No. _____

In the

Supreme Court of the United States

SHIRLEY CRAIN,

Petitioner,

v.

LISA CRAIN, ET AL.,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Federal courts do not hear divorce disputes. That is because our system of federalism retains for the states special expertise in domestic matters. Thus, the domestic relations exception to federal jurisdiction requires that only state courts enter divorce decrees, including the property settlement agreements bound up within them. The inevitable dickering that arises in enforcing these decrees should likewise stay there.

But the federal courts are conflicted on how to apply the domestic relations exception to follow-on litigation after a state court enters a divorce decree. The courthouse doors are firmly closed in the Ninth, First, and Sixth Circuits (and softly shut elsewhere) to claims like this one, alleging one party to a divorce breached the terms of a property settlement agreement. If a litigant asks the federal court to interpret or modify a state court decree, the claim is barred. But the Eighth Circuit allows breach-of-a-divorce-contract claims to proceed, so long as they are brought by a third-party beneficiary (*viz.*, a child).

The Eighth Circuit is wrong to allow such claims in federal court based on the identity of the parties. Those circuits that bar these claims properly ask what the court is doing, not who is asking the court to do it. This Court's intervention is warranted because the decision below is one example of an acknowledged and entrenched split of authority on how broadly the domestic relations exception applies.

The question presented is:

Whether, as only the Eighth Circuit has held, federal courts may exercise jurisdiction to interpret

and modify a state-court-issued divorce decree, so long as the claim is brought by a third-party, or whether the domestic relations exception bars these claims because they arise directly from a divorce, as the Ninth, First, and Sixth Circuits have squarely held and other circuits have suggested they would hold.

PARTIES TO THE PROCEEDING

Petitioner Shirley Crain was a defendant in the district court and appellant in the Eighth Circuit. Ray Fulmer, in his capacity as the Administrator of the Estate of H.C. "Dude" Crain, Jr., was a defendant in the district court, but was not involved in the Eighth Circuit proceedings. Respondents Lisa Crain, Cathee Crain, Marilyn Crain Brody, and Kristan Snell were plaintiffs in the district court and appellees before the Eighth Circuit.

STATEMENT OF RELATED PROCEEDINGS

This case is directly related to the following proceedings:

Crain v. Crain, No. 22-1674 (8th Cir.) (judgment entered on June 23, 2023; petition for rehearing denied on August 14, 2023).

Crain v. Crain, No. 2:20-cv-02038-TLB (W.D. Ark.) (judgment entered on January 18, 2022).

In re Estate of H.C. "Dude" Crain, Jr., No. P.R.-2020-137 (Sebastian Cnty. Cir. Ct.).

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PETITION FOR WRIT OF CERTIORARI

In their own words, Respondents claim that this "whole case is about a divorce." Tr. (Vol. I), 97:21-22. So why is it in federal court? It should not be. Three circuits (the Ninth, First, and Sixth) have squarely held that cases just like this one—claims that one party to a divorce settlement breached the terms of the divorce—cannot be brought in federal court, because such claims seek to interpret and modify a divorce decree, an action which is the exclusive province of state courts. Other circuits (the Third, Eleventh, and Seventh), have also suggested they would similarly bar such claims. Overwhelmingly, the federal courthouse doors are closed to disputes like this one.

But this case arose in the Eighth Circuit, where the domestic relations exception to federal jurisdiction does not bar a claim for breach of contract—when the contract is a property settlement agreement ("PSA") issued by a state court as part of a divorce decree—if the dispute is brought by a beneficiary of the agreement, rather than the divorced spouse. The Eighth Circuit's outlier position is wrong, and it reflects one fracture in an acknowledged and entrenched circuit split about how broadly to apply the domestic relations exception.

The facts of this case demonstrate the importance of this issue and the tragedy of these cases generally. Petitioner, a widow, was sued by her step-daughters after her husband passed away. The step-daughters alleged that their father breached his divorce contract with their mother, his first wife. They sought marital assets to remedy the breach. The case proceeded, and the district court below answered

novel and complicated questions of state law to interpret a provision in a divorce settlement agreement and then modify it, allocating over $100 million in jointly-held property from Petitioner to Respondents via a constructive trust.

This exercise of jurisdiction guts the domestic relations exception and directly conflicts with the decisions of other circuits. This Court's precedents on the exception, which trace its pedigree to the Founding, have most recently declared that it "covers only 'a narrow range of domestic relations issues.'" *Marshall v. Marshall*, 547 U.S. 293, 307 (2006) (quoting *Ankenbrandt v. Richards*, 504 U.S. 689, 701(1992)). It bars federal courts from hearing cases arising from a divorce proceeding, meaning, "cases involving the issuance of a divorce, alimony, or child custody decree[.]" *Ankenbrandt*, 504 U.S. at 703-04.

Whether a case "involv[es] the issuance of a divorce" has confused the lower courts. *See id.* As demonstrated by the decision below, the Eighth Circuit categorically permits any breach of contract claim involving a divorce settlement so long as it is brought by a third-party beneficiary. The Ninth, First, and Sixth Circuits prohibit these claims from proceeding in federal court. *See Bailey v. MacFarland*, 5 F.4th 1092 (9th Cir. 2021); *Irish v. Irish*, 842 F.3d 736 (1st Cir. 2016); *McLaughlin v. Cotner*, 193 F.3d 410 (6th Cir. 1999). There is no way to reconcile this split. Breach of a divorce contract claims are barred in those jurisdictions regardless who sues. These circuits ask *what* is being litigated, not *who* has filed suit.

Square divergence on this question implicates a broader acknowledged split of authority on when the "narrow" domestic relations exception applies. The Ninth Circuit recognized the split in *Bailey*, and noted the Eighth Circuit's test for when to apply the exception *generally* is exceedingly broad (and wrong). *Bailey* and other courts thus reject it. *See Bailey*, 5 F.4th at 1097 ("[W]e decline to adopt the broad version of the exception embraced by some of our sister circuits."). In other words, the Eighth Circuit's understanding of the domestic relations exception is both too crabbed—because it refuses to apply the exception to third-party beneficiary claims—and too broad, because it generally prohibits from federal court any claim "intertwined with" a divorce proceeding. In both applications, the Eighth Circuit splits with its sisters and errs.

