No. 23-677

IN THE
Supreme Court of the United States

ROYAL CANIN U.S.A., INC. AND NESTLÉ PURINA PETCARE COMPANY,

Petitioners,

v.

ANASTASIA WULLSCHLEGER AND GERALDINE BREWER,

Respondents.

On Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit

BRIEF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AS AMICUS CURIAE SUPPORTING PETITIONERS

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INTEREST OF THE *AMICUS CURIAE*[1]

The Chamber of Commerce of the United States of America is the world's largest business federation. The Chamber directly represents approximately 300,000 members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. The Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the Nation's business community.

The Chamber has a strong interest in the scope of federal-court jurisdiction after removal. Its members are frequently defendants in litigation filed in state court and often seek to exercise their statutory right to remove such cases to federal court. In those cases, they often face attempts by the opposing parties to defeat federal jurisdiction after removal through tactics like the one respondents used here. The Chamber thus has an interest in ensuring a correct understanding of the federal courts' subject-matter jurisdiction, including supplemental jurisdiction, in removed cases in particular. In addition, the Chamber has an interest in clear and manageable rules governing federal-court jurisdiction that discourage gamesmanship and avoid duplicative proceedings that increase the time and expense of litigation for its members.

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[1] No counsel for any party authored this brief in whole or in part and no entity or person, aside from *amicus curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Eighth Circuit's decision misapplies long-standing principles of federal-court jurisdiction, encourages gamesmanship, and undermines the important right of removal. The Court should reverse the judgment of the court of appeals.

I. For at least two centuries, this much about federal jurisdiction has been "quite clear": "the jurisdiction of the Court depends on the state of things at the time of the action brought, and … after vesting, it cannot be ousted by subsequent events." *Mollan v. Torrance*, 22 U.S. (9 Wheat.) 537, 539 (1824). That is true whether it be a change in the citizenship of a party, a reduction of the amount in controversy, or an "amendment of [the] pleadings." *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938). The need for this rule is particularly acute in cases that have been removed to federal court, both to prevent plaintiffs from manipulating federal-court jurisdiction and to prevent defendants' statutory right of removal from being subject "to the plaintiff's caprice." *Id.* at 294. Under this rule, the district court's jurisdiction over this Article III case or controversy remained secure despite respondents' post-removal amendment of their complaint to eliminate the federal claims that had been the basis for federal-court jurisdiction at the time of removal.

With its jurisdiction over the Article III case or controversy secure upon removal, the district court possessed supplemental jurisdiction over respondents' remaining state-law claims. The supplemental jurisdiction statute gives district courts authority to hear state-law claims that are "so related" to a federal claim

"in the action … that they form part of the same case or controversy under Article III." 28 U.S.C. § 1367(a). Because the district court's constitutional jurisdiction over the "case or controversy" survived the amendment of the complaint, its supplemental jurisdiction over those state-law claims that "form [a] part," *id.*, of the case or controversy persisted, too.

That remains true, despite the removal statute's command that a district court remand a case "[i]f … it appears that the district court lacks subject matter jurisdiction." 28 U.S.C. § 1447(c). That provision does not alter the rules of federal-court jurisdiction; it merely requires remand when a federal court has lost jurisdiction under existing rules. *See Powerex Corp. v. Reliant Energy Servs., Inc.*, 551 U.S. 224, 232 n.1 (2007).

II. The Eighth Circuit's decision undermines the values of certainty and predictability that are essential for matters of federal-court jurisdiction and enables a plaintiff to freely manipulate federal-court jurisdiction by stripping out the basis for jurisdiction the plaintiff voluntarily included in its complaint. Under the Eighth Circuit's rule, courts and parties will be forced to waste time and resources on multiple waves of litigation over which court should hear the case—exactly as occurred here.

