No. 24-724

In The
Supreme Court of the United States

THE HAIN CELESTIAL GROUP, INC., *et al.*,

Petitioners,

v.

SARAH PALMQUIST, INDIVIDUALLY AND AS NEXT FRIEND OF E.P., A MINOR, *et al.*,

Respondents.

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

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

Respondents filed state-law claims in state court against Petitioner Hain Celestial Group, Inc. and Petitioner Whole Foods, Inc. Hain removed on the basis that Whole Foods was fraudulently joined and thus did not defeat diversity. Respondents filed an amended complaint that clarified their allegations against Whole Foods and then moved to remand. The district court denied the motion to remand and dismissed Whole Foods but did not sever or drop the claims against it, adjudicated the case against Hain, and eventually entered judgment as a matter of law. Respondents never abandoned their claims against Whole Foods. On appeal, Respondents challenged the fraudulent joinder ruling and the Rule 50 ruling. The Fifth Circuit held Respondents' claims against Whole Foods were viable, so it vacated the judgment based on a lack of complete diversity and remanded with instructions to remand the case to state court. The questions presented are:

1. Whether a subject-matter jurisdiction defect is cured when a district court erroneously grants a motion to dismiss a nondiverse party and proceeds to enter final judgment with the interlocutory jurisdictional ruling still part of the case and subject to correction on appeal.

2. Whether a plaintiff who pleaded viable claims against a nondiverse defendant in reliance on state-court notice pleading standards may clarify the factual basis of those allegations after removal and prior to the district court's ruling on a motion for remand.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

CASES **PAGE(S)**

Constitutional Provisions

Federal Statutes

Rules

Other Authorities

STATEMENT OF THE CASE

A. Legal background

1. Federal district courts possess jurisdiction over controversies "between Citizens of different States." U.S. Const. art. III, § 2. Subject to a limitation on the amount in controversy, Congress has authorized the district courts to exercise that jurisdiction by statute. 28 U.S.C. § 1332(a). This Court interprets the statute to require "complete diversity," *i.e.*, the citizenship of each plaintiff and each defendant must be diverse. *Strawbridge v. Curtiss*, 3 Cranch 267 (1806).

2. If the federal district courts would have original jurisdiction over a civil action filed in a state court, such as an action between completely diverse parties, a defendant may remove the action to federal court. 28 U.S.C. § 1441(a). The existence of jurisdiction in such a case turns on the facts at the time of removal. *Mollan v. Torrance*, 9 Wheat. 537, 539 (1824).

3. The plaintiff may move to remand the case to state court on the ground that jurisdiction does not exist because, for example, there is a lack of complete diversity between the parties. 28 U.S.C. § 1447(c). When adjudicating such a motion, the district court may disregard parties who were "fraudulently joined," *i.e.*, against whom there is no valid claim. *Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97–99 (1921).

4. If a federal district court mistakenly dismisses a claim against a nondiverse defendant but the plaintiff later abandons that claim, the defect is cured because "federal jurisdictional requirements are met at the time judgment is entered." *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 64 (1996). But "if, at the end of the day and case, a *jurisdictional* defect remains uncured, the judgment must be vacated." *Id.* at 76–77.

B. Factual and procedural background

1. The opinion below correctly describes the facts. Respondents Sarah and Grant Palmquist are the parents of a young son, E.P., who in his first two years "almost exclusively consumed Hain's Earth's Best Organic Products, which the Palmquists purchased from Whole Foods." App.2a–3a. But in his third year, E.P. "rapidly regressed" and he "suffer[s] from several physical and mental disorders." App.3a. He has been diagnosed with "heavy-metal poisoning." *Id.*

In 2021, a Congressional staff report revealed that Hain's baby food products "contained elevated levels of toxic heavy metals." *Id.* The Palmquists logically drew a connection to "the high levels of toxic metals appearing in [E.P.'s] blood tests." App.4a.

2. The Palmquists sued Hain and Whole Foods in Texas state court. *Id.* They asserted negligence and breach of warranty claims against Whole Foods, *id.*, pleading in general terms as permitted by state-court notice pleading standards. Hain removed the case, arguing that Whole Foods was "improperly joined to defeat diversity jurisdiction." *Id.*

The Palmquists filed an amended complaint that "'clarified their allegations against Whole Foods under the federal pleading standard.'" App.5a. Specifically, they sought to clarify "that their breach-of-warranties cause of action included claims that Whole Foods expressly represented to the public and to the Palmquists that Hain's baby food was safe." *Id.*

On that basis, the Palmquists moved to remand. *Id.* Denying their motion to remand, the district court refused to consider the amended complaint and ruled, alternatively, that its allegations did not state a claim against Whole Foods under Texas law. App.5a–6a.

Having decided that the Palmquists did not plead a viable claim against Whole Foods, the district court concluded that the Palmquists "had improperly joined Whole Foods and dismissed their claims against it." App.6a. But it did not drop the claims under Rule 21, nor did it sever them from the rest of the case.

Respondents never abandoned their claims against Whole Foods, so the dismissal ruling remained subject to appellate review after entry of a final judgment. The claims against Hain eventually proceeded to trial, at the end of which the district court granted Hain's Rule 50 motion on the ground that the Palmquists had not introduced sufficient evidence of causation. *Id.*

3. The Palmquists appealed, challenging both the ruling denying their motion to remand and the ruling granting judgment as a matter of law in favor of Hain.

The Fifth Circuit held that the Palmquists had pleaded a viable state-law claim against Whole Foods, and therefore Whole Foods was not improperly joined. Because both the Palmquists and Whole Foods were Texas residents, complete diversity was lacking. Thus, the Fifth Circuit vacated the final judgment of the district court and remanded with instructions to remand the case to state court. App.7a–23a.

The court's analysis proceeded in four steps. *First*, it concluded that the state-court pleading alleged a viable breach of express warranty claim. App.8a–10a. After quoting the relevant allegations in the pleading, App.9a–10a, the court held that "[t]he language in the as-removed complaint was broad enough to encompass both breach of express warranty and implied warranties' claims." App.10a. Petitioners do not accurately characterize this aspect of the decision, Pet.5–9, so it is important to quote the holding in full:

> Although the language in the as-removed complaint generally discussed Whole Foods' implied warranties, it also discussed Whole Foods' express representations regarding Hain's products. We therefore hold that the district court erred in concluding that the Palmquists added a new breach of express warranty claim in their second amended complaint.