This case provides a prime example why state court expertise matters in these disputes and federal courts should have no part of them. A significant portion of the Eighth Circuit's opinion below is devoted to interpreting the PSA, and the remedies available for breach of the PSA, under Arkansas law. *See* App.15-22. Indeed, the court acknowledged that "this case is unlike most that federal courts review," and that "the parties have asked the federal courts to address rather complex issues of Arkansas law regarding property rights, the division of marital property, and probate matters." *Id*. at 24. Perhaps the reason "there is not more published law on this subject" is "because few claims to divide marital property are ever filed in federal court," which

"reflects an understanding that the federal forum is inappropriate[.]" *Irish*, 842 F.3d at 741.

The lower courts are in an entrenched conflict, the decision below is wrong, and the central issue—the scope of federal jurisdiction—is important. The question how broadly this exception applies, and when, is important, and this Court's intervention is warranted to ensure that acrimonious post-divorce claims are universally barred in federal courts nationwide. To hold otherwise risks enmeshing the federal courts in matters properly left to state courts, whose expertise in state domestic and property law would ensure that equitable outcomes remain the norm. Post-divorce litigation will no doubt remain sharp, but the federal courts should not be a tool to inflict pain as these controversies are litigated. This is a clean vehicle in which to review that question, and the Court should grant the petition.

OPINIONS BELOW

The Eighth Circuit's opinion is reported at 72 F.4th 269 and reproduced at App.1. The Eighth Circuit's order denying rehearing is reproduced at App.167. The district court's opinions and orders granting judgment in Respondents favor are unreported and reproduced at App.26-166.

JURISDICTION

The Eighth Circuit issued its opinion on June 23, 2023, and denied rehearing en banc on August 14, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1), but the Court should grant and reverse with instructions to dismiss for lack of jurisdiction.

STATEMENT OF THE CASE

A. Factual Background

1. By the numbers, this case involves one death, two marriages, and four step-daughters. Petitioner, Shirley Crain, married her husband, H.C. "Dude" Crain, in November 1989. C.A.App.235. They were married for 27 years until Mr. Crain's 2017 death. *Id.* As in most marriages, the Crains jointly owned real property (*e.g.*, their marital home), bank accounts, and investments. *See* C.A.App.248, 254-55, 258-59, 262. During their marriage, the Crains managed (and, in some cases, co-owned) multiple successful businesses. Through their savvy investments, real estate holdings, and business generation, they created significant wealth in Northwest Arkansas.

After Mr. Crain died, the couples' jointly-held assets passed, by operation of law, to his surviving spouse, Mrs. Crain. That is how marital property works: When spouses jointly hold property and one spouse dies, the living spouse becomes sole owner of the property, thereby allowing it to pass without estate taxes or probate issues. 4 Ark. Probate & Estate Admin. §§ 1:15, 1:7.

At least, that is how it *usually* works. But in this case, Shirley and Dude's thirty-year marriage was Dude's second marriage. He was previously married to Marillyn Crain, with whom he had four daughters (the Respondents). App.3. After their father's death, Respondents sued their step-mother. Although they had received expensive gifts, payments, and other distributions totaling millions of dollars from the

Crains during Mr. Crain's lifetime, *see* C.A.App.194, 202, they were dissatisfied with the significant assets they inherited.

2. The step-daughters' federal lawsuit alleged breach of contract, claiming that when Dude divorced Marillyn, he promised to make a will for their benefit, but the will he made failed to leave them what the promise required. C.A.App.18-28.

The contract breached, they claimed, was the property settlement agreement ("PSA") that Mr. Crain and Marillyn Crain signed to divide their assets when they divorced. C.A.App.34. The specific promise in the PSA states:

> husband and wife agree to maintain in full force and affect [sic] a valid Last Will and Testament whereby each will leave at least one-half of their estate to the four daughters of this marriage, Lisa Chambers; Cathee Crain; Marillyn Crain; and Kristan Tadlock, per stirpes.

C.A.App.36.

As the Complaint explained, this was a promise by Mr. Crain to make "a will" "whereby" he would leave his children "one-half of [his] estate." Mr. Crain breached that promise, Respondents claim, because he "allowed property to pass to [Mrs. Crain] by joint tenant with right of survivorship . . . and/or by other means in which property is transferred by operation of law and outside of a will." C.A.App.24.

The complaint took level aim at the divorce: "As a result of Dude's disregard of the Divorce

Decree entered by the Logan County Chancery Court which incorporated the PSA, the Plaintiffs did not receive any of Dude's property after his death as was intended" by the "PSA and the Court's Order incorporating the same." C.A.App.25. In other words, Respondents claimed that because the Crains held joint property, and because that property passed by law to Mrs. Crain on Mr. Crain's death, Mr. Crain violated the terms of his divorce decree.

3. Notwithstanding the myriad Arkansas state law issues involved in interpreting the meaning of the PSA and remedying any breach, Respondents filed suit in federal court.

As background, Marillyn and Dude's divorce decree issued in Arkansas state court—the Logan County Chancery Court. C.A.App.22. That is as it should be: Arkansas Chancery Court has jurisdiction over such matters, and the state courts are empowered to hear these disputes. *See* Ark. Code Ann. § 9-12-320(a)(1) ("The court where the final decree of divorce is rendered shall retain jurisdiction for all matters following the entry of the decree.").

The Chancery Court's entry of the divorce decree expressly incorporated the PSA. C.A.App.31-32. It also provided that the Arkansas state court "retains jurisdiction . . . to adjudicat[e] and award[]" any property, or "ascertain[] and enforce[] all rights and obligations" governed by the PSA or the corresponding divorce decree. C.A.App.32-33.

As a remedy for their father's breach of the state court decree and PSA, Respondents asked the district court to do one of two things: either (1) order that

property which should have been willed to them be placed in their father's estate and divided according to the promise in the PSA, or (2) impose a constructive trust over assets owned by their step-mother equivalent to their claimed share of their father's property. C.A.App.25-27. Both options expressly sought Mrs. Crain's assets as a remedy for Mr. Crain's breach of the PSA. Three years after their father's death and thirty years after Mr. Crain's divorce, Respondents claimed an entitlement to significant assets, *including half of all assets Mr. Crain jointly owned with Mrs. Crain*, by alleging that Mr. Crain breached his divorce agreement. Of course, Mrs. Crain was not aware of the obligations in the PSA, as she was not a party to it.