The Eighth Circuit's rule is particularly problematic for removed cases. By creating a statutory right of removal, Congress made clear that federal courts do not exist exclusively "for the benefit of parties who might be plaintiffs," but also for "the protection of defendants who might be entitled to try their rights, or assert their privileges, before the same forum." *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 348 (1816). The lower court's rule undermines the security of that removal

right—allowing a plaintiff that chose to draft a complaint within the federal courts' jurisdiction to revoke that jurisdiction after the defendant has properly brought the case into federal court. The consequences of that rule are particularly damaging to business defendants who are often sued in plaintiff-friendly state courts and rely on the removal right to ensure a fair forum for litigation.

ARGUMENT

I. The district court has subject-matter jurisdiction over this case.

The Eighth Circuit's *sua sponte* decision to order this case remanded to state court rested on a fundamental misunderstanding of federal-court jurisdiction. A federal court's jurisdiction attaches based on the state of affairs at the time of filing and is not divested by later events. That is true—indeed, *more* true—for a case that has been properly removed to federal court. That longstanding rule mandates reversal. After removal, respondents amended their complaint—not changing the factual basis of the claim, just eliminating the references to federal law that had allowed petitioners to remove based on federal-question jurisdiction. That post-removal amendment did not "oust[]" the district court of jurisdiction. *Mollan*, 22 U.S. (9 Wheat.) at 539. And because the district court retained its jurisdiction over this case or controversy, the court's supplemental jurisdiction over respondents' state-law claims persisted, too.

A. Federal courts' jurisdiction over a case or controversy is not divested by subsequent events.

The district court had Article III jurisdiction over this case at the time it was removed, and that jurisdiction did not evaporate because respondents amended their complaint post-removal to eliminate their federal claims.

1. For at least two centuries, this Court has adhered to the rule that federal-court jurisdiction attaches at the time it is invoked and is not ousted by subsequent events. In 1824 this Court applied that rule to hold that a federal court's diversity jurisdiction over a case depends on the parties' respective states of citizenship at the time suit was initiated—not on where a party might have moved sometime after suit. *Mollan*, 22 U.S. (9 Wheat.) at 539. Writing for the Court, Chief Justice Marshall explained that "[i]t is quite clear, that the jurisdiction of the Court depends on the state of things at the time of the action brought, and that after vesting, it cannot be ousted by subsequent events." *Id.* The Court reiterated that rule in *Connolly v. Taylor*, stating that "[w]here there is no change of party, a jurisdiction depending on the condition of the party is governed by that condition, as it was at the commencement of the suit." 27 U.S. (2 Pet.) 556, 565 (1829). If a federal court has jurisdiction at the time of suit, then it retains that jurisdiction throughout the litigation.

The Court subsequently made clear that this time-of-vesting rule is not limited to a "condition of the party" such as citizenship, but applies to post-filing changes more broadly. In *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, the Court considered a suit removed to

federal court based on diversity jurisdiction. 303 U.S. at 284. Evidence submitted after removal, however, showed that the amount in controversy being sought was less than the jurisdictional threshold. *Id.* at 285. Nonetheless, applying the "well established" rule of federal-court jurisdiction, the Court held that the post-removal reduction in the amount in controversy did not divest the federal courts of their jurisdiction once it had attached. *Id.* at 288-290, 293-294.

In particular, the Court explained that whether a case is within a federal court's jurisdiction, including whether it satisfies the amount-in-controversy requirement, is determined by the complaint's good-faith allegations. 303 U.S. at 288-289. So if the complaint adequately alleges the prerequisites for jurisdiction, the federal court's jurisdiction is secure regardless of subsequent developments: "Events occurring subsequent to the institution of suit which reduce the amount recoverable below the statutory limit *do not oust jurisdiction*." *Id.* at 289-290 (emphasis added). That is true, the Court elaborated, whether the "events occurring subsequent to removal … [are] beyond the plaintiff's control *or* the result of his volition," *id.* at 293 (emphasis added); in either case, "events occurring subsequent to removal … do not oust the district court's jurisdiction once it has attached." *Id.*[2]

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[2] A narrow exception to this rule allows a defect of complete diversity of citizenship to be cured by dropping the "diversity-destroying party." *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 572-573 (2004). That exception has no application "[w]here there is *no* change of party"; under those circumstances, the Court "has never approved a deviation from the rule" assessing jurisdiction based on citizenship "as it was at the commencement of the suit." *Id.* at 574 (citation omitted).

