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

BRIEF OF AMICUS CURIAE THE MISSOURI CHAMBER OF COMMERCE AND INDUSTRY IN SUPPORT OF PETITIONERS

SCOTT A. EISMAN
MATTHEW RUBLIN
CARLA SUNG AH YOON
FRESHFIELDS BRUCKHAUS DERINGER US LLP
601 Lexington Avenue
New York, NY 10022
(212) 284-4986

ERIC MAHR
CLAIRE L. LEONARD
Counsel of Record
FRESHFIELDS BRUCKHAUS DERINGER US LLP
700 13th Street N.W.
10th Floor
Washington, D,C. 20005
(202) 777-4764
claire.leonard@freshfields.com

Counsel for Amicus Curiae the Missouri Chamber of Commerce and Industry

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INTEREST OF AMICUS CURIAE

The Missouri Chamber of Commerce and Industry (the "Chamber") is the largest business association in the State of Missouri.[1] Representing more than 40,000 employers in all industry sectors, the Chamber advocates for policies and laws that will enable Missouri businesses to thrive, promote economic growth, and improve the lives of all Missourians. The Chamber also advocates for legislative policy and judicial outcomes that make Missouri attractive to job creators and encourage existing investors and businesses to stay and grow within Missouri.

The Chamber and its members have strong interests in this case. The Eighth Circuit's decision, and its split from other circuits, will harm businesses in Missouri by increasing unpredictability and the costs of litigation. The Chamber also believes that the decision will disincentivize investment in Missouri because nationwide corporations will seek to avoid doing business or locating their headquarters in the State, as plaintiffs can force a remand to state court here even after defendants have properly exercised their right to removal.

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[1] In accordance with Supreme Court Rule 37, the Chamber affirms that no person or entity other than the Chamber and its counsel authored this brief in whole or in part, and that no person or entity other than the Chamber and its counsel contributed money intended to fund the preparation or submission of this brief. Counsel for the parties received notice of the Chamber's intent to file an amicus brief at least ten days before filing.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Eighth Circuit's decision here harms businesses of all sizes—including the Chamber's members—in two main ways. First, it creates uncertainty over where cases raising federal questions will be heard when initially filed in a state court located within the Eighth Circuit. Second, in breaking from other courts of appeals, the Eighth Circuit added a layer of unpredictability for business transactions that cross circuit lines: businesses engaged in such transactions are now subject to different jurisdictional rules in different circuits.

I. Since the Founding, Congress has afforded defendants the statutory right to remove cases to federal court. That right counterbalanced plaintiffs' ability to choose the forum in which to bring the suit by providing defendants with a corresponding opportunity to choose a federal forum. The Eighth Circuit's decision eliminates the simplicity and predictability of the jurisdictional rule that had governed the exercise of removal. Under that decision, plaintiffs now control the forum of removed cases and can force remand by simply amending their complaints to drop the federal claims and preclude the federal court from exercising supplemental jurisdiction. Plaintiffs can thus not only dictate the forum in which to litigate their claims, but also possess the leverage to strategically protract litigation over jurisdictional issues.

That decision hurts Missouri businesses. Broadly speaking, business defendants typically exercise their removal right when available, particularly when

faced with the prospect of litigating in a state-court system, like Missouri's, with plaintiff-friendly rules. Until now, businesses in the Eighth Circuit have relied on the protection afforded by the stable, predictable rule that if the federal court has jurisdiction when the case is removed, then it retains jurisdiction throughout the case. But that rule is no longer. Now, businesses can only guess whether the case will remain in federal court, for plaintiffs can amend their complaint to drop any reference to federal law. That destabilizing effect will be felt most profoundly by small businesses, which make up the vast majority of businesses in Missouri. Those small businesses lack the resources to engage in extensive legal maneuvering before reaching the merits, and may feel compelled to settle—even if they have strong defenses.

The decision below will also harm Missouri's economy overall. Larger companies will now be incentivized to minimize or avoid any presence in Eighth Circuit States—especially Missouri, whose rules have earned it the moniker the "Sue Me State"—for fear of having to contend with increased litigation in state court. The excessive litigation that businesses will face as a result of the decision will contribute to higher prices, fewer jobs, and less innovation.