B. Procedural Background

1. The questions of liability and remedy raised by the complaint both "address rather complex issues of Arkansas law regarding property rights, the division of marital property, and probate matters." App.24. As to liability, the district court had to decide the boundaries of an Arkansas promise "to make a will." App.90-91, 157-59. As to remedies, the Court had to determine whether to order property into the custody of the Arkansas probate court or impose a constructive trust over jointly held property that Mrs. Crain solely owned. App.92-95, 159-66.

At summary judgment, the district court decided liability in Respondents' favor, determining that Mr. Crain breached the PSA, and held "the appropriate remedy is specific performance." App.155. To achieve "specific" performance of the promise to make a will, the court imposed a

constructive trust "on half the property Dude owned and controlled up to the moment of his death, (as well as any post-death interest, earnings, or proceeds), with the value of such to be determined at trial." App.165-66. It did so while acknowledging that Mrs. Crain "is innocent in all of this—after all, no one is alleging that she defrauded the Plaintiffs." App.137.

The district court held a trial of limited scope to determine which assets should be included in the constructive trust. Ultimately, the court ordered Mrs. Crain to convey half of "assets Dude owned jointly with [Mrs. Crain] at the time of his death." App.60-61. The order also required Mrs. Crain to "convey[] directly to (or buy[] out)" certain percentage-based interests in the real estate that she and Mr. Crain jointly owned during his lifetime. App.114 n.14. The order also mandated that Mrs. Crain convey stocks held by her in what were the Crains' joint investment accounts. App.122-27. The relief the district court ordered in Respondents favor totals nearly $100 million. App.2. In other words, the district court required Mrs. Crain to transfer her assets to satisfy a breach of which she was innocent to a contract of which she was unaware.

2. The Eighth Circuit affirmed, rejecting Mrs. Crain's arguments that the court lacked jurisdiction and that the district court imposed a remedy (a constructive trust) that Arkansas law does not allow in this context. The court's discussion of the domestic relations exception was brief: holding that "the issues presented do not involve a domestic relations dispute between a feuding couple" but rather "a third-party beneficiary claim based in contract law"

and therefore, based on prior Eighth Circuit precedent, the exception did not apply. App.13. Additionally, the court held that the district court did not err in interpreting, under Arkansas law, the term "estate" in the PSA to mean "everything Dude owned prior to death—whether he owned it separately or jointly with Shirley." App.18. The court also affirmed the district court's remedy, under Arkansas law, creating a constructive trust requiring Mrs. Crain to transfer over $100 million in assets. App.9.

3. Meanwhile, as the federal case proceeded, Respondents also litigated Dude's estate in Arkansas probate court. C.A.App.24, 29. The probate action was filed before the federal lawsuit, but neither the district court nor the Eighth Circuit believed the probate exception barred federal jurisdiction. App.57-58. That litigation is ongoing.

Mrs. Crain petitioned for rehearing and rehearing en banc, which the Eighth Circuit denied. App.167.

REASONS FOR GRANTING THE PETITION

As the Ninth Circuit acknowledges, the federal courts diverge on when to apply the domestic relations exception. *See Bailey,* 5 F.4th at 1097. There is a direct conflict on the question presented by this petition, namely, whether the domestic relations exception bars breach of contract claims arising from a divorce based on the nature of the action, or whether the identity of the parties determines if the case can proceed. There is also confusion regarding the application of the domestic relations exception generally. Because the lower courts' confusion is

entrenched and the question is important, this Court should grant review.

1. The lower courts are split. A party who divorces in California, Massachusetts, or Ohio must litigate any follow-on litigation about the meaning and enforcement of their divorce decree in state court. Breach of contract claims arising from divorce decrees may not be heard by federal courts in those places. That is so regardless who brings the claim (a party to the divorce or a beneficiary of the PSA), because the Ninth, First, and Sixth Circuits ask whether the nature of the claim involves interpreting or modifying a divorce decree (in which case, the claim is barred). The Eighth Circuit alone maintains a carve-out to allow precisely the same breach of contract claim arising from a divorce settlement to proceed in federal court, so long as the claim is brought by a third-party beneficiary to the agreement.

This split reflects a wider and entrenched confusion among the courts of appeals, a split the Ninth Circuit acknowledged when it noted that some circuits (*e.g.*, the Eighth) rely on the exception to broadly bar from federal court any claim intertwined with a divorce, rather than applying the exception narrowly to those cases that interpret or modify a divorce decree. This case is thus a symptom of a more serious disease. The confusion dates back to *Ankenbrandt* and is thus long-standing and entrenched.

2. This Court's precedents make clear that the Eighth Circuit is on the wrong side of the split in both regards. Federal courts should not allow third-party beneficiary claims to proceed in federal court

when they require federal courts to interpret and modify agreements incorporated into state court divorce decrees, regardless who brings suit. Such actions are "cases involving the issuance of a divorce, alimony, or child custody decree," which *Ankenbrandt* excludes. *See Ankenbrandt*, 504 U.S. at 703-04. And the Eighth Circuit's broader test for application of the exception, the subject of the Ninth Circuit's commentary on the split, which asks if an action is inextricably intertwined with a divorce proceeding, violates this Court's clear directive that the exception be applied only to "'a narrow range of domestic relations issues.'" *Marshall*, 547 U.S. 307 (quoting *Ankenbrandt*, 504 U.S. at 701).

3. The question is important and this case is a good vehicle to review it. As this case demonstrates, the stakes are high. Failing to grant and reverse with instructions to dismiss for lack of jurisdiction opens federal courts to a flood of lawsuits arising from divorce decrees that implicate complicated or unresolved state law questions on liability and remedy outside the expertise of federal judges. Our federalism requires greater respect for the primacy of state courts in the domestic sphere. State courts alone may enter divorce decrees, and state courts alone should adjudicate breach of contract claims when the contract breached is the very divorce decree the state court issues.

I. The Circuits Are Split On The Scope Of The Domestic Relations Exception.

There is a split of authority on the discrete question raised by this petition, whether breach of contract claims arising from a divorce dispute may be

brought in federal court. The Eighth Circuit allows such claims to proceed based on the third-party beneficiary status of a claimant. The Ninth, First, and Sixth Circuits prohibit identical claims in those jurisdictions, because they evaluate the nature of the claim to apply the exception—asking whether it requires a federal court to interpret or modify a divorce decree—regardless who brings suit. The same claim may be brought some places but not others. That is an entrenched split that merits this Court's intervention to resolve.