This "well established" rule of federal-court jurisdiction applies with full force to cases that are *initiated* in federal court, *St. Paul*, 303 U.S. at 290, 294, but the Court found that rule even "more urgently require[d]" with respect to cases that have been *removed* to federal court. *Id*. at 290-292, 294. If a plaintiff does not wish to be in federal court, it can write a complaint that does not invoke federal-court jurisdiction, for example, by "suing for less than the jurisdictional amount." *Id*. at 294. But, the Court reasoned, if the plaintiff chooses to write a removable complaint, those allegations "fix[] the right of the defendant to remove," and the "plaintiff ought not to be able to defeat that right and bring the cause back to the state court at his election." *Id*. A different rule would subject the defendant's "statutory right of removal … to the plaintiff's caprice." *Id*.

2. The same logic for applying the time-of-vesting rule to diversity cases requires applying that rule to cases that raise questions of federal law.

Just as diversity jurisdiction is determined based on the plaintiff's good-faith allegations, *St. Paul*, 303 U.S. at 288-289, so is a federal court's jurisdiction to adjudicate a case because it raises a question of federal law. Under the well-pleaded complaint rule, if the "federal question is presented on the face of the plaintiff's properly pleaded complaint," *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987)—"unaided by anything alleged in anticipation of avoidance of defenses which it is thought the defendant may interpose," *Franchise Tax Bd. of State of Cal. v. Constr. Laborers Vacation Tr. for S. Cal.*, 463 U.S. 1, 10 (1983) (citation omitted)—then "federal jurisdiction exists." *Caterpillar*

Inc., 482 U.S. at 392; *see also Bell v. Hood*, 327 U.S. 678, 680-681 (1946).[3]

Because federal jurisdiction is *secured* in the same way for diversity and federal-question cases, there is no reason why events occurring after jurisdiction has attached should divest a federal court of power to adjudicate the case because its jurisdiction was based on the presence of a federal question, rather than diversity of citizenship. In either case, events that occur after the federal court's jurisdiction has attached—whether a plaintiff's later amendment to reduce the amount in controversy (for diversity jurisdiction) or to remove the federal character of a cause of action (for federal-question jurisdiction)—do not retroactively alter the state of things that *in fact* existed "at the time of the action brought." *Mollan*, 22 U.S. (9 Wheat.) at 539. Therefore, in a federal-question case as in a diversity case, once jurisdiction has attached, "[e]vents occurring subsequent to the institution of suit … do not oust jurisdiction." *St. Paul*, 303 U.S. at 289-290.

Cabining the rule of *St. Paul* to diversity cases also makes little sense given that the amount-in-controversy requirement is not a feature unique to diversity jurisdiction. From 1875 to 1980, federal-question jurisdiction was also subject to an amount-in-controversy requirement. 13D Wright & Miller, *Federal Practice & Procedure* § 3561.1 (3d ed. June 2024 update). This Court, moreover, has recognized that its precedents interpreting the federal-question statute's amount-in-controversy requirement are equally appli-

[3] That standard governs cases initially filed in federal court as well as those removed to federal court. *Franchise Tax Bd.*, 463 U.S. at 10 n.9.

