No. 24-808

In the Supreme Court of the United States

CONEY ISLAND AUTO PARTS UNLIMITED, INC.,
PETITIONER,

v.

JEANNE ANN BURTON, CHAPTER 7 TRUSTEE FOR VISTA-PRO AUTOMOTIVE, LLC,
RESPONDENT.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

BRIEF FOR RESPONDENT

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QUESTION PRESENTED

Federal Rule of Civil Procedure 60(b)(4) permits a district court to grant relief from a judgment that "is void." Rule 60(c)(1), in turn, provides that any "motion under Rule 60(b) must be made within a reasonable time."

The petition states the question presented as:

Whether Federal Rule of Civil Procedure 60(c)(1) imposes any time limit to set aside a void default judgment for lack of personal jurisdiction.

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STATEMENT

This Court is frequently called on to decide some of the thorniest, most complicated questions of statutory interpretation. This is not that kind of case. Federal Rule of Civil Procedure 60(b) sets out six grounds upon which parties may seek relief from a final judgment, including when the "judgment is void." Fed. R. Civ. P. 60(b)(4). Petitioner asks this Court to decide whether "Federal Rule of Civil Procedure 60(c)(1) imposes *any* time limit" on a Rule 60(b)(4) motion "to set aside a default judgment void for lack of personal jurisdiction." Pet. Br. i (emphasis

added). The court below correctly held that the Rule's text squarely answers the question: "A motion under Rule 60(b) must be made within a reasonable time." Fed. R. Civ. P. 60(c)(1). A "reasonable time" does not mean any time, no matter how unreasonable. The Court can and should stop there. This case is really that simple.

Petitioner never disputes that the plain text of Rule 60, standing alone, requires affirmance. Instead, petitioner asks this Court to redline the Rule to create an unwritten exception to Rule 60(c)(1), theorizing that applying the reasonable-time requirement would cause even concededly void judgments to "spring to life." Pet. Br. 31. But Rule 60's time limit does not resuscitate void judgments any more than appeal deadlines cure trial errors. Rule 60(c)(1) simply obligates parties seeking relief from void judgments to do so within a reasonable time. Such procedural requirements permeate the law.

Without any textual toehold, petitioner tries to stand on pre-Rule 60 practice. But that practice cannot trump the text and was neither consistent nor incorporated into Rule 60. Petitioner's reliance on lower-court decisions and treatises likewise goes nowhere. Those authorities concededly ignore Rule 60(c)(1)'s unambiguous terms in favor of the kind of judicial rule-making that has long since fallen out of favor.

Nor is there anything unfair about affirmance. Rule 60(c)(1) generously allows parties to justify why they waited to seek relief from void judgments. Petitioner here just refused to do so. This Court should not defy the Rule's text solely to reward parties who unreasonably delay.

A. Factual Background

1. Vista-Pro Automotive, LLC, was an auto-parts company formed in Nashville in 2009. Fin. Statements 9,

Bankr. M.D. Tenn., No. 3:14-bk-9118, Dkt. 315. The company operated across North America with distribution facilities in Ohio, Nevada, Mississippi, and Mexico. *Id.* at 17.

Five years after opening, Vista-Pro entered bankruptcy. Pet.App.6a-7a. Vista-Pro's creditors initiated involuntary Chapter 7 liquidation proceedings in the Middle District of Tennessee, and soon after the parties agreed to convert the case into a Chapter 11 restructuring proceeding. Pet.App.6a-7a.

As part of the restructuring, Vista-Pro began filing adversary proceedings in bankruptcy court to collect outstanding accounts receivable. Pet.App.82a. One such suit was against petitioner Coney Island Auto Parts Unlimited, Inc., a New York corporation that owed Vista-Pro $48,696 in unpaid auto-part invoices. Pet.App.7a, 106a.

Vista-Pro served petitioner by mail on February 23, 2015. Pet.App.82a-83a. The Bankruptcy Rules permit parties to serve "a domestic … corporation … by mailing [a] copy" of the summons and complaint "to an officer … or an agent authorized by appointment or by law to receive service." Fed. R. Bankr. P. 7004(b)(3)(A). In the New York Department of State's registry, petitioner had listed the corporation itself as the party authorized to receive service. Pet.App.7a-8a. Accordingly, Vista-Pro mailed process to "Coney Island Auto Parts Unltd., Inc." at its listed Brooklyn address. Pet.App.7a.

Petitioner failed to respond. Pet.App.8a. In April 2015, the bankruptcy court clerk entered a default. Pet.App.8a; *see* Fed. R. Civ. P. 55(a). The clerk's entry of default stated that "the complaint and the summons were duly served upon Coney Island on February 23, 2015." Entry of Default 1, Bankr. M.D. Tenn., No. 3:15-ap-90079, Dkt. 13. Vista-Pro then moved for a default judgment,

again notifying petitioner by mail at its New York headquarters. Pet.App.8a; *see* Fed. R. Civ. P. 55(b).

In May 2015, the bankruptcy court entered a default judgment in favor of Vista-Pro for $48,696 plus interest. Pet.App.8a, 107a. The default-judgment order stated that the "Complaint and Summons were served on Coney Island on February 23, 2015." Default Order 1, Bankr. M.D. Tenn., No. 3:15-ap-90079, Dkt. 17.

2. In 2015, Vista-Pro ceased operating. Pet.App.98a n.4. The underlying bankruptcy case was converted back to a Chapter 7 liquidation proceeding, and on June 9, 2015, the bankruptcy court appointed respondent Jeanne Burton as the trustee of the estate. Pet.App.8a. The trustee immediately began working to tie up loose ends and collect obligations owed to the estate, including by settling outstanding claims from other debtors. *E.g.*, Settlement Agreements, Bankr. M.D. Tenn., No. 3:14-bk-9118, Dkt. 425, 489, 557.