App.10a.

Petitioners' repeated assertions that Respondents added "new" claims in the second amended complaint are thus misleading. It is true that Respondents also added a new claim for negligent undertaking, App.5a, but that new claim was *not* the basis upon which the Fifth Circuit found a viable state-law claim. App.11a. The court based its improper joinder analysis solely on the state-law express warranty claim, App.10a–21a, which it had determined was sufficiently raised by the "language in the as-removed complaint." App.10a. Thus, the Court should not indulge the misstatements in the petition implying that the decision below rested on the viability of "new" claims that were pleaded for the first time following removal. *See* Sup. Ct. R. 15.2. That implication is incorrect, and the true holding of the Fifth Circuit on this fact-bound aspect of the case defeats the premise of the second question presented (namely, that "the complaint at the time of removal did not state such a claim," Pet.i).

Second, the Fifth Circuit held state-court plaintiffs whose cases are removed to federal court may clarify the basis of their state-court allegations to comply with federal pleading requirements. App.10a-14a.

In improper joinder cases, the Fifth Circuit holds that courts "conduct a Rule 12(b)(6)-type analysis, looking initially at the allegations in the complaint to determine whether it states a claim under state law against the in-state defendant." App.10a. In addition, "removed state-court petitions are evaluated under the federal pleading standard," not the standard of the state where the suit was filed or some lesser standard (such as the "wholly insubstantial and frivolous" test set forth in *Bell v. Hood*, 327 U.S. 678, 682–83 (1946)). App.10a–11a. Because plaintiffs who draft pleadings to meet a state's notice-pleading rules may not include sufficient facts to meet the federal pleading standard, the Fifth Circuit held removed plaintiffs may amend the pleadings to clarify their allegations and satisfy the federal pleading standard. *Id*.

Hain objected that a post-removal pleading cannot be considered in the context of a motion to remand, but the Fifth Circuit explained that the rule is not so black-and-white. It agreed that "post-removal filings may not be considered 'to the extent that they present new causes of action or theories not raised in the controlling petition filed in state court,'" but explained that such filings "can be considered to the extent they 'clarify or amplify the claims actually alleged' in the removed pleading.'" App.12a–13a (citation omitted).

For this reason, Respondents could "'clarify' their already averred jurisdictional allegations after removal for purposes of an improper joinder analysis." App.14a. Specifically, while the Fifth Circuit declined to consider the new claim for a negligent undertaking, it concluded that Respondents' amended complaint "clarified their existing breach-of-warranties claim with supporting jurisdictional facts." App.13a–14a.

Third, turning to the improper joinder analysis and testing Respondents' claims against Whole Foods under a "Rule 12(b)(6)-type analysis" based on the federal pleading standard, App.14a–15a, the court held Respondents had stated a viable claim against Whole Foods under Texas law. App.16a–21a.

The Palmquists had pleaded claims for negligence and breach of warranty in their state-court pleading, and the Fifth Circuit held their factual allegations (with the added clarity of the additional facts set forth in their amended complaint) stated a claim against Whole Foods under the Texas Products Liability Act. That act allows nonmanufacturing sellers of products to be held liable for selling defective products if they made express misrepresentations about the product. *Id*. Accordingly, the district court erred in dismissing Whole Foods and denying the motion to remand. *Id*.

Finally, the Fifth Circuit concluded that the defect in subject-matter jurisdiction at the time of judgment required the judgment to be vacated. App.21a–23a. Citing *Caterpillar, Inc. v. Lewis*, 519 U.S. 61 (1996), Petitioners argued that the final judgment should be upheld in the name of "judicial efficiency and finality." App.21a. The Fifth Circuit disagreed.

As the Fifth Circuit explained, the district court in *Caterpillar* erroneously denied a motion to remand. "Prior to final judgment, however, the sole non-diverse defendant in *Caterpillar* was dismissed after that defendant and the plaintiff voluntarily settled," which "created the diversity of citizenship between parties necessary to give rise to federal subject matter jurisdiction." App.22a. Thus, the jurisdictional defect that existed at the time of removal had been cured by the voluntary dismissal of the non-diverse party. *Id.*

As the Fifth Circuit observed, this Court took pains in *Caterpillar* to emphasize that "'if, at the end of the day and case, a jurisdictional defect remains uncured, the judgment must be vacated.'" *Id.* (citation omitted). In this case, "[u]nlike *Caterpillar*, complete diversity did not exist at the time judgment was entered because the Palmquists alleged non-fraudulent claims against a non-diverse defendant, Whole Foods." *Id.* "Where a jurisdictional defect lingers (*i.e.*, lack of subject matter jurisdiction) through judgment in the district court, the case must be remanded because the federal court lacked jurisdiction." App.22a–23a. Thus, the Fifth Circuit vacated the judgment and remanded with instructions for the district court to remand the case to state court. App.23a.

Petitioners filed petitions for rehearing en banc, alleging that the decision was incorrect and created a circuit split. As befits the unanimous work of a panel that spans the judicial spectrum of the Fifth Circuit (Stewart, Clement, and Ho, JJ.), there was no request for an en banc poll. App.36a.

REASONS FOR DENYING THE PETITION

Petitioners contend that a take-nothing judgment should be affirmed in spite of the district court's erroneous assertion of subject-matter jurisdiction, which was not cured prior to entry of final judgment. Vacatur and dismissal is the only proper remedy when a district court lacks subject-matter jurisdiction at the time of judgment. Petitioners' contrary argument, based on a misreading of *Caterpillar, Inc. v. Lewis*, 519 U.S. 61 (1996), cannot coexist with the principle that federal courts are courts of limited jurisdiction—and those limits must be taken seriously. *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22, 26 (2025).

There is no meaningful split among the circuits regarding this foundational principle—and certainly not a recurring one. Petitioners' effort to demonstrate a split relies heavily on opinions predating *Caterpillar* as well as *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567 (2004), which clarified the limited reach of the *Caterpillar* holding.

At best, Petitioners have identified only one circuit whose post-*Caterpillar* decisions are in tension with the decision below. That court (the Eighth Circuit) originally misread the holding of *Caterpillar* and, notably, has not repeated its mistake in 15 years.