cable to the amount-in-controversy requirement in the diversity-jurisdiction statute. *See Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 554-555 (2005) (citing *Clark v. Paul Gray, Inc.*, 306 U.S. 583 (1939)) (rule derived from a federal-question case that each plaintiff "must separately satisfy the amount-in-controversy requirement" was applicable to diversity statute); *accord Mt. Healthy City Sch. Bd. of Educ. v. Doyle*, 429 U.S. 274, 276-277 (1977) (relying on *St. Paul* to resolve jurisdictional challenge based on amount-in-controversy requirement in § 1331). Consistent with that approach, at least one lower court applied *St. Paul*'s holding to a plaintiff's reduction of the amount-in-controversy in a federal-question case. *See Wade v. Rogala*, 270 F.2d 280, 282-283, 286 (3d Cir. 1959) (reversing jurisdictional dismissal in federal-question case and noting that "events occurring after institution of suit do not oust the court of jurisdiction").

3. The Eighth Circuit sought to justify its contrary rule on the principle that "an amended complaint supersedes an original complaint and renders the original complaint without legal effect." Pet. App. 7a (citation and alteration omitted). That may well be true for *some* purposes—for example, a plaintiff cannot recover on a cause of action that has been eliminated from the case through amendment, nor can a plaintiff recover against a party no longer named as a defendant in an amended complaint. But to say that is not to say that amending a complaint suffices to deprive a federal court of Article III jurisdiction over the case or controversy. Such a principle runs head-on into the "well established" rule that "[e]vents occurring subsequent to the institution of suit" or "subsequent to removal"—"whether beyond the plaintiff's control or the result of his volition"—"do not oust the district court's jurisdic-

tion once it has attached." *St. Paul*, 303 U.S. at 289-290, 293, 294.

And nothing in *St. Paul* or any of this Court's cases suggests that a post-filing or post-removal amendment to a complaint is treated differently than any other "event[] occurring subsequent" to filing suit or removal. *Id.* at 293. To the contrary, the Court framed its rule broadly to cover any means a plaintiff might employ to avoid federal-court jurisdiction—whether "by stipulation, by affidavit, *or by amendment of his pleadings*." *Id.* at 292 (emphasis added); *accord Pullman Co. v. Jenkins*, 305 U.S. 534, 537 (1939) (concluding that "second amended complaint should not have been considered in determining the right to remove, which [is] determined according to the plaintiffs' pleading at the time of the petition for removal").[4]

Contrary to the Eighth Circuit's view, this Court's decision in *Rockwell International Corp. v. United States*, 549 U.S. 457 (2007), does not hold otherwise. In that case, the Court considered whether a particular relator was jurisdictionally barred from suing in the name of the United States under the False Claims Act. *Id.* at 460, 463. For the relator (as opposed to the United States itself) to sue on allegations based on public information, the relator was required to be an "original source" of the information—and the "original source" requirement was jurisdictional. *Id.* at 460, 463. That, in turn, required the Court to determine "[w]hich of the relator's allegations are the relevant

[4] The same fundamental flaw infects the Eighth Circuit's argument that federal-court jurisdiction exists only if the "alleged state of things"—*i.e.*, what is alleged throughout the duration of the litigation—supports federal-court jurisdiction. Pet. App. 8a (citation omitted).

ones"—those in the original complaint or those in the amended complaint. *Id.* at 473. The Court reasoned that "[t]he statute speaks not of the allegations in the 'original complaint' (or even the allegations in the 'complaint'), but of the relator's 'allegations' *simpliciter*." *Id.* Given that broad statutory language, the Court held that the relevant allegations "[are] not limited to the allegations of the original complaint." *Id.* The Court also reasoned that a contrary interpretation would make the statutory scheme dysfunctional: the "relator [would be] free to plead a trivial theory of fraud for which he had some direct and independent knowledge and later amend the complaint to include theories copied from the public domain or from materials in the Government's possession." *Id.*

Rockwell was thus limited to the specific statutory language and context of the particular jurisdictional bar in the False Claims Act. It did not purport to announce a general rule on the effects of an amended complaint on federal-court jurisdiction. To be sure, the Court stated in *Rockwell* that its statutory interpretation was consistent with the "time of filing" rule, and it summarized two circuit decisions as holding that "the withdrawal of [jurisdictional] allegations" will "defeat jurisdiction" "unless they are replaced by others that establish jurisdiction." 549 U.S. at 473-474. But that observation was unnecessary to the Court's decision, which rested squarely on its interpretation of the False Claims Act provision at issue. *Rockwell* did not displace a centuries-old principle of federal-court jurisdiction.