II. With the Eighth Circuit's outlier application of jurisdictional rules, businesses operating within and outside of the Eighth Circuit will now face different federal rules in different forums. The Eighth Circuit borders five federal judicial circuits, and the Eighth Circuit's holding on post-removal amendment here parts ways with all of them. The businesses

operating in metropolitan areas and communities that cross circuit lines are left to hope, for the sake of keeping federal litigation in federal court, that a plaintiff with a federal claim chooses not to sue in a State within the Eighth Circuit.

This case is a prime example of why certain and predictable jurisdictional rules are important, especially for businesses like members of the Chamber. The Court should therefore grant review to clarify the rule governing post-removal amendment.

ARGUMENT

I. The Court should grant the petition because the Eighth Circuit's decision fosters uncertainty and unpredictability, harming businesses in Missouri.

Businesses have long relied on simple jurisdictional rules to provide a measure of certainty and predictability. "Simple jurisdictional rules," this Court has recognized, "promote greater predictability," which is "valuable to corporations making business and investment decisions." *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). Corporations thus view "administrative simplicity [as] a major virtue in a jurisdictional statute." *Id.* Indeed, predictable jurisdictional rules reduce excessive litigation over "which court is the right court" and thereby increase "the likelihood that results and settlements will reflect a claim's legal and factual merits." *Id.*

The decision below undermines administrative simplicity for businesses sued in the Eighth Circuit. Those businesses—including the more than 40,000 employers in Missouri who are members of the

Chamber—have no clear jurisdictional guidance when they are sued on claims presenting a federal question in state court. In such cases, businesses sued in Missouri can remove to federal court under the federal-question and removal statutes. *See* 28 U.S.C. §§ 1331, 1441(a). But whether they will stay there is now up to plaintiffs. For under the Eighth Circuit's decision, plaintiffs are free to strip out the federal claim, restyle that claim as a state-law cause of action, and seek to remand the case to state court. Businesses defending against lawsuits now face even more unpredictability and costs, making it harder for businesses to compete in Missouri.

A. Businesses rely on the removal right to protect their interests.

One jurisdictional rule on which businesses have traditionally relied is the federal removal statute, 28 U.S.C. § 1441. Since the Founding, Congress has granted defendants the statutory right to remove "any civil action brought in a State court" where the action "could have been brought, originally, in a federal district court." *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 83, 89 (2005).[2] The traditional rule is that

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[2] The Judiciary Act of 1789 allowed defendants to remove cases that could have been brought in federal court, which at the Founding consisted of those "against an alien, or by a citizen of the state in which the suit is brought against a citizen of another state." Ch. 20, § 12, 1 Stat. 73, 79. The removal right "has been in constant use ever since." *Tennessee v. Davis*, 100 U.S. 257, 265 (1880). The Jurisdiction and Removal Act of 1875 later extended removal to cases raising federal questions. Ch. 137, 18 Stat. 470.

"the plaintiff [is] the master of the claim," choosing initially which forum to sue in, subject to rules of jurisdiction and venue. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). The removal statute provides defendants with "a corresponding opportunity," *Lincoln Prop.*, 546 U.S. at 89, "ensur[ing] that defendants get an equal chance to choose a federal forum," *Home Depot U.S.A., Inc. v. Jackson*, 139 S. Ct. 1743, 1751 (2019) (Alito, J., dissenting).

Businesses view the right to remove as important, and often exercise that right when available. Defendants generally perceive federal court as less biased against them than state court. *See* Kevin M. Clermont & Theodore Eisenberg, *Do Case Outcomes Really Reveal Anything About the Legal System? Win Rates and Removal Jurisdiction*, 83 Cornell L. Rev. 581, 593, 599–602 (1998). Indeed, one study found that defendants fared more than twice as well in federal-question cases removed to federal court as their counterparts in federal-question cases that remained in state court. *See id.* at 593–95 ("[F]ederal question cases, excluding prisoner litigation, show a[] . . . drop in win rate [for plaintiffs] from 52% to 25%."). And businesses specifically perceive a federal forum to be more predictable, less susceptible to anti-business biases, and more favorable overall, in no small part because the federal rules provide a stabilizing force to help guard against abusive plaintiffs. *See* Neal Miller, *An Empirical Study of Forum Choices in Removal Cases Under Diversity and Federal Question Jurisdiction*, 41 Am. U. L. Rev. 369, 382 (1992).