More broadly, review of the scope of the domestic relations exception is warranted because the circuits acknowledge that they apply it differently. The Eighth Circuit's general approach to the exception is wrong because it is overly permissive in booting cases from federal court, even while it's exception to that general expansiveness—carving out third-party beneficiary claims, which can proceed—is overly restrictive. This split and the broader confusion merits review. The lower courts need guidance to ensure a uniform application of an important exception to federal jurisdiction.

A. The Eighth Circuit Allows Breach Of Contract Claims When The Contract Is The Divorce. Other Circuits Bar These Claims.

The courts of appeals are split on when to apply the domestic relations exception to breach of contract claims. This Court's precedents make clear that the domestic relations exception "covers only 'a narrow range of domestic relations issues.'" *Marshall*, 547 U.S. at 307 (quoting *Ankenbrandt*, 504 U.S. at 701).

But it bars federal courts from hearing cases arising from a divorce proceeding, that is, "cases involving the issuance of a divorce, alimony, or child custody decree[.]" *Ankenbrandt*, 504 U.S. at 703-04.

The Eighth Circuit's decision underscores a split regarding the scope of the domestic relations exception, and this Court should grant certiorari to resolve that split and provide clear guidance to the lower courts on the issue. The Ninth, First, and Sixth Circuits have held that the domestic relations exception bars federal courts from adjudicating breach of contract claims that seek to interpret PSAs issued by a state court in a divorce. Other courts have also suggested they would bar such claims, although they adopt various tests in doing so. The Eighth Circuit alone categorically allows such claims to proceed in federal court when brought by a third-party beneficiary.

The same claim brought in different circuits will sometimes be heard and sometimes be barred, due to the application of different tests. That square split merits review.

1. The Ninth Circuit held, in *Bailey v. MacFarland*, that the domestic relations exception bars breach of contract claims like this one, even when brought by a third-party. 5 F.4th 1092 (9th Cir. 2021). There, an ex-wife sued her former spouse and third parties (her ex-husband's child and a company owned by his child), alleging breach of contract, fraud, conspiracy, and other claims. *Id.* at 1094. When the husband died in the course of the dispute, the trial court substituted his son (the Plaintiff's step-son) as

successor-in-interest. The court dismissed the claims under the domestic relations exception. *Id.* at 1095.

The Ninth Circuit affirmed dismissal, noting that *Ankenbrandt* and *Marshall* "preserve[] jurisdiction for cases within the competency of federal courts while, at the same time, preventing a party from making an end-run around a state-court status determination." *Id.* at 1095. Thus, the Ninth Circuit held, "[w]hile *Ankenbrandt* discussed the 'issuance' of a decree, we agree with the lower courts that have unanimously concluded that the Court's reasoning—and its emphasis on state court retention of jurisdiction—necessarily means the exception also applies to the modification of an existing decree." *Id.* at 1096.

Bailey relied on a First Circuit case, *Irish*, *see* p. 20, *infra*, as "[p]articularly instructive." *Id.* at 1096-97. That was so notwithstanding that the defendant in *Bailey* was not the divorced party but, rather, a stepchild and a corporate entity. *See id.* at 1097 ("A plaintiff may not evade the domestic relations exception simply by filing her diversity case against a corporate entity associated with her ex-spouse.").

Because the plaintiff in *Bailey* sought "modification of her divorce decree, the domestic relations exception applies." *Id.* Thus, "[s]tate court is the appropriate forum for interpreting the decree to determine whether [the deceased former spouse] is in breach. State court is also the appropriate forum for determining whether the decree should be modified[.]" *Id.* On those facts, such a claim could *not* proceed in

the Ninth Circuit but *did* proceed here.[1] That the parties to the case were a corporate entity and a step-child, rather than the party to the divorce, made no difference, because "[t]he domestic relations exception squarely forecloses diversity jurisdiction over Bailey's claims[.]" *Id.*

The Ninth Circuit underscored that it is the nature of the claims that matters in determining whether the exception applies: "A plaintiff may not evade the [domestic relations] exception through artful pleading" and "[a] suit concerning modification of a decree cannot be disguised as a mere claim for damages based on a breach of contract." *Id.* at 1096 (quotation and alterations omitted).

2. *Bailey* relied heavily on the First Circuit's decision in *Irish v. Irish*, where that court held that breach of contract claims arising from a divorce settlement agreement are "best reserved for 'state resolution,'" and federal courts do not have jurisdiction over such cases. *See Irish*, 842 F.3d at 741. In *Irish*, a wife sued her former husband, alleging that he committed (1) fraud in the formation of their PSA (when he lied about the scope of his assets), (2) a

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[1] *Bailey* acknowledged that the courts of appeals are conflicted on how the exception applies. "Heeding the Supreme Court's admonition in *Ankenbrandt* and *Marshall* that the domestic relations exception is narrow, we decline to adopt the broad version of the exception embraced by some of our sister circuits." *Bailey*, 5 F.4th at 1097. That *Bailey* cites the Eighth Circuit's decision in *Wallace v. Wallace*, 736 F.3d 764, 767 (8th Cir. 2013), underscores the depth of the lower courts' confusion. As *Bailey* makes plain, the Eighth Circuit is unduly broad in its application of the exception in most cases, but overly formulaic as applied to third-party beneficiaries.

tort (when he interfered with her right to assets in their agreement), and (3) breach of contract (when he breached the terms of their PSA). *See id.*

Relying on the domestic relations exception, the district court dismissed the claims "sounding in tort and fraud, reasoning that they dealt with 'the formation of the divorce decree,' and that to decide them would therefore 'necessarily involve a revision of that decree.'" *Id.* (quoting the district court) (alteration omitted). But it allowed the breach of contract claims to proceed.[2]

The First Circuit reversed, holding that "the district court committed error by not dismissing [the wife]'s particular contract claims, which she had improperly brought in federal court[.]" *Id.* at 741-42. As to the significance of the property agreement, the Court noted such agreements are "incorporated and merged into the divorce judgment," rather than independent from divorce decrees. *Id.* at 738 (alterations omitted). The PSA there, here, and in most places, is part and parcel of the divorce.

The court applied *Ankenbrandt* and barred adjudication of these claims because they asked the federal court to "effectively classify[] the assets as marital and allocate[] them in the first instance," thereby "alter[ing] an existing domestic relations decree pertaining to divorce and alimony, by amending it and adding new terms to it, as well as by

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[2] All parties in *Irish* (as here) agreed that "the [state] probate court would have jurisdiction to try all of the claims" in the wife's suit. *See id.* at 1739. State forums remain open to these claims.

determining the meaning of that decree, which had been entered by the state probate court." *Id.* at 741-42.