Even if *Rockwell* were read to hold that eliminating federal claims from a complaint *initially filed* in federal court divests the district court of jurisdiction, that rule

would not extend to cases (like this one) that have been *removed* to federal court. *Accord* Opening Br. 31. The Court said so explicitly: It stated in *Rockwell* that "when a defendant removes a case to federal court based on the presence of a federal claim, an amendment eliminating the original basis for federal jurisdiction generally *does not* defeat jurisdiction." 549 U.S. at 474 n.6 (emphasis added) (citing *St. Paul* and *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343 (1988)). *Rockwell* thus confirms that the district court in this case retained jurisdiction, even after the respondents amended their complaint after removal to eliminate the federal claims.

B. Because the district court retained Article III jurisdiction over this case, its supplemental jurisdiction remained secure.

Respondents amended their complaint to eliminate the federal claim, but they did not defeat the federal court's supplemental jurisdiction over their state-law claims. The court retained *constitutional* jurisdiction over this "case" or "controversy," U.S. Const. art. III, § 2, and the district court's *supplemental* jurisdiction granted it power to adjudicate the state-law claims that remained after respondents amended their complaint.

The presence of a single claim arising under federal law suffices to give the federal court original jurisdiction over that "civil action." *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 166 (1997). Jurisdiction over the accompanying *state-law* claims turns on "whether [those claims] fall within a district court's supplemental jurisdiction." *Id.* at 167. And supplemental jurisdiction extends to all state-law claims that

are "so related to claims" "in a[] civil action of which the district courts have original jurisdiction" that they "form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a).

Supplemental jurisdiction over the state-law portion of such a "case or controversy" continues even after the federal claim is no longer in the case. To be sure, a district court "*may* decline to exercise supplemental jurisdiction over a claim" if, for example, "the district court has dismissed all claims over which it ha[d] original jurisdiction." 28 U.S.C. § 1367(c)(3) (emphasis added). But such a decision is "not based on a jurisdictional defect." *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 640 (2009); *see id.* at 637-641 (explaining the point). Rather, the "decision whether to exercise jurisdiction after dismissing every claim over which it had original jurisdiction is purely discretionary." *Id.* at 639-640. If the termination of the federal-question claims from the case also terminated the federal court's subject-matter jurisdiction, then there would be no discretion to keep the state-law claims in federal court. But there *is* such discretion—because the "case or controversy" continues.

And it continues no matter how the federal claim disappears from the case. The federal claim may be dismissed by the court on the merits, *see, e.g.*, *Carlsbad*, 556 U.S. at 636, or it may be dismissed on some non-merits, non-preclusive ground, *see, e.g.*, *Dirauf v. Berger*, 57 F.4th 101, 104, 108 (3d Cir. 2022) (affirming district court's declination of supplemental jurisdiction under § 1367(c)(3) after federal claims were voluntarily dismissed). Or—relevant here—it may be dropped by the plaintiff through amendment. The effect on the

federal court's continuing supplemental jurisdiction is no different. A federal claim that has been voluntarily dismissed from the case, for example, is no less gone from the case than one eliminated by amendment, and there is no reason the *jurisdictional* consequence of the latter should be any different than those of the former—in both, the court retains its jurisdiction over "the … case or controversy" and its supplemental jurisdiction over the remaining state-law claims.