Missouri is a case in point. A handful of plaintiff-friendly rules make litigating in Missouri especially perilous for defendants. For instance:

- Missouri plaintiffs, unlike federal plaintiffs, can win a verdict if just three-fourths of the jury finds defendant liable, *see* Mo. Const. art. I, § 22(a), *and* Mo. Rev. Stat. § 494.490—a break from the federal unanimity requirement, *see* Fed. R. Civ. P. 48(b).

- Missouri plaintiffs can withstand a motion to dismiss for failure to state a claim if their pleading "sets forth any set of facts that, if proven, would entitle the plaintiffs to relief." *Public Water Supply Dist. No. 1 v. City of Springfield*, 670 S.W.3d 474, 479 (Mo. Ct. App. 2023) (quotation marks omitted). Federal plaintiffs, by contrast, can defeat a motion to dismiss only under the "plausibility" standard, which this Court adopted in *Bell Atlantic Corp. v. Twombly*, rejecting the lenient "any set of facts" standard that persists in Missouri. 550 U.S. 544, 559, 563–64 (2007).

- Missouri plaintiffs may request a specific damages amount for pain and suffering, *see* Am. Tort Reform Found., *2023–2024 Judicial Hellholes* 67–68 (2023), https://perma.cc/42HV-AFP7—a "disfavored" practice in federal courts, because it "anchor[s] the jurors' expectations of a fair award at a place set by counsel, rather than by the evidence." *Consorti v. Armstrong World Indus., Inc.*, 72 F.3d 1003, 1016 (2d Cir. 1995), *vacated on other grounds*

sub nom. Consorti v. Owens-Corning Fiberglass Corp., 518 U.S. 1031 (1996).

In short, business defendants often believe that they will get a fairer shake in federal court than state court. They thus view their right to remove cases as vital to ensuring a level playing field.

B. The decision below will introduce greater uncertainty and enable plaintiffs to engage in improper forum manipulation.

Before the Eighth Circuit's decision here, businesses sued in state court on a federal claim had a straightforward way to ensure that the case was heard in federal court: remove it under the removal statute. Granted, the plaintiff could amend to remove the federal claim. *See* Fed. R. Civ. P. 15(a). But any such amendment would not affect jurisdiction. The simple rule was that jurisdiction was determined at the time of removal, regardless of later events. *McLain v. Andersen Corp.*, 567 F.3d 956, 965 (8th Cir. 2009).

The Eighth Circuit's decision muddles that simple rule. Now, a defendant that has properly exercised its right to remove to federal court does not know whether the case will stay there. Instead—and contrary to the removal statute's design, *see Lincoln Prop.*, 546 U.S. at 89—the plaintiff now controls the forum of a removed case in Missouri. If the plaintiff is content to stay in federal court, it need not do anything. But if the plaintiff wants to return to state court, it can force a remand by simply amending its complaint to drop the federal claims and preclude the federal court from exercising supplemental juris-

diction. *See* Pet. App. 5a. Plaintiffs can thus, through a ploy this Court has long thought improper, "defeat federal jurisdiction" by amending their complaints after removal, *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 294 (1938), subjecting defendants to protracted jurisdictional litigation. Such a "waste [of] time and resources" "counsels strongly against any course that would impair [jurisdictional] certainty . . . and thereby encourage similar jurisdictional litigation." *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 581–82 (2004).

C. The Chamber's members will face protracted lawsuits that drain their businesses' resources and be pressured to settle even frivolous claims.

There is good reason to believe that the Chamber's members will have to engage in such wasteful jurisdictional litigation in Missouri. The last few decades have seen a spike in putative class actions against businesses and merchants in Missouri. For instance, between 2000 and 2009, Missouri saw a 678% increase in judicial decisions under the State's Merchandising Practices Act. Joanna Shepherd, Am. Tort Reform Found., *The Expanding Missouri Merchandising Practices Act* 13 (2014), https://perma.cc/XFD7-53VJ. It is not just deep-pocketed corporations that bear the brunt of this trend. On the contrary, most businesses in Missouri are small businesses: in 2021, companies employing fewer than 50 workers accounted for 96.4% of businesses in Missouri, with the average business employing 14 workers. Mo. Econ. Rsch. & Info. Ctr., *2021 Missouri Businesses by Size* 1, 3

(2022), https://perma.cc/7EM2-XP3Y. Family-owned businesses and startup companies have been targeted by plaintiffs' firms that specialize in consumer class actions, often using repeat plaintiffs and copied-and-pasted complaints. Cary Silverman, *In Search of the Rea-sonable Consumer: When Courts Find Food Class Action Litigation Goes Too Far*, 86 U. Cin. L. Rev. 1, 4, 8–9 (2018).