In that same vein, the trustee repeatedly sought to enforce the default judgment against petitioner. Pet.App.8a-9a. In April 2016, she mailed petitioner a demand letter to the attention of its CEO. Pet.App.8a-9a. Petitioner agrees it received this letter but never responded. Pet.App.9a, 84a. In May 2016, the trustee served discovery on petitioner. Young Aff. 2, Bankr. S.D.N.Y., No. 1:20-mp-401, Dkt. 7-1 ("Young Aff."). Receiving no response, the trustee moved to compel two months later, serving notice on petitioner by mail addressed to the CEO. *Id.* at 2-3. The bankruptcy court granted the motion to compel in August 2016, prompting the trustee to serve the court order on petitioner. *Id.* at 3. Petitioner admits it received those documents and did not respond. Mot. Hr'g Tr. 10-11, Bankr. M.D. Tenn., No. 3:15-ap-90079, Dkt. 71 ("Mot. Hr'g Tr."). That set of events left the trustee with the difficult task of trying to

find "a bank account to levy," which took "nearly two years." Young Aff. 3.

In 2018, the trustee served subpoenas on petitioner's vendors to determine if petitioner owed them funds that the trustee could levy upon and provided petitioner with notice of those subpoenas. *Id.* Petitioner stipulates it received those subpoenas too. *See* Mot. Hr'g Tr. 10-11, 41-43.

On September 14, 2020, the trustee registered the 2015 default judgment in the Southern District of New York, where petitioner was headquartered, and on February 3, 2021, she served a subpoena on petitioner's bank. Pet.App.102a; Registration, Bankr. S.D.N.Y., No. 1:20-mp-401, Dkt. 1. In February 2021, the bank placed a hold on petitioner's funds for twice the amount of the judgment: approximately $97,000. Pet.App.9a. A New York City marshal ultimately seized a sum sufficient to satisfy the judgment. Pet.App.113a.

B. Procedural Background

1. Even after its funds were frozen, petitioner did not take legal action until October 2021—eight months after the bank hold and five-and-a-half years after petitioner admits it was aware of the default judgment. Pet.App.9a, 84a. Petitioner filed a Rule 60(b)(4) motion in the Southern District of New York bankruptcy court, seeking to vacate the May 2015 default judgment. Pet.App.9a-10a, 84a; *see* Fed. R. Bankr. P. 9024(a) (incorporating Rule 60). Rule 60(b)(4) provides that "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment" for six enumerated reasons, including where "the judgment is void." Rule 60(c)(1) states that "[a] motion under Rule 60(b) must be made within a reasonable time."

Petitioner argued that the May 2015 judgment was void because the court lacked personal jurisdiction. Pet.App.10a, 144a. According to petitioner, Vista-Pro improperly served the corporation without addressing the service to an individual officer, even though petitioner had designated the corporation as the New York agent to receive service of process. Pet.App.144a.

The New York bankruptcy court denied petitioner's motion, holding that as a matter of comity, the Tennessee bankruptcy court that issued the judgment should decide the motion. Pet.App.144a-46a. Petitioner appealed that decision to the Southern District of New York, which affirmed. Pet.App.117a-33a.

2. After another inexplicable three-month delay, petitioner filed a similar Rule 60(b)(4) motion in the Middle District of Tennessee bankruptcy court in July 2022. Pet.App.85a, 103a. Thus, petitioner filed the instant motion over seven years after entry of the default judgment, and over six years after April 2016, when petitioner admits it had notice of the judgment. Pet.App85a. Petitioner did not explain its delay or argue "that the delay should be considered reasonable." Pet.App.98a.

The bankruptcy court denied the motion as untimely. Pet.App.100a. The court observed that Rule 60(c)(1) "clearly states that motions under Rule 60(b) 'must be made within a reasonable time.'" Pet.App.95a. The court held that it was unreasonable for petitioner to wait over five years between April 2016—when it admitted it knew of the default judgment—and October 2021—when it filed a Rule 60(b)(4) motion in New York. Pet.App.98a-100a.

The district court affirmed. Pet.App.78a. The court agreed that Rule 60(c)(1) imposes a reasonable-time limit on Rule 60(b)(4) motions, that petitioner's "delay [was]

unreasonable" on its face, and that "Coney Island offer[ed] nothing to justify the delay." Pet.App.77a.

3. The Sixth Circuit affirmed in a 2-1 decision. Pet.App.6a-67a.

The court held Rule 60's text compelled the conclusion that motions to vacate void judgments must be filed within a reasonable time. Pet.App.14a. The court explained that Rule 60(b)(4) permits motions to vacate judgments as "void," including for lack of personal jurisdiction. Pet.App.13a. And Rule 60(c)(1) requires that "[s]uch motions … 'be made within a reasonable time.'" Pet.App.13a (quoting Fed. R. Civ. P. 60(c)(1)). As the court noted, while "motions brought under Rule 60(b)(1), (2) or (3)" must be brought within one year, "*all*" Rule 60(b) motions "must be filed within a reasonable time." Pet.App.14a (cleaned up) (emphasis added). This difference demonstrates "the drafters … knew how to establish different standards for the various grounds" for relief. Pet.App.25a.

