Chem to jurisdiction here, we consider the following factors:

- (1) the burden on the defendant;
- (2) the interests of the forum in adjudicating the dispute;
- (3) the plaintiff’s interest in obtaining convenient and effective relief;
- (4) the international judicial system’s interest in obtaining the most efficient resolution of controversies; and
- (5) the shared interest of the several nations in furthering fundamental substantive social policies.

TV Azteca v. Ruiz, 490 S.W.3d 29, 55 (Tex. 2016). When, as here, the defendant is a foreign resident, we also consider “(6) ‘the unique burdens placed upon the defendant who must defend itself in a foreign legal system;’ (7) the state’s regulatory interests; and (8) ‘the procedural and substantive policies of other nations whose interests are affected as well as the federal government’s interest in its foreign relations policies.’” *Id.*

Here, Texas has great interest in exercising jurisdiction over those who commit torts in the state. *See id.* at 55 (stating the same). Further, because the injury occurred in Texas, and Appellant was a resident thereof at the time of the incident, litigating in Texas allows for the most efficient resolution of this controversy. Under the other factors, we see no reason why exercising jurisdiction over LG Chem in Texas would offend traditional notions of fair play and substantial justice. For these reasons, we find it comports with due process to subject LG Chem to jurisdiction in Texas.

CONCLUSION

Because we find exercising jurisdiction over LG Chem to be proper, we do not reach Appellant’s conditional cross point. For the foregoing reasons, we reverse the trial court’s granting of LG Chem’s special appearance and remand the case for further proceedings consistent with this opinion.

October 6, 2022

YVONNE T. RODRIGUEZ, Chief Justice

Before Rodriguez, C.J., Palafox, and Alley, JJ.
Alley, J., Dissenting