The federalism-based rationale for its holding could not have been clearer: "State courts are perfectly competent to address the issues raised by [the wife]'s claims, and federal courts have no business 'allocating property that should be in the custody of a state court, or interfering with' a distribution already made by a state court." *Id.* (alteration omitted, and quoting 13E Wright & Miller, *supra*, § 3609.1 (3d ed.)). *Irish* also relied on long-standing First Circuit case law, which applies the domestic relations exception "[n]ot only [to] divorce, but the allocation of property incident to a divorce," because while *Ankenbrandt "*curtail[ed] the domestic relations exception, [it] nevertheless made clear the priority given the state resolution of family law issues, including alimony determinations." *DeMauro v. DeMauro*, 115 F.3d 94, 99 (1st Cir. 1997).

In the First Circuit, declining jurisdiction "reflects an understanding that the federal forum is inappropriate and reinforces the exception's policy rationale: state courts are experts at dividing marital property, entering the necessary decrees, and handling the sensitive conflicts that follow." *Irish*, 842 F.3d at 741 (citing *Ankenbrandt*, 504 U.S. at 704).

In reaching that conclusion, the First Circuit examines the nature of the claims, not the identity of the parties. It looks past the formalities of a complaint to determine what function a plaintiff "actually asks the court to perform," and whether that is a "domestic relations function reserved for state courts." *Irish*, 842 F.3d at 743. The wife's suit in *Irish* did precisely what

the step-daughters' suit does here, namely, "call[s] upon the federal court to determine whether certain assets were acquired and held by [the husband] during the marriage and then to decide what share of them should have been apportioned to [the wife] upon the parties' separation," such that "[t]he resulting 'damages' award operates as a sub silentio assignment of part of the [couples'] marital estate, on top of the preexisting arrangement approved by the probate court." *Id.*

Here, Respondents asked the trial court to determine the nature of marital assets held by Mr. Crain and to award damages from the marital estate under the PSA. What Ms. Irish asked of that court, Respondents sought here. One case was barred from federal court and the other litigated through appeal. The difference cannot be reconciled. The law in the First Circuit has been—and continues to be—that breach of contract claims may not be brought where the contract breached is a PSA. That squarely conflicts with the Eighth Circuit's exercise of jurisdiction here.

The Eighth Circuit's cursory attempt to distinguish this case from *Irish* on the basis that it was brought by beneficiaries to a promise in the PSA, rather than the ex-spouse, is illusory. Given the First Circuit's explanation of the domestic relations exception, it would not matter *by whom* a breach-of-the-PSA claim were brought. That circuit looks at what the suit actually asks the court to do, and whether that is a "domestic function" that disturbs a divorce decree by interfering with the distribution of marital property. Were this suit brought in the First

Circuit, rather than the Eighth, the court of appeals easily could quote *Irish* to reach the opposite result, rebuking the district court for "classify[ing] [] assets as marital and allocat[ing] them in the first instance," because doing so improperly "altered an existing domestic relations decree pertaining to divorce and alimony, by amending it and adding new terms to it, as well as by determining the meaning of that decree, which had been entered by the state probate court." *Id.* at 741. But in the Eighth Circuit, the hard and fast rule is that "a third-party beneficiary claim based in contract law" is not barred. App.13; *see also Lannan v. Maul*, 979 F.2d 627 (8th Cir. 1992). Where different facts present the same legal question but lead to different outcomes, a square conflict exists.[3]

That is how *Bailey* understands *Irish*. The *Bailey* court went so far as to swap out the parties and state its holding: The claims had to be dismissed because the plaintiff was asking a federal court "to 'determine whether certain assets were acquired and

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[3] Indeed, *Irish*'s focus on the remedy—and the frank concern expressed by that court about the degree to which the remedy interferes with state functions—makes these cases even more similar. *Irish* notes that "the structure of the award that the district court ultimately granted to [the wife] confirms our concerns." *Irish*, 842 F.3d at 743 n.3. That is because "[i]n splitting assets 80–20 and 50–50, the court did not calculate the sum of [the wife]'s damages from breached disclosure and good-faith obligations so much as declare what it believed to be an equitable division of those assets." *Id.* So too here, where the district court imposed a constructive trust over an amount equivalent to half the assets Mr. Crain owned at Dude's death, including marital assets owned with Mrs. Crain, to achieve (the district court's view of) an equitable result based on the court's interpretation of the PSA. App.107-08, 165-66.

held by [MacFarland] during the marriage and then decide what share of them should have been apportioned to [Bailey] upon the parties' separation.' . . . Bailey's requested remedy thus puts this case at the core of the domestic relations exception.'" *Bailey*, 5 F.4th at 1096-97 (quoting *Irish*, 842 F.3d at 743). The Ninth Circuit correctly views *Bailey* and *Irish* as aligned in approach. It is the Eighth Circuit that diverges, with its misdirected focus on parties rather than claims.

3. The Sixth Circuit agrees with the First and the Ninth. In *McLaughlin v. Cotner*, 193 F.3d 410 (6th Cir. 1999), a wife sued for breach of contract when her ex-husband failed to sell a parcel of jointly held property, as prescribed under the separation agreement incorporated into the divorce decree dissolving their marriage. *Id.* at 411. The court applied the exception because "the alleged 'contract' is part of a separation agreement that was voluntarily entered into by the parties, and the separation agreement was incorporated into the divorce decree." *Id.* at 413. In other words, because the issue in the plaintiff's ostensible breach-of-contract claim was whether the husband had complied with his obligations under the divorce decree, the "case thus involves issues arising out of conflict over a divorce decree, and, according to *Ankenbrandt*, comes within the 'domestic relations exception.'" *Id.* (discussing *Ankenbrandt v. Richards*, 504 U.S. 689 (1992)).