The court also noted that "applying a reasonable-time limitation to Rule 60(b)(4) motions comports with basic equitable principles." Pet.App.27a. A contrary rule would allow parties to "engage in flagrantly inequitable conduct … by consciously sleeping on [their] rights in order to cause prejudice to the judgment holder, undermine the finality of long-forgotten judgments, or upset reliance interests." Pet.App.29a. Furthermore, "nothing" about Rule 60's reasonable-time limit "requires unfairness to a party who is subject to a void judgment." Pet.App.31a. "A fact-specific inquiry … can account for a variety of [extenuating] circumstances, including a party's innocent delay in learning of a void judgment against it or in learning why the judgment is void." Pet.App.31a.

Applying Rule 60(c)(1)'s timeliness requirement, the Sixth Circuit held the district court properly denied petitioner's motion because "Coney Island [did] not argue[] that it brought its Rule 60(b)(4) motion within a reasonable time under any understanding of that standard." Pet.App.35a.

Judge McKeague dissented. Pet.App.36a-67a. In his view, notwithstanding the "the timeliness requirement in the text of Rule 60(c)(1) … an allegedly void judgment … must necessarily be vulnerable to vacatur at any time." Pet.App.43a-44a.

SUMMARY OF ARGUMENT

I. Rule 60(c)(1) requires Rule 60(b)(4) motions to be filed within a reasonable time.

A. Rule 60(c)(1) could not be clearer: "A motion under Rule 60(b)"—including a Rule 60(b)(4) motion—"must be made within a reasonable time." The plain text thus forecloses petitioner's proposed categorical rule that Rule 60(b)(4) motions can be filed at any time, including an unreasonable time. This Court too has recognized that Rule 60(c)(1)'s reasonable-time requirement applies to all Rule 60(b) motions. Indeed, petitioner does not dispute that its reading defies the Rule's plain text.

B. The structure confirms what the text requires. The drafters knew how to subject specific grounds for relief under Rule 60(b) to different timing rules. Rule 60(c)(1) sets a special one-year time limit for motions made under Rule 60(b)(1), (2), and (3), but makes no similar change to the reasonable-time rule for Rule 60(b)(4) motions. So too could the drafters have placed Rule 60(b)(4) motions under Rule 60(d), which provides other mechanisms for correcting judgments without dictating a specific time limit.

C. The drafting history of Rule 60 likewise confirms what the text says. The Advisory Committee rejected a proposal that imposed no time limit for filing motions to set aside void judgments. The corresponding Advisory Committee notes to Rule 60 also explain that the Rule replaced preexisting motion practice and imposed a timeliness requirement on every ground for relief in Rule 60(b).

D. Rule 60(c)(1) generously affords movants the flexibility to seek relief within any reasonable time. By contrast, petitioner's atextual reading would help only those movants, like petitioner, who unreasonably delay. Petitioner would allow motions to be filed decades after entry of judgment, long after memories have faded and evidence is lost.

II. Petitioner's atextual reading is flawed at every turn.

A. Petitioner's position is premised on the concept that a void judgment is a legal nullity that cannot acquire validity through the passage of time. But that theme conflates the voidness of a judgment with the procedures for vacating that judgment. The time limit in Rule 60(c)(1) is no different from other procedural requirements that restrict how parties may seek relief from judgments.

B. Petitioner argues that this Court should hold that Rule 60 codified a historical practice where courts unvaryingly vacated void judgments at any time. Petitioner is triply wrong. First, historical practice cannot surmount unambiguous text. Second, Rule 60 did not simply codify existing practice; for example, Rule 60(c)(1) subjects fraudulent judgments to a reasonable-time limit, breaking with the historical rule that certain fraudulent judgments could be vacated at any time. Rule 60(c)(1) did the same for void judgments. Third, many courts historically did

set time limits, in multiple contexts, on efforts to vacate void judgments.

C. Petitioner pivots to stray remarks from individual drafters during the Advisory Committee proceedings. Setting aside the limited weight this Court affords to these types of statements, petitioner misconstrues the record. Nothing in these proceedings indicates that the Advisory Committee intended for courts to depart from Rule 60's text.

D. Next, petitioner appeals to lower-court consensus, arguing that every circuit except the Sixth allows Rule 60(b)(4) motions at any time. Those lower-court cases neither bind the Court nor justify ignoring the Rule's plain text. Plus, petitioner oversimplifies the lay of the land; courts nationwide have denied tardy Rule 60(b)(4) motions.

E. Petitioner alludes to due process. But it forfeited any free-standing due-process argument below, and the canon of constitutional avoidance has no place here given Rule 60's clear text. This argument is also meritless, as Rule 60(c)(1) amply accounts for whether the moving party lacked actual notice of the judgment or has other reasonable grounds to explain the delay.

F. Finally, petitioner erroneously tries to downplay the inequitable consequences of its boundless interpretation of Rule 60. Petitioner misstates the legal effects of vacating a judgment and misconstrues the facts in an effort to blame the trustee for petitioner's own delay.

ARGUMENT

I. Rule 60(c)(1) Requires Rule 60(b)(4) Motions to Be Filed Within a Reasonable Time

Every interpretive tool supports requiring Rule 60(b)(4) motions to comply with Rule 60(c)(1)'s reasonable-time requirement.

A. The Text Imposes the Reasonable-Time Limit

This Court "give[s] the Federal Rules of Civil Procedure their plain meaning." *Bus. Guides, Inc. v. Chromatic Commc'ns Enters., Inc.*, 498 U.S. 533, 540 (1991) (citation omitted). That means the Court will not recognize unstated carveouts when the "Rules are plain" and there is "no room in the text" for an exception. *Carlisle v. United States*, 517 U.S. 416, 421 (1996). And where the terms of a rule are "unambiguous," the "judicial inquiry is complete." *Pavelic & LeFlore v. Marvel Ent. Grp.*, 493 U.S. 120, 123 (1989) (citation omitted).