A serious split that requires this Court's attention typically involves circuits thoroughly considering an important legal issue and reaching different results. Here, any supposed split between the Fifth Circuit and the Eighth Circuit has existed since at least 2004. That split, if it exists at all, is stale and non-recurring. It is not worth this Court's time, especially not in a case where the Fifth Circuit correctly followed the teachings of *Caterpillar* and *Grupo Dataflux*.

As for Petitioners' complaint that the Fifth Circuit erred in considering the factual allegations set forth in a post-removal amended complaint to determine the facts that existed at the time the lawsuit was filed, there is neither a circuit split nor an error. This Court recently explained that an amendment may destroy diversity jurisdiction by adding a new claim against a nondiverse defendant. *Royal Canin*, 604 U.S. at 38. Thus, an amendment that merely clarifies the basis for an existing claim against a nondiverse defendant is indisputably proper. Such an amendment does not change the facts at the time of filing but clarifies them, and jurisdiction follows the amended complaint. *Id.*

I. There is no meaningful and recurring split requiring this Court's attention.

Petitioners promise an entrenched circuit conflict, claiming there is a 3-2 split among the Fourth, Fifth, Eighth, Ninth, and Eleventh Circuits on the question presented by this case: whether the rule of *Caterpillar* applies when a plaintiff does not voluntarily abandon its claims against a nondiverse defendant despite an adverse ruling on a motion to remand, but maintains its claims through final judgment and wins a reversal of the jurisdictional ruling on appeal. That promise is significantly overstated. There is no meaningful split on that precise question—indeed, possibly none at all. The question certainly does not arise with sufficient frequency to warrant this Court's attention.

Moreover, even if there were a conflict in principle, the Fifth Circuit resolved the issue properly in accordance with this Court's precedents and with respect for the limited jurisdiction of federal courts. Allowing state courts to adjudicate cases that belong in state court is an essential feature of federalism.

For all these reasons, the first question presented does not warrant review by this Court.

A. There is no meaningful, recurring split over the question presented here.

Petitioners claim the decision below conflicts with rulings from the Fourth, Eighth, and Ninth Circuits. Pet.12–20. That claim is incorrect. To appreciate why, it is helpful to begin with a recap of this Court's cases prior to *Caterpillar* that touched on related questions: *American Fire & Cas. Co. v. Finn*, 341 U.S. 6 (1951), and *Grubbs v. General Elec. Credit Corp.*, 405 U.S. 699 (1972). The treatment of those cases in *Caterpillar* dispels the illusion of a meaningful circuit split.

As *Caterpillar* recognized, *Finn* and *Grubbs* held that in certain circumstances, "the existence of subject-matter jurisdiction at time of judgment may shield a judgment against later jurisdictional attack." *Caterpillar*, 519 U.S. at 70. But neither was decisive in that case, "for neither involved a plaintiff who moved promptly, but unsuccessfully, to remand a case improperly removed from state court to federal court, and then challenged on appeal a judgment entered by the federal court." *Id.* at 70–71.

First, "the discussion in *Finn* concentrated on cases in which courts held *removing defendants* estopped from challenging final judgments on the basis of removal errors." *Id.* at 72. It did not address the case of a plaintiff "who chose a state court as the forum for [a] lawsuit, timely objected to removal before the District Court, and then challenged the removal on appeal from an adverse judgment." *Id.* Therefore, *Finn* was not controlling.

Second, *Grubbs* was "removed without objection. The decision is not dispositive of the question whether a plaintiff, who timely objects to removal, may later successfully challenge an adverse judgment on the ground that the removal did not comply with statutory prescriptions." *Id.* at 73. Therefore, *Grubbs* was also not controlling.

After distinguishing the facts of *Finn* and *Grubbs*, this Court held that the plaintiff, "by timely moving for remand, did all that was required to preserve his objection to removal." *Id.* at 74. It explained that a plaintiff is *not* "required to seek permission to take an interlocutory appeal pursuant to 28 U.S.C. § 1292(b) in order to avoid waiving whatever ultimate appeal right he may have." *Id.*

That preservation holding was important because, as the Court recognized, some circuits had inferred from *Finn* and *Grubbs* a rule that failure to request permission for an appeal under 28 U.S.C. § 1292(b) waived any later objection to removal. "We reject this waiver argument, though we recognize that it has attracted some support in Court of Appeals opinions." *Id*. at 75 n.11. The lone opinion this Court cited as an illustration of this discredited line of authority, *see id*., was *Able v. Upjohn Co.*, 829 F.2d 1330 (4th Cir. 1987), the very authority upon which Petitioners now base their claim of a conflict with the Fourth Circuit.

In fact, *all* the allegedly conflicting cases cited by Petitioners trace back to this pre-*Caterpillar* line—and most of them predate *Caterpillar*. The notion that a circuit split persists based on these discredited cases depends on the premise that the circuits would adhere to the obsolete waiver rule rejected by *Caterpillar*. Obviously, that premise is untenable.

1. Start with the Fourth Circuit, since this Court cited the *Able* decision in *Caterpillar*. Petitioners cite *Able* and *Marshall v. Manville Sales Corp.*, 6 F.3d 229 (4th Cir. 1993), as support for the proposition that the Fourth Circuit continues to hold "a judgment entered as to diverse parties after the erroneous dismissal of a nondiverse party ... should not be disturbed if '[t]he posture of the case at the time of judgment supported the exercise of federal jurisdiction." Pet.17 (quoting *Able*, 829 F.2d at 1333).

As Petitioners acknowledge, "*Able* took a different procedural path than this case." Pet.18. It implicated 28 U.S.C. § 1441(c), which allowed removal when claims against diverse and non-diverse defendants are "separate and independent." That is not the case here.

In *Able*, the district court denied the plaintiff's motion to remand but "severed the claim against Blair and remanded it to state court under the discretion granted by § 1441(c). Able did not pursue an interlocutory appeal of the district court's denial of his remand motion." *Able*, 829 F.2d at 1332. On appeal, the Fourth Circuit expressed serious doubt that the statutory condition of a "separate and independent" claim had been satisfied, so removal was improper. *Id.* Nevertheless, it affirmed in large part because "[i]nterests of finality and judicial economy also strongly suggest that the district court's judgment should not be disturbed *where a party fails to avail himself of a remedy that might earlier have resolved the removal question*." *Id.* at 1333 (emphasis added).