The Sixth Circuit's more recent decision in *Chevalier v. Estate of Barnhart* confirms that *McLaughlin* remains the law there. 803 F.3d 789 (6th Cir. 2015). *Chevalier* described the exception as one

that "deprives federal courts of diversity jurisdiction if the plaintiff seeks to *modify or interpret the terms* of an existing divorce, alimony, or child-custody decree." *Id.* at 795-96 (emphasis added). Thus, in *McLaughlin*, it "deprived the federal courts of jurisdiction to adjudicate a breach-of-contract claim arising from the alleged breach of a divorce decree," where "the divorce decree—not 'the law of contract or torts'—was the source of the obligations that the plaintiff sought to enforce." *Id.*

Here again, the question is what the plaintiff asks the court to do. The Sixth Circuit, "[w]hen analyzing the applicability of the domestic-relations exception," focuses on "the remedy that the plaintiff seeks," and whether that is a domestic relations function. *Id.* at 797. And "a plaintiff may not artfully cast a suit seeking to modify or interpret the terms of a divorce, alimony, or child-custody decree as a state-law contract or tort claim in order to access the federal courts." *Id.* at 795-96 (and collecting cases).

The district court in this case did what *Bailey*, *Irish*, and *McLaughlin* preclude. It applied Arkansas law to "determine[] the meaning" of a separation agreement that was part and parcel of a divorce decree. *Irish*, 842 F.3d at 741. The court interpreted the scope of Mr. Crain's obligations under the PSA, which the divorce decree specifically incorporated. *McLaughlin*, 193 F.3d at 413. The district court determined the ownership of assets—and distributed $100 million of them—pursuant to the divorce decree. As in *Irish* and *McLaughlin*, the district court should not have divvied up an estate already in the capable hands of the Arkansas court. The Eighth Circuit's

decision condoning the district court's conduct thus directly splits from the Ninth, First, and Sixth Circuits over the scope of the domestic relations exception and access to the federal courts.

4. Other courts, although they have not squarely addressed the question, would agree that any breach of contract claim would be foreclosed by the domestic relations exception, regardless who brings suit, if the contract alleged to have been breached was a settlement incorporated into a state court divorce decree.

For example, the Third Circuit has noted in dicta that "the modification of a divorce decree is analogous to the issuance of a divorce decree," and thus would implicate the domestic relations exception. *Matusow v. Trans-Cnty. Title Agency, LLC*, 545 F.3d 241, 246 (3d Cir. 2008). It declined to apply the exception in that case because the plaintiff did *not* "seek a modification of the" divorce decree but, rather, sought "damages [that] sound in tort, and, as such, they clearly fall outside of the domestic relations exception." *Id.* at 245.

Thus, *Matusow* held, the domestic relations exception did not apply to tort and property (rather than breach of contract) claims, and noted that the exception "*generally* does not apply to third parties," because such "suits against third parties do not *generally* involve the issuance or modification of a divorce, alimony, or child custody decree[.]" *Matusow*, 545 F.3d at 247. But while the Third Circuit *generally* bars application of the exception to claims against third parties, the Eighth Circuit categorically *forecloses* "a third-party beneficiary claim based in

contract law." App.13. If brought in the Third Circuit, this case would be the exception to that court's general rule, and would be barred.

Likewise, the Eleventh Circuit held in an unpublished decision that it is the nature of the claims and not the identity of the parties that determines whether the exception applies. The plaintiff in *McCavey v. Barnett*, 629 F. App'x 865 (11th Cir. 2015) was a family trust, and the trust asked the district court "to consider the propriety of [a couple's] divorce decree's division of the trust property." *Id.* at 867. The Eleventh Circuit held that the district court properly dismissed for lack of jurisdiction because federal courts "will not review or modify a state court divorce order even when the plaintiff couches the claims in other terms," here, alleged violations of trust law. *Id.* (citing *McLaughlin v. Cotner*, 193 F.3d 410, 412-13 (6th Cir.1999)).

Because the plaintiff "seeks to have a federal court review the division of marital property as determined in his divorce proceedings, such review falls within the domestic relations exception, and the district court properly determined that it lacked subject-matter jurisdiction under that rule." *Id.* Notably, the husband sued as trustee in that case for "the McCavey Family Trust," of which the "couples' four children were the beneficiaries." *Id.* at 866. There is no reason to believe the Eleventh Circuit would have allowed an identical claim to proceed if brought by the beneficiaries of the trust rather than the trustee.

The Seventh Circuit would agree with *Bailey*, *Chevalier*, and others on this point. In a case brought

by a couple's child, challenging various aspects of a divorce, the Seventh Circuit squarely stated that "the domestic-relations exceptions *would bar* [the parties' child] from seeking to 'void' the state court's custody orders." *See Sheetz v. Norwood*, 608 F. App'x 401, 404 (7th Cir. 2015). So too would the exception bar a child from seeking to modify a PSA.

Squarely on point, the Northern District of Illinois faced the precise set of facts that this case presents. In *Schnakenburg v. Krilich*, stepchildren of a deceased spouse sued the living spouse after their father passed, seeking to enforce their father's divorce decree with their mother. 573 F. Supp. 3d 1312, 1320 (N.D. Ill. 2021). The district court, relying on appellate-level precedent from the Seventh, Ninth (*Bailey*), and Sixth (*Chevalier*) Circuits, agreed that because "the Krilich Children are asking for a court to decide what property of their deceased father should be distributed to them in accordance with the divorce decree . . . the domestic-relations exception would preclude a federal court from hearing such a case[.]" *Id.* at 1320.[4] That case is this one, and the outcome the opposite.

5. As *Bailey* acknowledged, there are several federal district courts that have come to the same conclusion as the Ninth, First, and Sixth Circuits—and which would conflict with the decision below. This underscores the confusion. *See Budorick*

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[4] *Schnakenburg* also held that the case had to be dismissed on the basis of the probate exception to federal jurisdiction, which is "co-extensive" with the domestic relations exception. *See id.* at 1316.

v. Maneri, 2016 WL 10636371, at *2 (N.D. Ill. Dec. 19, 2016) (domestic relations exception prohibits a federal "court to marshal, determine the ownership of, and distribute the parties' assets subject to the marital decree") , *aff'd*, 697 F. App'x 876 (7th Cir. 2017); *Weiss v. Weiss*, 375 F. Supp. 2d 10, 15 (D. Conn. 2005) (federal courts may not exercise jurisdiction over contract claims between former spouses arising out of separation agreements").

B. The Circuits' Acknowledged And Entrenched Split On The Scope Of The Exception Merits Review.

A subset of domestic relations cases will, like this one, be brought by third-party beneficiaries. The circuits are split on whether the exception applies to these cases and that question alone merits review. In reviewing that question, the Court may also address a broader, entrenched, and acknowledged split among the courts regarding the proper test to employ in evaluating whether the domestic relations exception applies in all cases. On this broader question, too, the Eighth Circuit is the outlier and is wrong.