Rule 60(c)(1) unambiguously requires that Rule 60(b)(4) motions be brought within a reasonable time. Rule 60(b) first authorizes a court to "relieve a party … from a final judgment" "[o]n motion and just terms." Rule 60 then specifies six "reasons" for relief, including where "the judgment is void." Fed. R. Civ. P. 60(b)(4). Finally, Rule 60(c) regulates the "[t]iming" of such motions: "A motion under Rule 60(b) *must be made within a reasonable time*—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding." *Id.* 60(c)(1) (emphasis added). No more interpretive work is required. A Rule 60(b)(4) motion seeking relief from an allegedly void judgment is "[a] motion under Rule 60(b)"; it accordingly "must be made within a reasonable time." *Id.*

The term "reasonable" necessarily requires a "fact-specific inquiry" to determine the period in which a motion is fairly considered timely. Pet.App.31a. In 1946, as now, the term "reasonable" meant "within due or just limits." *Webster's New International Dictionary of the English Language* 2074 (2d ed. 1946). Put differently, a "reasonable" time is a time "not exceeding the limit prescribed by reason." *The American Collegiate Dictionary* 1009 (Clarence L. Barnhart ed., 1948). As those definitions show, it would have been nonsensical for the drafters to say "reasonable time" if they meant an *un*reasonable amount of time or *any* time. Indeed, if Rule 60(b)(4) motions could be filed at any time, no case-specific inquiry into the timing of the motion would ever occur. Even though Rule 60(c)(1) sets an individualized inquiry into the timing for all Rule 60(b) motions, petitioner's reading would render Rule 60(c)(1) a nullity for Rule 60(b)(4) motions only—without the slightest textual basis for doing so. That is not how this Court interprets legal texts.

Quite to the contrary, this Court has consistently read Rule 60(c)(1) to mean that all Rule 60(b) motions must be brought within a reasonable time. In *Gonzalez v. Crosby*, the Court recognized that Rule 60(b) "is often used to relieve parties from the effect of a default judgment," but the "Rule … contains its own limitations, such as the requirement that the motion 'be made within a reasonable time.'" 545 U.S. 524, 534-35 (2005). Similarly, in *Kemp v. United States*, the Court said twice that "*all* Rule 60(b) motions[] must be made 'within a reasonable time.'" 596 U.S. 528, 538 (2022) (emphasis added); *accord id.* at 533. The concurrence agreed: "Rule 60(c)(1) … requires that *all* Rule 60(b) motions be 'made within a reasonable time.'" *Id.* at 540 (Sotomayor, J., concurring) (emphasis added).

B. The Rule's Structure Supports the Reasonable-Time Limit

Rule 60's structure underscores the text. Had Rule 60's drafters wanted a different deadline for Rule 60(b)(4) motions, they could have easily said so. Rule 60(c)(1) already changes the timing rule for certain motions: Motions brought under Rule 60(b)(1), (2), or (3)—alleging mistake, newly discovered evidence, or fraud—must be brought within one year. Rule 60's drafters thus "had at their disposal readily available language" to single out Rule 60(b)(4) motions for special treatment but chose not to use it. *Kemp*, 596 U.S. at 534.

Alternatively, had the drafters intended there to be no time limits on motions challenging void judgments, they could have placed such motions outside the Rule 60(b) framework entirely. Rule 60 prescribes two types of motions and separate timing rules for each. Rule 60(a) motions to correct "clerical mistake[s]" generally must be brought before "an appeal has been docketed." Fed. R. Civ. P. 60(a). Rule 60(b) motions, meanwhile, "must be made within a reasonable time," with a one-year cap for Rule 60(b)(1), (2), and (3) motions. *Id.* 60(c)(1). Courts also retain three other "[p]owers" to correct judgments, for which there are either no express limitations periods or the timing rules are incorporated by reference. *See id.* 60(d). It would have been simple for the drafters to put Rule 60(b)(4) motions on that final list, or to clarify that the Rule "does not limit a court's power to … set aside a judgment" as void for lack of personal jurisdiction at any time. *Cf. id.* 60(d)(3). Instead, the drafters subjected Rule 60(b)(4) motions to Rule 60(c)(1)'s reasonable-time limit.

C. The Rule's Drafting History Supports the Reasonable-Time Limit

The proceedings and report of the Advisory Committee also show that Rule 60's authors deliberately imposed a reasonable-time limit on Rule 60(b)(4) motions.

1. The original 1938 version of Rule 60 required parties to file all motions to set aside a judgment "within a reasonable time, but in no case exceeding six months." Fed. R. Civ. P. 60(b) (1938). In 1946, the Advisory Committee put Rule 60(b) in its modern form, amending the text to enumerate six grounds for relief from final judgments. While discussing the contents of that list, the Advisory Committee also debated corresponding changes to the timing rule. The Committee first considered the following proposal:

> [A] motion in cases (1), (2), and (3) [that is, mistake, newly discovered evidence, and fraud upon a party] shall be made within a reasonable time but in no case more than one year after the judgment.

3 Proceedings of the Advisory Committee on Rules for Civil Procedure 610 (1946) ("Advisory Committee Proceedings") (second alteration in original).

Thus, as originally phrased, the Rule would *not* have imposed a reasonable-time requirement on Rule 60(b)(4) motions challenging void judgments. As one committee member summarized, "we have a time limitation on the first set of [Rule 60(b)] motions and no time limitation on the second set." *Id.* at 607. But later in the proceedings, a committee member proposed "that *all* motions should be made within a reasonable time, but in [certain] cases … they must be made in not more than a year." *Id.* at 611 (emphasis added). "What would be a reasonable period would vary according to the circumstances." *Id.* The

Committee ultimately adopted that revision. *Id.* at 695-96. In other words, Rule 60's drafters consciously included Rule 60(b)(4) motions in Rule 60(c)(1)'s ambit.