The Fourth Circuit based its reasoning on *Finn*, which it said "guides our resolution of this case," *id.*, quoting the passage from that decision that was later distinguished by this Court in *Caterpillar*. And it held the plaintiff had waived any complaint: "In order to preserve his challenge to the removal in this case, Able should have pursued an interlocutory appeal under 28 U.S.C. § 1292(b) after the denial of his remand motion." *Id.* at 1333–34. It was on this basis that the Fourth Circuit held that "judicial economy and finality require that the district court's judgment be allowed to stand" because "to disturb the judgment on the basis of a defect in the initial removal would be a waste of judicial resources." *Id.* at 1334 (citing *Grubbs*, 405 U.S. at 702). In short, that holding was based entirely on the misreading of *Finn* and *Grubbs* that this Court corrected—and the flawed waiver rule that it rejected—nine years later in *Caterpillar*. Thus, *Able* does not represent the current state of the law in the Fourth Circuit. It is obsolete.

There is no reason to believe the Fourth Circuit would defy *Caterpillar* and return to its prior holdings on this issue. The only other Fourth Circuit decision cited by Petitioners, *Marshall*, relied directly on *Able*'s mistaken waiver rule and gloss on *Finn* and *Grubbs*—and it too was decided before *Caterpillar* corrected those errors. *Marshall*, 6 F.3d at 231–32.

In short, *Able* and *Marshall* are no longer good law in the Fourth Circuit, and there is no reason to believe the Fourth Circuit would resurrect them in the future. *Caterpillar* disposed of any alleged circuit split based on those two discredited decisions.

2. Next, the Ninth Circuit. Petitioners cite three cases for the proposition that the Ninth Circuit holds "when, at the time of judgment '[t]he only parties before the court [are] diverse,' the district court has subject matter jurisdiction even when a nondiverse party was erroneously dismissed earlier in the case." Pet.16 (quoting *Gould v. Mutual Life Ins. Co. of N.Y.*, 790 F.2d 769, 774 (9th Cir. 1986)). Along with *Gould*, Petitioners point to *Lewis v. Time, Inc.*, 710 F.2d 549 (9th Cir. 1983), and *Dep't of Fair Emp. & Housing v. Lucent Techs., Inc.*, 642 F.3d 728 (9th Cir. 2011). *Id.* But Petitioners exaggerate the cited cases and do not disclose that the Ninth Circuit has disavowed them.

The earliest case, *Lewis*, was decided on the basis of the waiver rule this Court rejected in *Caterpillar*. *Lewis* stated that "*when there is no appeal of a denial of a remand motion* and the case is tried on the merits, the issue on appeal is whether the federal court would have had jurisdiction had the case been filed in federal court in the posture it had at the time of the entry of the final judgment." *Lewis*, 710 F.2d at 552 (citing, *inter alia*, *Grubbs*, 405 U.S. at 702) (emphasis added).

The Ninth Circuit decision featured by Petitioners, *Gould*, followed the rationale of *Lewis* and explicitly based its ruling on the misreading of *Finn* and *Grubbs* and the waiver rule this Court rejected in *Caterpillar*. In *Gould*, the Ninth Circuit cited *Finn* and *Grubbs* (along with *Lewis*) for the rule that an error in denying remand and dismissing a non-diverse defendant was not reversible after the final judgment because the plaintiff "did not take an interlocutory appeal of the denial of her remand motion." *Gould*, 790 F.2d at 773. "Essentially, the rule requires an appellant to have a remand issue certified for interlocutory review. Otherwise an appellant will bear the risk that subject matter jurisdiction will exist at final judgment, and she will be deemed to have waived the issue. Under the *Grubbs/American Fire* [*Finn*] rule, the court below had subject matter jurisdiction." *Id.* at 774 (citations omitted).

Of course, *Caterpillar* rejected both that reading of *Finn* and *Grubbs* and the waiver rule that relied on it. Petitioners' claim that "this case would have come out the opposite way had it arisen in the Ninth Circuit rather than the Fifth," Pet.17, is fanciful. It depends on the premise that the Ninth Circuit would be either unwilling or unable to recognize that the holdings in *Lewis* and *Gould* are no longer valid after *Caterpillar*.

Hoping to validate that premise, Petitioners claim that the Ninth Circuit "has applied" the jurisdictional analysis of *Lewis* and *Gould* "more recently." Pet.17. But in that case, the court held that "the district court correctly determined that it possessed jurisdiction." *Lucent*, 642 F.3d at 740. Thus, its passing allusion to the obsolete waiver rule was dictum. *Lucent* does not establish a post-*Caterpillar* split.

Moreover, the Ninth Circuit itself has recognized the implications of *Caterpillar* for its prior precedent (in a decision that post-dates all of Petitioners' cases). *See Singh v. Am. Honda Fin. Corp.*, 925 F.3d 1053 (9th Cir. 2019). In *Singh*, the Ninth Circuit recounted the rule it had discerned from *Grubbs* (as well as *Finn*) in *Lewis* and *Gould*: "In the wake of *Grubbs*, we held that a party challenging the propriety of removal had to preserve any such objection by timely moving to remand and then appealing any adverse remand determination." *Id.* at 1063 (citing, *inter alia*, *Lewis*, 710 F.2d at 552, and *Gould*, 790 F.2d at 774). But far from adhering to those cases, the Ninth Circuit noted that the law had changed: "Then came *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 117 S.Ct. 467, 136 L.Ed.2d 437, the case on which the defendants rely." *Id.* at 1064.

After tracing the evolution of the law in this area from *Grubbs* to *Caterpillar* and the later decision in *Grupo Dataflux* (which will feature prominently in the following section of this response), the Ninth Circuit recognized that "[i]n *Caterpillar*, the Supreme Court held that a party preserves a challenge to removal by timely moving to remand." *Id.* at 1066. As such, "*Caterpillar* effectively overruled our decisions that required a plaintiff to immediately appeal an adverse determination on a motion to remand to preserve the issue for appeal." *Id.* at 1066 n.12 (citing, *inter alia*, *Lewis* and *Gould*).

Next, the Ninth Circuit recognized that *Caterpillar* required it to consider "whether this case had a jurisdictional defect at the time of removal and, if so, whether that defect was cured by proper means before the entry of final judgment." *Id.* at 1066. If it was not, "'the judgment must be vacated.'" *Id.* (quoting *Lucent*, 642 F.3d at 736, and *Caterpillar*, 519 U.S. at 76–77).