That is the premise underlying this Court's decision in *Carnegie-Mellon University v. Cohill*, 484 U.S. 343 (1988), which addressed the doctrine of pendent jurisdiction, on which § 1367 built and expanded. In *Cohill*, the plaintiffs alleged a single federal claim and several pendent state-law claims. The presence of the federal claim enabled the defendants to remove. The plaintiffs then (like respondents here) amended their complaint to remove the federal claim. *Id*. at 348, 350. The Court held that if the federal claim "dropped out of the lawsuit in its early stages," *id.* at 350, the district court had discretion over whether to retain the state-law claims or remand them to state court (or dismiss them, as *United Mine Workers of America v. Gibbs*, 383 U.S. 715, 726 (1966), had already established). 484 U.S. at 357. Tellingly, no Justice in *Cohill* questioned the federal court's continued subject-matter jurisdiction over the case and its power to adjudicate the remaining state-law claims; the only disagreement between the majority and the dissent was whether the district court's only choice was between exercising jurisdiction over the state-law claims or dismissing them, or whether remand was also an option. *Id*. at 362 (White, J., dissenting).

The decision in *Cohill* came only shortly before Congress adopted the supplemental-jurisdiction statute—which ratified and, indeed, broadened in some respects federal jurisdiction to hear pendent claims. *See, e.g.*, *Exxon Mobil*, 545 U.S. at 557-559. Congress plainly understood that under *Cohill*, once a federal court acquires jurisdiction over a "case" or "controversy" consisting of federal and state claims, it is discretion rather than a lack of jurisdiction that guides whether to keep the state claims after the federal claim "ha[s] dropped out of the lawsuit." *Cohill*, 484 U.S. at 350. That is why Section 1367(c) is permissive—it guides district court discretion rather than withholding district court jurisdiction. *See Carlsbad*, 556 U.S. at 639-640.

The district court thus retained its Article III jurisdiction over this case or controversy and had supplemental jurisdiction under § 1367 to adjudicate respondents' state-law claims.

C. The removal statute does not alter longstanding rules of federal-court jurisdiction.

The removal statute does not require a remand when a federal court's subject-matter jurisdiction is secure. A removed case must be remanded if "the district court lacks subject matter jurisdiction," 28 U.S.C. § 1447(c), but nothing in that statute changes the rules governing *when* a federal court lacks jurisdiction. And as explained above, a federal court retains its jurisdiction despite developments that postdate filing or removal, including (as here) supplemental jurisdiction over the same case or controversy even after a federal claim is resolved or withdrawn.

This Court confirmed that interpretation of § 1447(c) in *Powerex Corp. v. Reliant Energy Services, Inc.*, 551 U.S. 224 (2007). There, the Court considered whether § 1447(c) requires federal courts to remand for *all* jurisdictional defects, or only those that were in existence at the time of removal. *Id.* at 229-232. The Court agreed that some "properly removed case[s]" subsequently come to "lack[] subject-matter jurisdiction" and must be remanded. *Id.* at 230-232. But in so holding, the Court was careful not to imply that the question of "whether removal [wa]s proper"—that is, whether the district court had subject-matter jurisdiction at the time of removal—"is *always* different from the question whether the district court has subject-matter jurisdiction" later on. *Id.* at 232 n.1. To the contrary, the answer to those questions is "often identical": "in light of the general rule that postremoval events do not deprive federal courts of subject-matter jurisdiction," there will be relatively few instances where "a district court lacks subject-matter jurisdiction to hear a claim that was properly removed." *Id.*[5]

Powerex's interpretation of § 1447(c) follows directly from *St. Paul*. At the time *St. Paul* was decided, the federal removal statute was materially identical to current § 1447(c) and required dismissal in the event of a post-removal defect in subject-matter jurisdiction:

> If in any suit … removed from a State court to a district court of the United States, it shall appear to the satisfaction of the said district court, *at any time after such suit has been … re-*

[5] In *Powerex*, the relevant post-removal development involved sovereign immunity, which is unique in that it is a jurisdictional bar that the defendant can opt not to assert.