2. The report of the Advisory Committee—now codified in the notes to Rule 60—further states that Rule 60 replaced preexisting motion practice with a uniform federal procedure and defined deadlines. Before Rule 60's enactment, numerous procedures in law and equity provided relief from void judgments. James William Moore & Elizabeth B.A. Rogers, *Federal Relief from Civil Judgments*, 55 Yale L.J. 623, 627 (1946). These bills and writs were available in different circumstances and had different time limits. *See id.* at 653-82. In Rule 60's original 1938 form, it was unclear whether the "old common law writs and equitable remedies" endured, spawning considerable debate among courts and commentators about the relationship between Rule 60 and those old remedies. *See* Fed. R. Civ. P. 60(b) advisory committee's note to 1946 amendment.

"[O]ne of [the] purposes" for the Rule's overhaul in 1946 was to clarify what mechanisms could be used "to obtain relief from judgments." *Id.* The 1946 amendments made the following changes: They clarified motion practice, Fed. R. Civ. P. 60(a)-(c); they preserved three preexisting forms of relief, *id.* 60(d); and they "abolished" the old bills and writs, *id.* 60(e).[1] In the words of Committee Chair (and former Attorney General) William Mitchell, Rule 60 "establish[ed] the practice for every recognized way of changing and granting relief from judgments, and … there [are] no ways left that [a] court could … grant relief from a judgment which" the Rules do not "provide[] some procedure for." Advisory Committee Proceedings 553-54.

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[1] These subsection numerals were added in 2007.

These amendments left only "[t]wo types of procedure" available to obtain relief from final judgments, and the Committee thought both had prescribed time limits. Fed. R. Civ. P. 60(b) advisory committee's note to 1946 Amendment. *First*, a party could make a "motion in the court … in which the judgment was rendered." *Id.* Such motions are governed by the Federal Rules—"including the provisions of Rule 60(b)"—and "[i]n *each case* there is a limit upon the time within which resort to a motion is permitted, and this time limit may not be enlarged." *Id.* (emphasis added). *Second*, where "the right to make a motion is lost by the expiration of the time limits fixed in these rules, the only other procedural remedy is by a new or independent action to set aside a judgment" under Rule 60(d)(1). *Id.* And even "[w]here the independent action is resorted to," there are still "limitations of time"—specifically, "laches or statutes of limitations." *Id.* In short, the drafters intended that all actions to obtain relief from a final judgment would be time limited. If a party moved under Rule 60(b), Rule 60(c)(1)'s time limits applied; if a party brought an equitable action, then laches (or an applicable statute) would still require action within a reasonable time.

D. The Rule's Purpose Supports the Reasonable-Time Limit

The Court will not deviate from the plain text, even where it leads to a "harsh outcome." *Lamie v. U.S. Tr.*, 540 U.S. 526, 538 (2004). But there is nothing harsh about enforcing Rule 60(b)(4) as written. The Rule recognizes that "[t]here must be an end to litigation someday, and free, calculated, deliberate choices are not to be relieved from." *Ackermann v. United States*, 340 U.S. 193, 198 (1950). "Rule 60(b)(4) strikes a balance between the need for finality of judgments and the importance of ensuring that litigants have a full and fair opportunity to litigate a

dispute." *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 276 (2010).

The Court has thus recognized that parties can forfeit their right to bring a Rule 60(b)(4) motion through inaction. In *Espinosa*, a bankruptcy court ordered a reorganization plan, and years later a creditor sought to vacate that order under Rule 60(b)(4) because, among other things, it never received the summons and complaint. *Id.* at 264. This Court held that the order was enforceable because the objecting creditor "had actual notice of the filing." *Id.* at 275. "Rule 60(b)(4) does not provide a license for litigants to sleep on their rights," and the creditor "forfeited its arguments regarding the validity of service … by failing to raise a timely objection." *Id.*

Rule 60(c)(1) codifies the same principle. A party forfeits its Rule 60(b)(4) challenge if it unreasonably delays. Rule 60(c)(1) creates a generous, reasonable-time limit, which is necessarily fact-specific and "can account for a variety of circumstances." Pet.App.31a; *supra* p. 12. Courts therefore may consider the age of a judgment, when a party had actual notice of that judgment, its diligence in pursuing relief, and prejudice to other parties who have relied on the judgment. Pet.App.31a-35a; *accord Salazar ex rel. Salazar v. District of Columbia*, 633 F.3d 1110, 1117-18, 1118 n.5 (D.C. Cir. 2011) (collecting cases); 12 J. Moore et al., Moore's Federal Practice § 60.65[1] (3d ed. 2025). The Rule gives parties a period that is fair on the facts of each case to obtain relief from void judgments.

Maintaining the finality-fairness balance is particularly important in the context of bankruptcy law. A "'chief purpose'" of bankruptcy is the "'prompt and effectual' resolution of bankruptcy cases 'within a limited period,'" so

delays hurt "debtors as well as creditors." *Taggart v. Lorenzen*, 587 U.S. 554, 564 (2019) (quoting *Katchen v. Landy*, 382 U.S. 323, 328 (1966)).

By contrast, ignoring Rule 60(c)(1)'s text "would permit a party to engage in flagrantly inequitable conduct," including "by consciously sleeping on its rights in order to cause prejudice to the judgment holder, undermine the finality of long-forgotten judgments, or upset reliance interests." Pet.App.29a. Defendants who were on notice of the proceedings or judgments could nevertheless unreasonably delay in seeking relief, waiting until key witnesses are dead or cannot recollect essential events and evidence is lost or destroyed. As a result, the judgment holder may not have any realistic way to prove her case many years later.