The court then held that the jurisdictional defect in *Singh* (removal under the special diversity rules of the Class Action Fairness Act in violation of that act's "home state" exception, *see* 28 U.S.C. § 1332(d)(4)(B)), was cured when the plaintiff voluntarily amended his complaint to assert a federal statutory cause of action. That amendment triggered the rule that "when a plaintiff voluntarily amends his or her complaint after removal to assert a federal claim, that amendment cures any jurisdictional defect and establishes federal subject-matter jurisdiction." *Id.* at 1070.

Finally, after holding that the jurisdictional defect had been cured prior to entry of judgment and the only flaw that persisted in the history of the case was the "'statutory flaw'" of a failure to meet the requirement "'that the case be fit for federal adjudication at the time the removal petition is filed,'" *id.* at 1071 (quoting *Caterpillar*, 519 U.S. at 73), the Ninth Circuit was free to "address whether 'considerations of finality, efficiency, and economy' outweigh the statutory defect such that dismissing this case now and remanding it to state court would be inconsistent 'with the fair and unprotracted administration of justice.'" *Id.* (quoting *Caterpillar*, 519 U.S. at 75, 77).

In short, the Ninth Circuit fully acknowledges that *Caterpillar* "effectively overruled" *Lewis* and *Gould*, that *Caterpillar* requires a judgment to be vacated when a jurisdictional defect remains uncured at the time of judgment, and that considerations of finality, efficiency, and economy will justify affirmance *only* when subject-matter jurisdiction exists at the time of final judgment and the lone lingering deficiency is a statutory defect at the time of removal. That analysis is both correct under *Caterpillar* and consistent with the Fifth Circuit decision below. There is no split.

3. The foregoing analysis leaves Petitioners with *Junk v. Terminix International Co.*, 628 F.3d 439, 447 (8th Cir. 2010), in which the Eighth Circuit assumed without analysis that an erroneous dismissal order cured a jurisdictional error.

That unreasoned assumption was mistaken and it is far from clear that the Eighth Circuit would adhere to that holding today. As support for its disposition, *Junk* relied on a footnote in *Wilkinson v. Shackelford*, 478 F.3d 957, 964 n.4 (8th Cir. 2007). That footnote was based on the waiver rule rejected by *Caterpillar*: "Wilkinson could have requested an interlocutory appeal immediately following the denial of her motion to remand, but did not." *Id.* (citing *St. Jude Med., Inc. v. Lifecare Int'l, Inc.*, 250 F.3d 587, 594 (8th Cir. 2001)) (erroneously citing *Caterpillar* for the proposition that "if remand is denied and there is no interlocutory appeal, a judgment may be upheld if federal jurisdiction exists at the time of judgment"). In short, to the extent there is tension between the decision in this case and the Eighth Circuit cases, it is a result of the Eighth Circuit's failure to realize that *Caterpillar* rejected its obsolete waiver rationale.

Importantly, the Eighth Circuit has not followed the holding of *Junk* even once. Despite a few citations to the opinion, it has not faced this precise issue again. *Junk* is the lone post-*Caterpillar* case where a court "did the opposite of what the Fifth Circuit did here." Pet.14. If a future Eighth Circuit decision refused to vacate a final judgment despite a jurisdictional defect by relying on *Junk* and its pre-*Caterpillar* waiver rule, review might be justified. But the fact that one circuit misread *Caterpillar* nearly 25 years ago—and has not based a decision on that reading for the last 15 years—is not an important and recurring circuit split.

The Eighth Circuit's only citations to this passage in *Junk* prove the point.

In *Ellingsworth v. Vermeer Mfg. Co.*, 949 F.3d 1097 (8th Cir. 2020), the court cited *Junk* for the principle that *Caterpillar* is "applicable to summary judgment." *Id.* at 1100. That principle is sound, but immaterial. More important, after the district court had denied a motion to remand, the plaintiff "voluntarily dismissed the only nondiverse party." *Id.*

The Eighth Circuit also cited *Junk* and *Caterpillar* in *Graham v. Mentor Worldwide LLC*, 998 F.3d 800 (8th Cir. 2021), but in that case, the district court had dismissed one defendant as fraudulently joined in a ruling that was "not at issue on appeal," *id.* at 803, and had severed the claims against another defendant under Rule 21 and remanded them to state court. *Id.*

Unlike this case, therefore, it was conceded in both *Ellingsworth* and *Graham* that jurisdictional defects had been cured by the time of judgment. Accordingly, the court did not consider the proper disposition when the denial of a motion to remand is reversed on appeal, as in the present case.

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In sum, despite laborious efforts, Petitioners found (at most) one case in conflict with the decision below—and that case was decided 15 years ago. It is not clear whether the Eighth Circuit would adhere to that rule, which arose from a blatant misreading of *Caterpillar*, in a future case where the issue was briefed properly. It is neither necessary nor a wise use of this Court's limited resources to grant review from a sound ruling of the Fifth Circuit simply to correct a misstatement from another circuit that arose a generation ago and has not recurred in a holding for the last 15 years.

B. The decision below is correct.

The decision below is correct. The lack of diversity at the time of judgment was not just a *statutory* defect (i.e., a defect that existed only at the time of removal) but a *jurisdictional* defect. Thus, vacatur and remand was the correct—indeed, inescapable—disposition.

1. In *Caterpillar*, the plaintiff's case "was removed to a federal court at a time when … complete diversity of citizenship did not exist among the parties." *Caterpillar*, 519 U.S. at 64. But "all claims involving the nondiverse defendant were settled" before trial, and thanks to that voluntary decision by the plaintiff, the nondiverse defendant "was dismissed as a party to the action. Complete diversity thereafter existed." *Id.*

In that context, "a district court's error in failing to remand a case improperly removed is not fatal to the ensuing adjudication *if federal jurisdictional requirements are met at the time judgment is entered*." *Id.* (emphasis added). Crucially, this rule applies *only* to a situation where the jurisdictional defect has been cured before judgment: "Despite a federal trial court's threshold denial of a motion to remand, if, at the end of the day and case, a *jurisdictional* defect remains uncured, the judgment must be vacated." *Id.* at 76-77 (emphasis in original).