> *moved*…, that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said district court, … the said district court shall … remand it to the court from which it was removed ….

St. Paul, 303 U.S. at 287-288 (quoting Act of Mar. 3, 1911, ch. 231, § 37, 36 Stat. 1098) (emphasis added). Although this provision, like § 1447(c), contemplates jurisdictional defects arising after removal, the Court made clear in *St. Paul* that "[t]he principles governing … the remand of [a case] begun in a state court have remained as they were before the section was adopted." 303 U.S. at 288. And, as the Court went on to explain, those "principles" included the rule that a post-removal amendment of a pleading or other event "do[es] not oust jurisdiction" from the federal court. *Id.* at 290.

Thus, § 1447(c) requires a remand if, and only if, the federal court has lost subject-matter jurisdiction under existing rules of federal-court jurisdiction. For example, a federal court may have "original jurisdiction" over a civil action with a State defendant, but "[t]he State's later invocation of the Eleventh Amendment" may eliminate the federal court's subject-matter jurisdiction. *See Wis. Dep't of Corr. v. Schacht*, 524 U.S. 381, 386-391 (1998). Section 1447(c) does not, however, *alter* the rules of subject-matter jurisdiction to deprive a federal court of its jurisdiction when it would otherwise retain it.

II. The Eighth Circuit's holding undermines predictability in jurisdictional rules, encourages forum manipulation, and degrades a defendant's statutory right of removal.

The Eighth Circuit's decision not only distorts foundational principles of federal-court jurisdiction, but enables the manipulation of that jurisdiction and undermines defendants' important statutory right of removal—burdening courts and parties with the waste of resources associated with litigating which court (state or federal) should hear the case.

This Court has consistently recognized the importance of predictability in jurisdictional rules—in "jurisdictional matters, simplicity is a virtue." *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 595 (2013); *accord Sisson v. Ruby*, 497 U.S. 358, 375 (1990) (Scalia, J., concurring in the judgment) (explaining that "vague boundar[ies] … [are] to be avoided in the area of subject-matter jurisdiction wherever possible"). The predictability that comes with clear jurisdictional rules is "valuable" to all parties involved, including companies "making business and investment decisions." *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). Unpredictability in jurisdictional matters, by contrast, "eat[s] up time and money as the parties litigate, not the merits of their claims, but which court is the right court to decide those claims." *Id.*; *accord Navarro Sav. Ass'n v. Lee*, 446 U.S. 458, 464 n.13 (1980) ("litigation over whether the case is in the right court is essentially a waste of time and resources") (citation omitted). The waste is not only of the parties' resources—"[j]udicial resources too are at stake." *Hertz Corp.,* 559 U.S. at 94. Because federal courts "have an independent obli-

gation to determine whether subject-matter jurisdiction exists," they too "benefit from straightforward rules under which they can readily assure themselves of their power to hear a case." *Id.*

At the same time, this Court has been careful to guard against the manipulation of federal-court jurisdiction. For example, a party cannot invoke federal-question jurisdiction by raising a "claim [that] clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 89 (1998) (citation and quotation marks omitted). These exact concerns about jurisdictional manipulation and gamesmanship also motivated this Court's adoption of the rule that a plaintiff's post-removal actions do not strip the federal court of jurisdiction over the removed case. *See* Section I.A, *supra* (discussing *St. Paul*, 303 U.S. at 290-291, 294, and *Rockwell*, 549 U.S. at 474 n.6).

The Eighth Circuit's decision undermines these values of certainty and predictability, and enables exactly the kind of forum manipulation and gamesmanship this Court has previously disavowed. Under the court of appeals' decision, plaintiffs displeased with the removal of their lawsuit to federal court are empowered to divest the federal court of its jurisdiction by the simple expedient of amending their complaints or taking some other similar action. That will, in turn, force parties and courts to "waste" considerable "time and resources," *Navarro Sav. Ass'n*, 446 U.S. at 464 n.13 (citation omitted), as cases are ping-ponged back and forth between state and federal court, "eating up time and money … litigat[ing], not the merits of their claims, but which court is the right court to decide those claims." *Hertz Corp.*, 559 U.S. at 94.