This case illustrates the point. Petitioner challenges the "nearly fully administered Chapter 7 estate of a debtor that ceased operating" a decade ago. *See* Pet.App.98a n.4. Had the default judgment been set aside when petitioner filed its Rule 60(b) motion—*i.e.*, over seven years after entry—the trustee would have been significantly prejudiced. For example, the trustee may have been unable to prove the debt underlying this adversary proceeding due to inaccessible documents or the faulty memories of witnesses, especially because the debtor (Vista-Pro) has shuttered operations. Petitioner's own filings corroborate this concern. Before the New York bankruptcy court, petitioner claimed it had already paid Vista-Pro but lacked documentation to back up that assertion "due to the age of the invoices." Beyda Aff. 2, Bankr. S.D.N.Y., No. 1:20-mp-401, Dkt. 5-1.

II. Petitioner's Reasons for Disregarding the Text Lack Merit

Petitioner does not dispute that simply applying the Rule's text requires affirming. Instead, petitioner asserts that void judgments must be subject to challenge at any time because these judgments cannot become valid through the passage of time. But Rule 60(c)(1)'s application does not dictate whether or not a judgment is void—the Rule simply adds a procedural hurdle for parties to seek relief from judgments they think are void. Such procedural requirements are common and uncontroversial throughout the law. Historical practice, Advisory Committee statements, lower-court decisions, and the equities don't help petitioner, either.

A. Petitioner Conflates the Validity of Judgments with the Procedures for Attacking Judgments

1. Petitioner's central theme (at 7, 9, 12-13, 31) is that a void judgment cannot gain validity over time and "will always remain void." Pet. Br. 12 (quoting *Pennoyer v. Neff*, 95 U.S. 714, 728 (1877)). This argument conflates two distinct concepts: whether a void judgment can become valid, on the one hand, and the procedures for vacating a judgment, on the other. Applying Rule 60(c)(1) in this case says nothing about whether the default judgment here is valid or whether petitioner was properly served—indeed, the lower courts expressly did not address the issue. Pet.App.38a-40a, 80a-81a. The courts simply held that, under Rule 60(c)(1), petitioner waited too long to invoke Rule 60(b)(4)—a point that petitioner did not (and does not) contest. Pet.App.35a, 81a.

Just because a judgment is void does not mean there are no procedural requirements that might apply when challenging that judgment based on its voidness. In fact, this Court and others already place many limitations on

vacatur that, in effect, permit some void judgments to remain final.

Take preclusion. Res judicata forecloses jurisdictional challenges where, for example, a party earlier had an opportunity to dispute a court's jurisdiction and chose not to. *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 153 & n.6 (2009); *Ins. Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 n.9 (1982). Similarly, a party that challenges a court's jurisdiction and loses is collaterally estopped from challenging jurisdiction on the same grounds even if the original court objectively lacked jurisdiction. *See Stoll v. Gottlieb*, 305 U.S. 165, 172 (1938). Preclusion does not revive a void judgment any more than Rule 60(c)(1) does here.

Basic rules of forfeiture can have the same effect and may apply to Rule 60(b)(4) motions asserting a lack of personal jurisdiction in several different ways. Federal Rule of Civil Procedure 12(h)(1) requires personal jurisdiction to be raised in a party's first motion or responsive pleading. *See Ins. Corp. of Ir.*, 456 U.S. at 703-05. Analogizing to that Rule, courts reject Rule 60(b)(4) motions where:

- The movant previously brought another Rule 60(b) motion that did not allege voidness. *E.g.*, *State St. Bank & Tr. Co. v. Inversiones Errazuriz Limitada*, 374 F.3d 158, 179 (2d Cir. 2004).
- The movant raised a different jurisdictional defect on appeal than in its Rule 60(b)(4) motion. *E.g.*, *Farm Credit Bank of Balt. v. Ferrera-Goitia*, 316 F.3d 62, 68 (1st Cir. 2003); *see also LMC Props., Inc. v. Prolink Roofing Sys., Inc.*, 2024 WL 4449421, at *5 & n.21 (5th Cir. Oct. 9, 2024) (collecting additional cases).
- The movant could have but did not challenge jurisdiction on direct appeal. *E.g.*, *Universitas*

Educ., LLC v. Grist Mill Cap., LLC, 2023 WL 2170669, at *2 (2d Cir. Feb. 23, 2023).

These routine practices reflect the "familiar" principle that rights, including constitutional ones, may be forfeited. *United States v. Olano*, 507 U.S. 725, 731 (1993).

The above principles defeat petitioner's blanket suggestion that a lack of jurisdiction may always be attacked, forever.

2. Procedural limits on parties' ability to seek relief, even from allegedly void judgments, are common in other contexts too. These rules do not "vivify" a void judgment, Pet. Br. 7, any more than applying an appeal deadline cures a legal error in the underlying proceedings. Indeed, this Court strictly enforces appeal deadlines even when the consequence of missing a deadline could be life in prison, or even death. *See Bowles v. Russell*, 551 U.S. 205, 207, 212 n.4, 213 (2007).