Small businesses lack the resources for wasteful jurisdictional skirmishes. Defending a lawsuit on the merits carries a hefty price tag: small businesses must typically spend about $5,000 to settle a legal dispute—about 10% of a small-business owner's average salary. U.S. Chamber Inst. for Legal Reform, *Tort Liability Costs for Small Business* 9 n.19 (2010), https://perma.cc/HJX3-75HT (*Tort Liability Costs*) (citing William J. Dennis, Jr., Nat'l Fed'n of Indep. Bus. Rsch. Found., *NFIB National Small Business Poll: The Use of Lawyers* 1 (2005), https://perma.cc/K54V-2AML). One 2010 study of the cost of tort liability on small businesses concluded that small businesses bore 81% of business-tort liability costs.[3] *Id*. at 1, 9. And because these small businesses typically do not have insurance, they must pay their legal fees and expenses out of pocket. *Id*. So even when small businesses are sued on meritless claims, they often struggle to afford the legal fees to defend themselves, not to mention the time and distraction that defending a lawsuit entails. The threat that "gamesmanship" spawned by "[c]omplex" juris-

[3] The study defined small businesses as those with $10 million or less in annual revenues. *Tort Liability Costs*, *supra*, at 8.

dictional rules will "eat[] 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" only adds to the litigation burden. *Hertz*, 559 U.S. at 94. Faced with the prospect of extensive legal maneuvering before reaching the merits, small businesses may well be forced to settle or, at a minimum, to accede to a state tribunal when Congress has afforded them a federal one.

This case underscores just how expensive jurisdictional litigation can be. Respondents' counsel first filed a putative nationwide class action against several defendants, including Petitioners Purina and Royal Canin, in the Northern District of California in December 2016. Pet. App. 60a–61a. Although the plaintiffs in that suit twice amended the complaint, the district court dismissed the case for failure to state a claim. *Moore v. Mars Petcare US, Inc.*, No. 3:16-cv-07001-MMC (N.D. Cal.), ECF Nos. 64, 106, 116, 134.

While the California decision remained on appeal, in February 2019, the same plaintiffs' counsel, now on behalf of Respondents, brought this essentially duplicative action in the Circuit Court of Jackson County, Missouri, having carefully carved up the nationwide class into state classes and repackaged the allegations as state-law claims to avoid federal court. Pet. App. 60a–61a, 69a–70a. The defendants in the Missouri suit (including Petitioners here) removed the case to federal court. *Id.* The Eighth Circuit later held that removal was proper: the complaint gave rise to federal-question jurisdiction under *Grable & Sons Metal Products, Inc. v. Darue*

Engineering & Manufacturing, 545 U.S. 308, 312 (2005), because its "dependence on federal law permeates the allegations" and it sought "injunctive and declaratory relief that necessarily requires the interpretation and application of [the Federal Food, Drug, and Cosmetic Act]." Pet. App. 32a–33a. Respondents then "switched gears" by "eliminat[ing] every reference to federal law in the complaint," abandoning certain claims, and narrowing their request for relief. Pet. App. 5a. All told, Petitioners have been litigating procedural questions for over seven years—a fight that continues in this Court.

D. The resulting litigation environment will harm Missouri's economy.

The Eighth Circuit's decision will make it harder to do business in Missouri, jeopardizing efforts to attract and retain investment here. For nationwide companies, litigation risk is a key factor in deciding where to invest and grow. Eighty-nine percent of senior in-house attorneys and executives at large U.S. companies have reported that a state's litigation environment "is likely to impact important business decisions at their companies, such as where to locate or do business." U.S. Chamber Inst. for Legal Reform, *2019 Lawsuit Climate Survey: Ranking the States* 3–4 (2019), https://perma.cc/5CQE-G4RN (*Ranking the States*). Major companies, particularly in litigious industries, will now be incentivized to minimize or avoid any presence in Missouri for fear of having to contend with increased litigation in state court. Instead, they will prefer states in other circuits where they can rely on their statutory right to remove where there is original jurisdiction,

regardless of plaintiffs' subsequent maneuvers. *See infra* Point II.A.