Bailey lays out the split and rejects the Eighth Circuit's side of it. The Ninth Circuit applies the exception "only to cases implicating 'particular status-related functions that fall within state power and competence.'" *Bailey*, 5 F.4th at 1095 (quoting 13E Wright & Miller, Federal Practice and Procedure § 3609.1 (3d ed. & Supp. 2020)). It does not "apply[] broadly to cases implicating 'the subject of domestic relations.'" *Id.* Thus, that court asks "whether the plaintiff seeks an issuance or modification of a divorce, alimony, or child-custody decree," including

"modification of an existing decree." *Id.* at 1096. As outlined above, *see* pp. 18-29, *infra*, other courts of appeals also adopt a narrow reading of the exception that accords with the Ninth Circuit.

In *Bailey*, the Ninth Circuit acknowledged that it was rejecting the view "embraced by some of our sister circuits" regarding the scope of the exception. It noted that the Seventh Circuit has "held that the exception divests jurisdiction not only from cases implicating 'distinctive forms of relief' such as the decrees in *Ankenbrandt*, but also from a 'penumbra' of cases implicating 'ancillary proceedings . . . that state law would require be litigated as a tail to the original domestic relations proceeding.'" *Id.* at 1097 (quoting *Friedlander v. Friedlander*, 149 F.3d 739, 740 (7th Cir. 1998)).[5]

Notably, *Bailey* rejected the Eighth Circuit's test, which "held, even more expansively, that the domestic relations exception divested jurisdiction" over cases "inextricably intertwined" with the state divorce proceedings. *Id.* (quoting *Kahn v. Kahn*, 21 F.3d 859, 861-62 (8th Cir. 1994)). *Kahn* explains the Eighth Circuit's test for when the exception applies, which is anytime a claim is "inextricably intertwined

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[5] This means that the Seventh Circuit, like the Eighth, takes a broad view of when the domestic relations applies. In the Seventh Circuit, "penumbras" of cases are generally barred and, in the Eighth, "inextricably intertwined" cases are barred. But on the narrower question of third-party beneficiary status, the Seventh Circuit actually gets it right, and the Eighth Circuit alone is the outlier. This is just another way in which confusion reigns among the courts of appeals and why this Court should provide guidance.

with [a] prior property settlement incident to the divorce proceeding[.]" 21 F.3d at 861. The "inextricably intertwined" test is exceedingly broad (except, apparently, as to third-party beneficiaries), and, as *Bailey* notes, cannot be reconciled with the Ninth, First, and Sixth Circuit's narrower articulation of the test.

Thus, the Eighth Circuit's decision highlights an entrenched and acknowledged split and deepens confusion among lower courts regarding the scope of the domestic relations exception. This Court should grant certiorari to provide guidance.

II. The Eighth Circuit's Outlier View Is Wrong.

The Eighth Circuit is wrong in its application of the domestic relations exception. Part and parcel of "the issuance of a divorce," as *Ankenbrandt* put it, is an agreement to divide property, and a dispute "involving" the division of such property cuts to the heart of a divorce settlement. State courts wrap property settlement agreements into the divorce decrees they issue, and thus an allegation that a spouse who enters into a divorce settlement to divide property and end his marriage breached the terms of that contract is a suit "involving . . . a divorce." The breacher is the divorcé and the contract is the divorce. This should fall squarely within *Ankenbrandt*'s orbit and must be heard by state—not federal—courts, as most lower courts have held. It is the "issue" litigated in the case—not the parties to it—that determines whether a dispute is within or outside the exception. When a cause of action asks a court to interpret or

modify the agreement, it is the province of state courts.

That is why, in line with *Ankenbrandt*'s holding on the domestic relations exception (and in accordance with the long line of cases from this Court that preceded *Ankenbrandt* and which trace the domestic relations exception's pedigree to the Founding), the Ninth, First, and Sixth Circuits are right, and the Eighth is wrong. The Eighth Circuit's jurisprudence (which dates to 1992, when *Ankenbrandt* issued, and was reaffirmed below) misinterprets this Court's decisions by carving out from the exception any breach-of-a-divorce-contract claim brought by a third-party beneficiary, rather than an ex-spouse.

The reason the Eighth Circuit gives for allowing third-party breach claims to proceed—that a suit alleging breach by a party to a divorce is not *really* about a divorce when the *beneficiaries* of that promise are third-parties—undercuts the very reason for the exception, which is to allow state courts (who often "retain jurisdiction" in such matters) to apply their "special proficiency" in the state law that is central to these disputes. *Aneknbrandt*, 504 U.S. at 704. State courts "are experts at dividing marital property, entering the necessary decrees, and handling the sensitive conflicts that follow." *Irish*, 842 F.3d at 741. And on the other end of the ledger, the Eighth Circuit's general test for when the exception applies—if a matter is "inextricably intertwined" with an underlying divorce—is exceedingly broad, and ignores this Court's express caution that the exception should be applied only narrowly.

As this case demonstrates, a divorcing couple's assets and children are often the primary point of contention in a divorce and the source of ongoing disputes (even *decades* later) about it. That is why *Ankenbrandt* applies the exception not just to cases "involving" a "divorce" but also "alimony" (assets due incident to divorce, which benefit one spouse and, often, children) and "child custody." 504 U.S. at 703-04. The domestic relations exception is narrow, but its plain terms should encompass cases arising directly from a divorce, *viz.*, those cases in which the cause of action is breach of a divorce contract where the federal courts are asked to interpret and thereby modify a divorce decree. Regardless who the intended beneficiaries of a promise made in divorce are, a promise made *in a divorce* "involv[es]" divorce. That is a clear and administrable line that accords with the purpose of the domestic relations exception without broadening its narrow reach.

This Court should intervene to ensure that lower courts do not federalize divorce disputes. The decision below opens federal courts to a flood of suits asking judges to interpret divorce decrees and distribute property according to state domestic relations law, upsetting the careful federalism balance the exception protects. As even the Eighth Circuit previously recognized, "[f]ederal courts should be extremely wary of becoming general arbiters of any domestic relations imbroglio." *Ruffalo by Ruffalo v. Civiletti*, 702 F.2d 710, 717 (8th Cir. 1983).