As Justice Scalia later explained, *Caterpillar* does not dilute the rule that a lack of complete diversity at the time of final judgment requires vacatur. It held "only that a statutory defect—Caterpillar's failure to meet the § 1441(a) requirement that the case be fit for federal adjudication at the time the removal petition is filed'—did not require dismissal once there was no longer any jurisdictional defect." *Grupo Dataflux*, 541 U.S. at 574 (quoting *Caterpillar*, 519 U.S. at 73).

In this way, *Grupo Dataflux* "limited *Caterpillar*" to cases about statutory defects in removal procedure, not jurisdictional defects. 16 Moore's Federal Practice § 107.151[2][f] (3d ed. 2021); *see also* 14C Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 3723 (Rev. 4th ed. 2024) (same).

In this case, unlike in *Caterpillar*, "a *jurisdictional* defect remains uncured." 519 U.S. at 77. Whereas the claims against the nondiverse defendant were settled and voluntarily dismissed in *Caterpillar*, Whole Foods never ceased to be a party to this case—its dismissal was interlocutory and could be "revised at any time" before entry of a final judgment. Fed. R. Civ. P. 54(b). Respondents never voluntarily withdrew their claims against Whole Foods, and the court neither dropped Whole Foods under Fed. R. Civ. P. 21 nor severed it from the rest of the case. Because complete diversity was lacking at the time of judgment, "the judgment must be vacated." *Caterpillar*, 519 U.S. at 77.

Petitioners' insistence that an erroneous dismissal order can somehow "cure" its own jurisdictional error makes no sense, and it is contrary to the explanation provided by this Court in *Caterpillar*. In that opinion, the Court discounted a warning that its holding would create an incentive for abusive removals because it "assumes defendants' readiness to gamble that any jurisdictional defect, for example, the absence of complete diversity, will first escape detection, then disappear prior to judgment." *Id.* The implication of that statement (indeed, the only way it makes sense) is that an erroneous denial of a motion to remand does not make a "jurisdictional defect" such as "the absence of complete diversity … disappear prior to judgment." *Id.* The jurisdictional defect has not "disappeared," but remains in the case subject to appellate correction.

2. Petitioners' reading of *Caterpillar* ignores the means by which the jurisdictional defect was cured: voluntary dismissal. Examples of the *Caterpillar* rule typically involve a plaintiff voluntarily "dropping the non-diverse party," 14C Wright & Miller § 3723, by a "post-removal voluntary dismissal." *Id.* § 3739.1 (describing the *Grupo Dataflux* view of *Caterpillar*).

In that sense, *Caterpillar* fits comfortably with a long line of authority holding that a case which is not removable at the time of filing may become removable later through the voluntary actions of the plaintiff. *See* 16 Moore's Federal Practice § 107.140[3][a][ii][B] ("A case that is not removable based on the plaintiff's initial pleading may become removable if the plaintiff takes some voluntary action that affects the jurisdictional facts," i.e., "if the plaintiff dismisses a nondiverse defendant"); *see also id.* § 107.57[1] (same); § 107.151[2][e] (same). As Justice Scalia explained, "[t]hat method of curing a jurisdictional defect [has] long been an exception to the time-of-filing rule." *Grupo Dataflux*, 541 U.S. at 573-74; *see also Royal Canin*, 604 U.S. at 37 (noting that "elimination of a non-diverse defendant by way of amendment ensures that a case can proceed in federal court").

By contrast, a case that is not removable initially does not become removable by an involuntary action, such as the opposed dismissal of a nondiverse party. *See* 16 Moore's Federal Practice § 107.140[3][a][ii][C] ("Generally, involuntary changes in a case do not create removability if the case as stated in the plaintiff's initial pleading was not removable. For example, the involuntary dismissal of a nondiverse defendant, by court-ordered dismissal or directed verdict, does not ordinarily create diversity."); *see also* 14C Wright & Miller § 3723 (discussing this rule).

This distinction has deep roots in the principle that the plaintiff is the "master of the complaint" and may elect or eliminate federal jurisdiction. *Royal Canin*, 604 U.S. at 35. It is a matter of substance—not form. When claims are involuntarily dismissed by the court, "an appellate court may yet revive them; but that cannot happen when the plaintiff has excised them through a proper amendment." *Id.* at 33. Therefore, voluntary dismissal of a nondiverse defendant cures a jurisdictional defect; involuntary dismissal does not.

In sum, Respondents did not voluntarily dismiss their suit against nondiverse defendant Whole Foods, so the holding of *Caterpillar* is inapplicable.

3. Petitioners and their amici place great weight on the values of "finality, efficiency, and economy" that motivated the decision in *Caterpillar*. Pet.21–26. But *Caterpillar* itself explained that these prudential concerns only matter if a jurisdictional defect is cured prior to judgment. "[I]f, at the end of the day and case, a *jurisdictional* defect remains uncured, the judgment must be vacated." *Caterpillar*, 519 U.S. at 76–77 (emphasis in original). That conclusion is inescapable because the whole point of jurisdictional limits is to prevent federal courts from exceeding their authority. Thus, when subject-matter jurisdiction does not exist at the time the case is commenced in a federal court, dismissal from federal court is required "regardless of the costs it imposes." *Grupo Dataflux*, 541 U.S. at 571. As Justice Scalia explained, *Caterpillar*'s allusions to prudential considerations "related not to cure of the *jurisdictional* defect, but to cure of a *statutory* defect, namely, failure to comply with the requirement of the removal statute, 28 U.S.C. § 1441(a), that there be complete diversity at the time of removal." *Id.* at 574. Thus, the jurisdictional defect here requires vacatur.

Moreover, it is ironic for Petitioners to worry about wasted resources and supposed unfairness, Pet.24–26, when it was Hain that improperly removed this case, insisting on federal jurisdiction where it did not exist. Hain has only itself to blame for its waste of resources (and far from being "wasteful" on a systemic level, vacatur will deter irresponsible removals).

Finally, Petitioners' amici implausibly assert that the decision below will incentivize dishonest plaintiffs to file dubious claims against nondiverse defendants as a hedge against an adverse judgment on the merits. Such concerns are fanciful; real-world plaintiffs do not sue defendants to set the stage for appeals from a loss. These arguments depend on an assumption this Court rejected in *Caterpillar*: "that district courts generally will not comprehend, or will balk at applying, the rules on removal Congress has prescribed." *Caterpillar*, 519 U.S. at 77 (cleaned up). There is no serious place for such "forum-manipulation concerns." *Royal Canin*, 604 U.S. at 40 n.9.