Or consider post-conviction relief. The structure and purpose of the Antiterrorism and Effective Death Penalty Act ("AEDPA") mirror Rule 60. Like Rule 60(b)(4), AEDPA authorizes courts to entertain a motion "that the court was without jurisdiction to impose [a] sentence." 28 U.S.C. § 2255(a). And like Rule 60(c)(1), AEDPA sets a time limit: a strict "1-year period of limitation" on prisoners' habeas petitions. 28 U.S.C. § 2255(f); *see also id.* § 2244(d)(1) (same one-year limit for state-prisoner petitions). This deadline reflects Congress' judgment about "how to balance [its] interest against error correction" with its "interest in the finality of sentences." *Jones v. Hendrix*, 599 U.S. 465, 491 (2023) (citation omitted). Courts thus routinely deny motions for post-conviction relief as time-barred under AEDPA, recognizing that "jurisdictional challenges are [not] exempt from the one-year limitations period." *See, e.g.*, *Barreto-Barreto v.*

United States, 551 F.3d 95, 100 (1st Cir. 2008) (section 2255); *United States v. Scruggs*, 691 F.3d 660, 666 & n.13 (5th Cir. 2012) (same); *Pacheco v. Habti*, 62 F.4th 1233, 1240-42 (10th Cir. 2023) (section 2244); *Jones v. Warden*, 683 F. App'x 799, 801 (11th Cir. 2017) (same).

Take one more example. Where federal officers were improperly appointed under the Constitution, actions taken pursuant to their apparent authority are "void *ab initio*." *Noel Canning v. NLRB*, 705 F.3d 490, 493 (D.C. Cir. 2013), *aff'd*, 573 U.S. 513 (2014). Still, a party must make a "timely challenge" to a federal official's authority to act. *Ryder v. United States*, 515 U.S. 177, 182 (1995); *accord Lucia v. SEC*, 585 U.S. 237, 251 (2018).

B. Historical Practice Cannot Surmount Plain Text

1. Petitioner (at 15-18) argues that Rule 60 codified judicial decisions allowing vacatur of void judgments at any time. Petitioner's historical argument trips right out of the gate. Historical practice may be relevant in interpreting Rule 60. *See Kemp*, 596 U.S. at 538-39. But pre-Rule practice "is a tool of construction, not an extratextual supplement," and cannot "overcome" the language of the Rule. *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 10 (2000). This Court has repeatedly insisted that "plain text and structure" trump "background principles" or pre-enactment practice. *Honeycutt v. United States*, 581 U.S. 443, 453 (2017); *RadLAX Gateway Hotel*, 566 U.S. 639, 649 (2012). And, again, petitioner does not dispute that Rule 60(c)(1)'s plain text requires parties to bring Rule 60(b)(4) motions within a reasonable time. *Supra* pp. 11-12, 19.

2. In any event, materials from the Advisory Committee show that Rule 60 and its 1946 amendments replaced preexisting motion practice with a uniform federal procedure with time limits. *Supra* pp. 14-16. For

instance, Rule 60 changed the historical practice of setting aside judgments tainted by fraud. Some courts historically recognized an inherent power "to set aside a judgment for fraud" without regard to the passage of time. *Furman v. Furman*, 47 N.E. 577, 578 (N.Y. 1897); *Gysin v. Gysin*, 189 N.E. 568, 569 (N.Y. 1934). Other authorities held that "extrinsic" fraud could be challenged at any time. *See, e.g.*, *Kerr v. Sw. Fluorite Co.*, 294 P. 324, 326 (N.M. 1930); *In re Estrem's Est.*, 107 P.2d 36, 40-41 (Cal. 1940); *Fiske v. Buder*, 125 F.2d 841, 845 (8th Cir. 1942) (decided under original 1938 version of Rule 60).

Yet Rule 60(c)(1) requires a Rule 60(b)(3) motion alleging fraud—whether extrinsic or intrinsic—to be brought within one year, just as it requires a Rule 60(b)(4) motion to be brought within a reasonable time. Were petitioner correct that Rule 60 adopted historical practice wholesale, then at least some Rule 60(b)(3) motions would also be exempt from Rule 60(c)(1)'s time limit. Petitioner does not advance this argument, for good reason. Instead of just following Rule 60's plain text, courts would be free to disregard it every time they found pre-Rule 60 judicial decisions allowing a party to challenge a judgment with less stringent (or no) time limits.

3. Moreover, contrary to petitioner's assertions (at 12-13, 16-17), no consistent rule allowed void judgments to be vacated at any time under any circumstances. Petitioner quotes general statements from courts that, before Rule 60, courts could "vacate at any time their own judgments rendered without jurisdiction." Pet. Br. 16-17 (citation omitted). But these statements do not evince a universal practice. Historical practice informs the meaning of statutory language only where such practice was "well-settled." *Kousisis v. United States*, 145 S. Ct. 1382, 1395 (2025); *Kemp*, 596 U.S. at 538-39. The practice here

was anything but. Courts applied a grab-bag of procedural rules and judge-made practices that considered the facts of each case, including the moving party's diligence and third parties' reliance on the judgment, to determine whether a challenge to a void judgment was timely. That "divergence" "sounds the death knell for [petitioner]'s reliance on the common law." *Kousisis*, 145 S. Ct. at 1393 n.4, 1395.

a. Some courts applied time limits where voidness was not apparent from the face of the judgment, including where voidness was premised on improper service. California is one example. Because section 473 of California's Code of Civil Procedure formed the basis for the original version of Rule 60(b), the Court has "buttressed" its reading of Rule 60 with the pre-Rule practice in the California courts. *Waetzig v. Halliburton Energy Servs., Inc.*, 604 U.S. 305, 318-19 (2025). And in California:

> A judgment which is void on its face may be vacated at any time. Also a default judgment or order void, not on its face, but because of want of jurisdiction over the person of a defendant who had at no time been present in the proceedings may be vacated within a reasonable time, which by analogy to [another statutory provision] is limited to one year.

Moore & Rogers, *Federal Relief*, at 645.