The rising litigation costs flowing from the Eighth Circuit's decision will broadly affect Missouri's economy. First, companies in highly litigious industries will respond to increased risk of litigation by factoring those costs into the prices of goods and services. These moves are not limited to large companies: according to a nationwide poll of small businesses, 62% make business decisions to avoid lawsuits, and 61% reported that these decisions increase the price of their products and services. *Tort Liability Costs*, *supra*, at 2. Second, litigation also discourages job creation as job creators move to or choose to invest in states with more business-friendly legal environments. In 2020, excessive tort litigation cost businesses in Missouri over 55,000 jobs. Perryman Grp., *Economic Benefits of Tort Reform* 58 (2021), https://perma.cc/M9HA-F9PF. Third, excessive litigation not only drains resources that could be spent on innovation, but also disincentivizes businesses from investing in new products for fear of litigation exposure. *Id.* at 5.

By pushing businesses away, the Eighth Circuit's decision will ultimately curb economic growth within Missouri. Granting the petition and reversing the Eighth Circuit's decision would restore predictability for businesses and confidence in the court system such that Missouri can continue to attract economic opportunities.

II. The Court should grant the petition because the Eighth Circuit's outlier decision creates inconsistency across the Nation in standards of federal removal.

A. The Eighth Circuit will attract plaintiffs and class-action lawsuits seeking a jurisdictional advantage.

Not only does the Eighth Circuit's decision create unpredictability for businesses sued within the Eighth Circuit; it also makes life unpredictable for Missouri businesses that may be sued around the Nation. Put another way, businesses operating within and outside of the Eighth Circuit will face different jurisdictional rules in different forums. Unless this Court grants review to ensure that the removal statute has "uniform nationwide application," *Grubbs v. General Elec. Credit Corp.*, 405 U.S. 699, 705 (1972), defendants operating across state lines, including members of the Chamber, will lack crucial certainty when conducting their affairs.

One such Missouri company is Diamond Pet Foods, a family-owned business that produces cat and dog food from U.S.-sourced ingredients. The company sells its products nationwide and makes its products in several States.[4] If Diamond were sued tomorrow in a Missouri state court in a case involving a federal question, Diamond could not be sure that removing the case to federal court would keep it there. Instead, Diamond could be channeled back to state court if the

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[4] *See* Diamond Pet Foods, *Our History*, https://perma.cc/9YQP-6LMS (last visited Feb. 12, 2024).

plaintiff "switched gears" post-removal and "eliminated every reference to federal law in the complaint." Pet. App. 5a. But if Diamond were sued on the same theory in California, where it has a manufacturing plant, it could permanently remove the case to federal court: the plaintiff could "not compel remand by amending [its] complaint to eliminate the federal question upon which removal was based." *Sparta Surgical Corp. v. National Ass'n of Sec. Dealers, Inc.*, 159 F.3d 1209, 1213 (9th Cir. 1998), *overruled on other grounds by Merrill Lynch, Pierce, Fenner & Smith Inc. v. Manning*, 578 U.S. 374 (2016). So too if Diamond were sued in Kansas or South Carolina, where it also has manufacturing operations, *see Salzer v. SSM Health Care of Okla. Inc.*, 762 F.3d 1130, 1133 (10th Cir. 2014); *Brown v. Eastern. States Corp.*, 181 F.2d 26, 28 (4th Cir. 1950), or in Indiana, where it is building a manufacturing and distribution center, *see Hammond v. Terminal R.R. Ass'n*, 848 F.2d 95, 97 (7th Cir. 1988).[5]

Apart from shouldering the potentially high costs of litigating jurisdiction before even reaching the merits, *see supra* Point I.C., returning to Missouri state court on remand could be daunting for a family-owned business such as Diamond. Plaintiff-friendly rules, *see supra* p. 7, and large jury verdicts have fostered Missouri's decades-old reputation as the "Sue Me State"—a State where defense lawyers lament "runaway jury verdicts, a judiciary afraid to make necessary reforms, and a legislature and state

[5] *See also* City of Rushville, *Diamond Pet Food Groundbreaking in Rushville* (Oct. 4, 2022), https://perma.cc/67BL-AVN6.

government controlled by the plaintiffs' bar." *See* Elliot M. Kaplan, *Missouri, the Sue Me State*, Wall St. J. (Feb. 26, 1997), https://perma.cc/8VH4-RCM8.[6] Indeed, one recent study reported that less than one in four Missouri employers were satisfied with the state's litigation climate. Mo. Chamber of Com. & Indus., *Missouri Can Make Significant Gains in Economic Standing and Opportunities for Workers in 2017* (Jan. 4, 2017), https://perma.cc/6RHQ-XKX3.