4. The district court might have been permitted to create complete diversity by exercising its discretion to drop Whole Foods from the case if it concluded that Whole Foods was a "dispensable nondiverse party." *Grupo Dataflux*, 541 U.S. at 573; Fed. R. Civ. P. 21. And on appeal, the Fifth Circuit might have cured the jurisdictional error by exercising its discretion to drop Whole Foods as a "dispensable nondiverse party." *Grupo Dataflux*, 541 U.S. at 573; *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826 (1989). Neither did—and rightly not, because "such authority should be exercised sparingly. In each case, the appellate court should carefully consider whether the dismissal of a nondiverse party will prejudice any of the parties in the litigation." *Newman-Green*, 490 U.S. at 837–38.

The district court did not base its decision to dismiss Whole Foods on its discretion under Rule 21, and it is far from clear that it would have been proper to treat Whole Foods as a "dispensable" party because the product liability claims against it are intertwined with the claims against Hain.

Likewise, the Fifth Circuit was invited to consider the discretionary power extended by *Newman-Green*, but Respondents emphasized that it would be unwise to exercise that discretion here because doing so would unfairly prejudice their interests and their right to select the forum of suit. The Fifth Circuit did not even find it worthwhile to comment on that possibility.

These were discretionary and fact-bound decisions that raise no important questions warranting review by this Court. Petitioners imply that the Fifth Circuit erred by failing to exercise its discretionary power under *Newman-Green*, Pet.22–24, but do not pretend that there is any conflict among the circuits regarding this fact-bound application of the *Newman-Green* rule. Nor could there be, as the power granted by Rule 21 and *Newman-Green* is inherently discretionary and turns on the facts and circumstances of each case.

The availability of these discretionary devices to cure jurisdictional defects demonstrates that concerns about finality, efficiency, and economy can motivate a federal court to preserve jurisdiction in a proper case. But that did not happen here. Petitioners improperly removed this case and secured an erroneous dismissal of a nondiverse defendant that remained in the case (and was thus a party to the appeal). Because "at the end of the day and case, a *jurisdictional* defect remains uncured, the judgment must be vacated." *Caterpillar*, 519 U.S. at 76–77 (emphasis in original).

II. There is no reason for review of the decision below holding that courts should consider amended pleadings after removal that clarify the basis of the pre-removal claims.

In the second question presented, Petitioners fault the Fifth Circuit for entertaining factual allegations in a post-removal amended complaint that clarified the factual basis for Respondents' state-law claims against Whole Foods. Pet.27–31. This argument does not allege any circuit conflict, is founded on a premise that misstates the decision below, and is not correct.

A. The petition misstates the decision below.

Petitioners argue that Respondents' post-removal amended complaint did not merely clarify their claims against Whole Foods but rather asserted a new claim. This assertion is incorrect. The Fifth Circuit held that "[t]he language in the as-removed complaint was broad enough to encompass both breach of express warranty and implied warranties' claims." App.10a. Consequently, "the district court erred in concluding that the Palmquists added a new breach of express warranty claim in their second amended complaint." *Id*. The Fifth Circuit's improper joinder analysis was based on that express warranty claim. App.10a–21a.

For this reason, the Fifth Circuit did *not* authorize new allegations in a post-removal complaint to state a claim against a nondiverse party "when the complaint at the time of the removal did not state such a claim." Pet.i. That characterization is a misstatement of the decision below, which this Court should not indulge. *See* Sup. Ct. R. 15.2. The holding of the Fifth Circuit on this fact-bound part of the case defeats the premise of the second question presented and makes this case a poor vehicle to address that question.

B. The decision below is correct.

The Fifth Circuit did not err by holding that claims originally pleaded under state notice-pleading rules can be clarified with additional facts to demonstrate that they are viable under federal pleading standards. Defective jurisdictional allegations may be amended, 28 U.S.C. § 1653, which is all that happened here (assuming the allegations of a state-law claim against Whole Foods were even defective in the first place).

1. There is nothing heretical about the notion that an amended complaint filed after removal may have jurisdictional consequences. As the Court explained less than two months ago, "[i]n multiple contexts—involving both cases brought in federal court and cases removed there—courts conceive of amendments to pleadings as potentially jurisdiction-changing events." *Royal Canin*, 604 U.S. at 34-35. In short, "[t]he amended complaint becomes the operative one; and in taking the place of what has come before, it can either create or destroy jurisdiction." *Id.*

"So changes in parties, *or changes in claims*, effectively remake the suit. And that includes its jurisdictional basis: The reconfiguration accomplished by an amendment may bring the suit either newly within or newly outside a federal court's jurisdiction." *Id.* at 35–36 (emphasis added). The Court explained, "an amendment can either destroy or create diversity in an original diversity case." *Id.* at 37.

Crucially, "[t]he addition of a non-diverse party in such a case typically destroys diversity jurisdiction, requiring the case's dismissal." *Id.* (citing *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374-77 (1978)).

Of special relevance here, the Court observed that "in removed cases too, amending a complaint to join a non-diverse party destroys diversity jurisdiction. So if such a joinder occurs after removal, the federal court must remand the case to the state court it began in." *Id*. at 38 (citing *Powerex Corp. v. Reliant Energy Servs., Inc*., 551 U.S. 224, 231–32 (2007). That rule is codified by 42 U.S.C. § 1447(e): "If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court."

Given that a plaintiff is free to destroy diversity by adding a new claim against a nondiverse defendant after removal, it would be anomalous to hold that merely clarifying the factual basis for a claim against a nondiverse defendant that was already pending prior to removal is somehow off limits. That is even more true when the supposed deficiency of the claim was not a matter of substance, but simply a difference in the level of specificity required by state and federal pleading standards:

> The appropriateness of federal jurisdiction—or the lack thereof—does not depend on whether the plaintiff first filed suit in federal or state court. Rather, it depends, in either event, on the substance of the suit—the legal basis of the claims (federal or state?) and the citizenship of the parties (diverse or not?).

Id. at 38–39. "So in a removed no less than in an original case, the rule that jurisdiction follows the operative pleading serves a critical function. It too ensures that the case, as it will actually be litigated, merits a federal forum." *Id*. at 39. This case does not.