This litigation is a case in point. Since it was removed to federal court in March 2019, this case has produced *two* district court opinions and *two* court of appeals decisions, all dedicated to addressing whether the district court has jurisdiction to decide the case in the first place. *See* Opening Br. 5-10. Adopting the Eighth Circuit's rule will allow future plaintiffs to engage in similar manipulation of the federal courts' jurisdiction, with the attendant multiplication of proceedings that strain judicial and party resources.

The alternative rule that has governed for two centuries creates a clear and administrable directive that prevents the kind of jurisdictional manipulation the Eighth Circuit's rule enables. "If [a plaintiff] does not desire to try his case in the federal court," it can write its complaint to exclude any basis for removal. *St. Paul*, 303 U.S. at 294. But once the plaintiff has filed a case that is within the federal courts' jurisdiction and the defendant has invoked that jurisdiction through removal, that jurisdiction persists. *Id.* As this Court recognized, the time-of-vesting "rule is what it is precisely because the facts determining jurisdiction are subject to change, and because constant litigation in response to that change would be wasteful." *Grupo Dataflux*, 541 U.S. at 580.

The Eighth Circuit's rule also disrespects the defendant's important right of removal. As this Court recognized over two hundred years ago, the federal courts' "judicial power" "was not to be exercised exclusively for the benefit of parties who might be plaintiffs, and would elect the national forum"; it exists "also for the protection of *defendants* who might be entitled to try their rights, or assert their privileges, before the same forum." *Martin*, 14 U.S. (1 Wheat.) at 348 (em-

phasis added). The Eighth Circuit's rule degrades this right by subjecting the defendant's "statutory right of removal … to the plaintiff's caprice," *St. Paul*, 303 U.S. at 294—allowing a plaintiff to strip a defendant of the important protections of a federal forum after the defendant has already exercised its right to remove the case to that forum.

That right of removal—and the protections of a federal forum it enables—are particularly important for business defendants. Plaintiffs' attorneys often choose to sue business defendants in state court because they perceive those courts (and the narrower jury pools) as more likely than federal courts to be favorable to non-business parties. *See, e.g.*, Neal Miller, *An Empirical Study of Forum Choices in Removal Cases Under Diversity and Federal Question Jurisdiction*, 41 Am. U. L. Rev. 369, 412-413, 424 (1992). A business defendant's right to remove is thus a critical tool for ensuring that it receives a fair hearing and is not subject to "the local prejudices of state courts." 14C Wright & Miller, *Federal Practice & Procedure* § 3721 (rev. 4th ed. June 2024 update). And because plaintiffs may name an in-state defendant to defeat complete diversity or, at least, removal, *see* 28 U.S.C. § 1441(b)(2), the right to remove based on a federal question has a significance all its own.

In those federal-question cases, it would make little sense to allow plaintiffs' post-removal changes to their allegations to defeat jurisdiction. Complaints may be amended well into a case—potentially after the plaintiff has learned the identity of the federal judge, obtained early rulings on dispositive motions or class certification, and seen the schedule for the case as a whole. If the plaintiff retains the option, well into the

case, to neutralize the federal court's jurisdiction by amendment, the incentive for gamesmanship and judge-shopping will only increase. By contrast, both the supplemental-jurisdiction statute and the pendent-jurisdiction doctrine that it codified make clear that federal courts have the authority to "guard against forum manipulation" in exercising their discretion to hear state-law claims after a related federal claim is eliminated from the case. *Cohill*, 484 U.S. at 357.

CONCLUSION

For these reasons, the Court should reverse the judgment of the court of appeals.

Respectfully submitted.

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