Companies all over the country have taken note, with little expectation that they will get a fair shake in Missouri state courts. *See Ranking the States*, *supra*, at 2, 9 (ranking Missouri 44th of all state liability systems for fairness and reasonableness based on perceptions of company lawyers and executives). Inevitably, plaintiffs' lawyers will take advantage of the circuit split and encourage their clients to file their cases in Missouri even more often than they already do now. *See* Margaret Cronin Fisk, *Welcome to St. Louis, the New Hot Spot for Litigation Tourists*, Bloomberg (Sept. 29, 2016), https://perma.cc/WY48-XAJ8 (describing how product-liability plaintiffs flock to St. Louis and other Missouri state courts because of, among other things, the lower risk of pretrial dismissal, verdicts that require only three-fourths of the jury, and "looser" rules of evidence).

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[6] The same concerns that drove the "Sue Me State" article prevail today. As recently as 2019, Missouri was in the top ten States for "nuclear" verdicts, or jury verdicts exceeding $10 million, between 2010 and 2019. *See* Cary Silverman & Christopher E. Appel, U.S. Chamber of Com. Inst. for Legal Reform, *Nuclear Verdicts: Trends, Causes, and Solutions* 14 (2022), https://perma.cc/6A2B-FVRA.

B. With the circuit split, businesses that operate within and outside the Eighth Circuit must now account for inconsistent federal rules in different forums.

Diamond will hardly be the only interstate business affected by the Eighth Circuit's decision. As the second-largest federal judicial circuit by geographic area, the Eighth Circuit borders five federal judicial circuits. Various metropolitan areas and communities, including the Quad Cities (Iowa and Illinois), cross state and circuit lines. The Kansas City metropolitan area is a prime example: not only does it encompass cities of the same name in Kansas and Missouri, but a Kansas resident may live in the suburbs of Kansas City, Missouri, and people living on opposite sides of the same street may be residents of different States. *See, e.g.*, Laura Ziegler, *When It Comes to Kansas City's State Line, It's Complicated*, KCUR (Sept. 18, 2014), https://perma.cc/895V-MWGT.

As a result of the Eighth Circuit's ruling, a business operating in the Kansas City area is subject to inconsistent federal standards around post-removal amendment. *See Salzer*, 762 F.3d at 1133. It is left to hope, for the sake of keeping litigation in federal court, that a plaintiff with a federal claim chooses not to engage in forum shopping and instead files the case in Kansas rather than Missouri. Other interstate businesses that operate in the Eighth Circuit and in any of the Fifth, Sixth, Seventh, Ninth, and Tenth Circuits will face the same predicament of having the litigation forum determined by plaintiffs' whims. *See 16 Front St., L.L.C. v. Mississippi Silicon,*

L.L.C., 886 F.3d 549, 558–59 (5th Cir. 2018) (asserting that "[t]he law is clear" that a plaintiff cannot "replead to divest the federal court of jurisdiction"); *Harper v. AutoAlliance Int'l, Inc.*, 392 F.3d 195, 210–11 (6th Cir. 2004) (holding that the district court did not abuse its discretion in retaining supplemental jurisdiction over plaintiff's state-law claims after federal claim was dropped); *supra* p. 15.

That result contravenes Congress's intent that removal be "uniform in its application, unaffected by local law definition or characterization of the subject matter to which it is to be applied." *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 104 (1941). This Court should intervene to restore uniformity.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

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Respectfully submitted,

ERIC MAHR
CLAIRE L. LEONARD
Counsel of Record

FRESHFIELDS BRUCKHAUS
DERINGER US LLP
700 13th Street N.W.
10th Floor
Washington, D.C. 20005
(202) 777-4764
claire.leonard@freshfields.com

SCOTT A. EISMAN
MATTHEW RUBLIN
CARLA SUNG AH YOON

FRESHFIELDS BRUCKHAUS
DERINGER US LLP
601 Lexington Avenue
New York, NY 10022
(212) 284-4986

Counsel for Amicus Curiae
The Missouri Chamber of
Commerce and Industry