Numerous reasons support this sensible limitation on federal jurisdiction. First, states have a strong interest in adjudicating their own domestic

relations disputes. *Id.* Second, as this Court has explained, "it makes far more sense to retain the rule that federal courts lack power to issue" decrees pertaining to domestic relations issues "because of the special proficiency developed by state tribunals over the past century and a half[.]" *Ankenbrandt*, 504 U.S. at 704. Third, allowing concurrent jurisdiction creates "the possibility of incompatible federal and state court decrees in cases of continuing judicial supervision by the state." *Ruffalo*, 702 F.2d at 717. Finally, it avoids "the problem of congested dockets" in federal court. *Id.*

The Eighth Circuit's holding here—that federal courts are obligated to decide every claim arising from a divorce, alimony, or custody decree so long as the "feuding couple" are not parties to the case, App.13—ignores these long-standing principles.

Illustrating the problems posed by this jurisdictional expansion, both the district court and the Eighth Circuit misapplied key points of Arkansas trusts and estates law in granting relief. Federal courts do not typically impose constructive trusts to untangle 30-years-worth of joint property in simple contract disputes. The remedy reveals that the district court modified the terms of a divorce decree to achieve its view of equity and drastically altered Mrs. Crain's interest in her own property. This remedy was "essentially domestic" and errs because it interprets and modifies a pre-existing divorce decree.

Indeed, the imposition of a constructive trust on these facts is precisely the type of equitable maneuver that *a state court* is best positioned to consider. This federal district court did not mechanically apply the

law to find a breach and order damages. Quite the opposite—it imposed a novel (and likely, under state law, impermissible) equitable remedy to (in the federal court's view) remedy breach *of a divorce decree* over which the state court expressly retained jurisdiction. It is analogous to a federal court imposing civil contempt fines for violation of *a state court decree* on a matter entirely within the province of the states. This whole case exists outside the realm of federal court expertise and jurisdiction. It is unusual and complex because it does not belong here.

III. This Important Question Concerns The Scope Of Federal Jurisdiction And The Primacy Of The States In Domestic Disputes.

A central tenet of federalism is that "[t]he whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the States and not to the laws of the United States." *Hisquierdo v. Hisquierdo*, 439 U.S. 572, 581 (1979) (quoting *In re Burrus*, 136 U.S. 586, 593-594 (1890)). Precisely because of this long-standing recognition that domestic relations fall within the exclusive dominion of the states, "[f]ederal courts repeatedly have declined to assert jurisdiction over [suits involving divorce decrees] that presented no federal question." *Id.*; *see also Marshall*, 547 U.S. at 307 (recognizing the long-standing acceptance that the federal diversity statute "contain[s] an exception for certain domestic relations matters").

The domestic relations exception recognizes the primacy of states in the regulation of domestic matters by ensuring state courts, who are experts in the state

law central to this field, hear divorce disputes. *State of Ohio ex rel. Popovici v. Agler*, 280 U.S. 379, 383 (1930) ("[T]he jurisdiction of the Courts of the United States over divorces and alimony always has been denied."); *Sosna v. Iowa*, 419 U.S. 393, 404 (1975) (rejecting challenge to constitutionality of Iowa divorce requirement because domestic relations is "an area that has long been regarded as a virtually *exclusive province* of the States") (emphasis added). Indeed, "[i]f ever there were an area in which federal courts should heed the admonition . . . that 'a page of history is worth a volume of logic,' it is in the area of domestic relations," which "has been left to the States from time immemorial, and not without good reason." *Santosky v. Kramer*, 455 U.S. 745, 770 (1982) (Rehnquist, J., dissenting) (quoting *New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921)).

Heeding this, "[f]ederal courts repeatedly have declined to assert jurisdiction over divorces that presented no federal question." *Hisquierdo*, 439 U.S. at 581. The domestic relations exception traces its pedigree to the Judiciary Act of 1789, which limited federal jurisdiction to "all suits of a civil nature at common law or in equity," which in pre-founding England would have excluded the power to grant divorce decrees or award alimony. *Marshall*, 547 U.S. at 306-07. It remains an important exception to federal jurisdiction today: Even when Congress amended the diversity statute to reference "all civil actions," Congress nevertheless "meant to leave undisturbed the Court's nearly century-long interpretation of the diversity statute to contain an

exception for certain domestic relations matters." *Id.* at 307 (internal quotation marks omitted).

Ankenbrandt confirms that the rationale for the exception is rooted in federalism and the need to ensure that state courts control the disputes that flow from the issuance of their divorce decrees—a rationale that has nothing to do with the identity of the parties to suit. "[A]s a matter of judicial expertise, it makes far more sense to retain the rule that federal courts lack power to issue these types of decrees because of the special proficiency developed by state tribunals over the past century and a half in handling issues that arise in the granting of such decrees." *Ankenbrandt*, 504 U.S at 704. The *Bailey-Irish-McLaughlin* line of cases disclaiming federal jurisdiction over breach of contract disputes stemming from divorce decrees is faithful to long-standing principles of federalism endorsed by this Court and affirmed just this past term. The Eighth Circuit's decision is not.

IV. This Case Is A Good Vehicle To Review And Resolve The Split.

Because the Eighth Circuit's decision highlights a significant circuit split, deepens lower court confusion as to the scope of the domestic relations exception, and involves a question of exceptional importance, the Court should grant certiorari. This case is a good vehicle by which to review this question.

1. The Eighth Circuit squarely ruled on the question presented by rejecting Petitioner's assertion that the domestic relations exception meant that no

federal subject-matter existed. App.13. It did so based on long-standing Eighth Circuit precedent, holding that this case is "analogous" to the Eighth Circuit's 1992 decision, *Lannan v. Maul*, 979 F.2d 627 (8th Cir. 1992), which that court issued just months after this Court's decision in *Ankenbrandt*.

2. Because a lack of jurisdiction may be raised at any time, there is no risk Petitioner waived or forfeited her arguments that the court lacked jurisdiction. *See MOAC Mall Holdings LLC v. Transform Holdco LLC*, 598 U.S. 288, 292 (2023) ("[A] party may invoke [a lack of subject-matter jurisdiction] at any time—without fear of waiver, forfeiture, or similar doctrines interposing.").

3. There is no risk that Petitioner's claim will be mooted or otherwise become non-justiciable. Following the Eighth Circuit's issuance of its mandate, Mrs. Crain paid Respondents the amount decreed by the district court's judgment, and she now seeks to recover the money and assets she transferred given that the district court lacked jurisdiction.

Accordingly, this petition presents an appropriate vehicle and review should be granted.

CONCLUSION

The Court should grant the petition.

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