2. Petitioners insist that the propriety of removal must be determined based on "'the plaintiffs' pleading at the time of the petition for removal,'" Pet.27 (quoting *Pullman Co. v. Jenkins*, 305 U.S. 534, 537 (1939)), from which they conclude that courts cannot review anything else. But Petitioners read the words of *Pullman* "for a good deal more than they are worth." *Royal Canin*, 604 U.S. at 31.

In fact, *Pullman* was discussing a different issue—namely, how to determine whether claims against diverse and nondiverse defendants were "separable" under the procedures that then governed removal: "The second amended complaint should not have been considered in determining the right to remove, which *in a case like the present one* was to be determined according to the plaintiffs' pleading at the time of the petition for removal." *Pullman*, 305 U.S. at 537 (emphasis added). Attention to the five cases cited as "a case like the present one" reveals that all discussed the test for a "separable" controversy—a question that is not presented by this case.

Broadly speaking, *Pullman* is consistent with the general principle that jurisdiction is judged based on the facts at the time of removal, which is not in doubt. But as the Court recently explained in *Royal Canin*, the principle involves the "so-called time of filing rule" for determining a party's citizenship. *Royal Canin*, 604 U.S. at 36 n.5. That rule "concerns only the actual 'state of things' relevant to jurisdiction—meaning, the facts on the ground, rather than … the claims and parties that the plaintiff includes in a complaint." *Id.* (citation omitted). The time of filing rule does not prevent courts from determining the "state of things" at the time of removal, *i.e.*, considering information outside the pleading to decide jurisdictional facts.

The time of filing rule is founded on the principle that "'the jurisdiction of the court depends upon the state of things at the time of the action brought.'" *Grupo Dataflux*, 541 U.S. at 570 (quoting *Mollan v. Torrance*, 9 Wheat. 537, 539 (1824)). "It measures all challenges to subject-matter jurisdiction premised upon diversity of citizenship against the state of facts that existed at the time of filing…." *Id.* at 571. Thus, it is incumbent on a court faced with a challenge to its diversity jurisdiction to determine "the state of facts that existed at the time of filing." *Id.* A finding that "the state of facts that existed at the time of filing" defeated complete diversity is different from a finding that a subsequent change in the state of facts does so. The decision below is based on the former conclusion.

Put another way, the time of filing rule holds that a change in the jurisdictional facts following removal (such as a change in the citizenship of a party or a reduction of the plaintiff's damages beneath the amount-in-controversy limit for diversity jurisdiction) does not oust the federal district court of jurisdiction. *Wis. Dep't of Corr. v. Schacht*, 524 U.S. 381, 390–91 (1998); *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289-95 (1938). It does *not* prevent courts from finding the jurisdictional facts "at the time of the action brought." *Grupo Dataflux*, 541 U.S. at 570.

One need look no further than *Pullman*, where the pleading at the time of removal did not set forth the citizenship of a defendant named as "John Doe One." *Pullman*, 305 U.S. at 536. Plaintiffs moved to remand and identified "John Doe One," clarifying that he was a citizen of the same state as Plaintiffs. *Id.* at 537. This Court held that complete diversity was lacking on the basis of this post-removal clarification of the jurisdictional facts. *Id.* at 539–41.

Mindful of this distinction, the Fifth Circuit holds that the time of filing rule prohibits efforts to amend after removal in order to "assert a new cause of action against the nondiverse defendant"; on the other hand, "information submitted after removal may be considered in examining the jurisdictional facts as of removal." *Cavallini v. State Farm Mut. Auto Ins. Co.*, 44 F.3d 256, 264 (5th Cir. 1995). In the latter scenario, the plaintiff is allowed to "clarify or amplify the claims actually alleged in the amended petition that was controlling when the suit was dismissed." *Griggs v. State Farm Lloyds*, 181 F.3d 694, 700 (5th Cir. 1999). "[T]he court is still examining the jurisdictional facts *as of the time* the case is removed, but the court is considering information submitted after removal." *ANPAC v. Dow Quimica de Colom.*, 988 F.2d 559, 565 (5th Cir. 1993) (emphasis in original).

The decision below simply applied these principles to a situation in which a state-court pleading failed to satisfy the more rigorous federal pleading standard. The Fifth Circuit tests pleadings for improper joinder under the federal Rule 12(b)(6) plausibility standard (not the notice-pleading standard of the state in which suit was filed or a lesser standard that differentiates merits-based decisions from jurisdictional decisions), so it holds that "a plaintiff should not be penalized for adhering to the pleading standards of the jurisdiction in which the case was originally brought." App.12a. The decision below allows a post-removal amendment to clarify, not alter, "'the state of things at the time of the action brought.'" *Grupo Dataflux*, 541 U.S. at 570. That approach is entirely consistent with this Court's precedent and it does not present any circuit conflict. Indeed, after *Royal Canin*, these distinctions may not even matter—but that is a question for another day.

3. Petitioners and their amici urge the Court to overturn this longstanding precedent, warning that the decision below will encourage weak claims against nondiverse defendants to frustrate federal jurisdiction and post-removal attempts to manipulate jurisdiction. Pet.29–30. But their dire predictions are exaggerated.

Plaintiffs do not sue in-state defendants to plant a get-out-of-jail-free card in the record of their cases, plotting for the prospect of a loss on the merits and a do-over in state court after costly proceedings in the district courts and on appeal. That suggestion is silly. Plaintiffs sue in-state defendants to recover damages and to invoke jurisdiction in state court, as they have been entitled to do since the first Congress.

Indeed, despite the rhetoric of Petitioners' amici, the plaintiff's right to choose the forum of suit is a core feature of our federal system—not a bug:

> The plaintiff is 'the master of the complaint,' and therefore controls much about her suit. She gets to determine which substantive claims to bring against which defendants. And in so doing, she can establish—or not—the basis for a federal court's subject-matter jurisdiction. She may, for example, name only defendants who come from a different State, or instead add one from her own State and thereby destroy diversity of citizenship.

Royal Canin, 604 U.S. at 35 (citation omitted); *see also id.* at 42 n.9 (rejecting "forum-manipulation concerns" about the application of neutral jurisdictional rules to original jurisdiction and removal jurisdiction cases). *Royal Canin* is a complete answer to policy arguments about "waste" and "manipulation" like those advanced by Petitioners and their amici. Review is unjustified.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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