California courts thus routinely denied motions to vacate judgments for improper service that were not "made within a reasonable time" where it "appear[ed] from the judgment that the defendant was served," even if, in fact, the defendant was not. *Smith v. Jones*, 163 P. 890, 891-92 (Cal. 1917); *Richert v. Benson Lumber Co.*, 34 P.2d 840, 842-43 (Cal. Dist. Ct. App. 1934); *In re Estrem's Est.*, 107 P.2d at 40-41. A party who "had not been served with

summons … had an absolute right on motion, *if timely made*, to have the judgment set aside." *Smith*, 163 P. at 891 (emphasis added). In other words, the "only condition to" a party's "right to invoke this aid of the court … is that his motion be made *within a reasonable time*." *Id.* (emphasis added).

Other federal and state courts drew similar distinctions, refusing after a certain period of time to vacate judgments "founded on a false, but apparently valid, return of service of process" or other non-facial jurisdictional defects. *See, e.g.*, *King v. Davis*, 137 F. 222, 230 (C.C.W.D. Va. 1905), *aff'd*, 157 F. 676 (4th Cir. 1906).[2] Even many of petitioner's authorities acknowledge (or cite authorities that acknowledge) this distinction. *E.g.*, *Woods Bros. Constr. Co. v. Yankton County*, 54 F.2d 304, 309-10 (8th Cir. 1931).

b. Some courts also recognized that laches applied to the common-law writs and equitable remedies used to vacate judgments for voidness. *See* Moore & Rogers, *Federal Relief*, at 668 n.162 (audita querela), 674 (coram nobis/coram vobis), 677 (bill of review). Many state courts similarly held that "time does not bar a motion to set aside a void judgment, *unless* the lapse of time has been so great that the rights of innocent parties might be prejudicially affected by the delay." *Hill v. Walker*, 180 S.W.2d 93, 95 (Ky. 1944) (emphasis added).[3] Long before Rule 60,

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[2] *Accord Yahola Oil Co. v. Causey*, 72 P.2d 817, 819-20 (Okla. 1937); *Ex parte Kay*, 112 So. 147, 148 (Ala. 1927); *Nixon v. Tongren*, 193 P. 731, 732 (Idaho 1920); *State ex rel. Pac. Loan & Inv. Co. v. Superior Ct.*, 146 P. 834, 400-01 (Wash. 1915); *State ex rel. Happel v. District Ct.*, 99 P. 291, 294 (Mont. 1909).

[3] *Accord Hendrix v. Kelley*, 143 A. 460, 461 (Del. Super. Ct. 1928); *City of Dearborn v. Gann*, 105 S.W. 14, 15 (Mo. Ct. App. 1907); *Smith v. Morrill*, 55 P. 824, 827-28 (Colo. App. 1898); *Vilas v. Plattsburgh &*

this Court also acknowledged that vacating a void judgment may not be appropriate where "it affects the rights of … third parties." *Harris v. Hardeman*, 55 U.S. (14 How.) 334, 346 (1852). Even where judgments were void, then, courts could refuse to reward parties who tarried to the detriment of those who had relied in good faith on the judgments' validity.

c. As another example, equitable time limits applied to vacatur of bankruptcy judgments. Historically, parties could not challenge erroneous judgments in bankruptcy court at any time; instead, a bankruptcy court "ha[d] the power, for good reason, to revise its judgments upon seasonable application and before rights have vested on the faith of its action." *Wayne United Gas Co. v. Owens-Illinois Glass Co.*, 300 U.S. 131, 137 (1937). Under this standard, an "erroneous order," which included one made "without jurisdiction," could be "set aside *unless rights have become vested in reliance upon it*." *Mulligan v. Fed. Land Bank of Omaha*, 129 F.2d 438, 440 (8th Cir. 1942) (emphasis added). Rule 60(c)(1)'s "reasonable time" limitation similarly considers the facts and equities of any given motion, as well as the litigation context. *Supra* p. 17.

C. Drafting History Does Not Help Petitioner

Petitioner (at 15-17, 29-30) relies on several stray remarks from members of the Advisory Committee to suggest that the Committee intended to exempt Rule 60(b)(4) motions from Rule 60(c)(1)'s reasonable-time limit. As a threshold matter, these quotations are not the law. "[I]t is the Rule itself, not the Advisory Committee's description of it, that governs." *Wal-Mart Stores, Inc. v.*

M.R. Co., 25 N.E. 941, 946 (N.Y. 1890); *Stocking v. Hanson*, 28 N.W. 507, 507-08 (Minn. 1886).

Dukes, 564 U.S. 338, 363 (2011). Still, the Advisory Committee proceedings reinforce the conclusion that Rule 60(c)(1) means what it says. *See supra* pp. 14-16.

Petitioner's contrary evidence is doubly unreliable. Generally, "excerpts from committee hearings and scattered floor statements by individual lawmakers" are "among the least illuminating forms of legislative history." *Advoc. Health Care Network v. Stapleton*, 581 U.S. 468, 481 (2017) (citation omitted). An individual member's opinion cannot outweigh the Committee's statements as a whole, let alone trump the clear text of the Rule. So even if petitioner's "scant" snippets gave contrary signals (they do not), this Court should reject petitioner's attempt to use "ambiguous legislative history to muddy clear statutory language." *See Milner v. Dep't of Navy*, 562 U.S. 562, 572 (2011).

And petitioner's quotes are taken out of context in any event. To start, petitioner (at 16, 29-30) purports to quote Committee Chair Mitchell as saying that it was "settled" that a void judgment could be challenged "at any time." But Mitchell was just reading into the record a prepared statement by Professor Moore, a *witness* to the Committee meeting. Advisory Committee Proceedings 554-55. And Professor Moore's statement did not reflect the nuances of historical practice—nuances recognized in his own scholarship, on which the Committee heavily relied. *Supra* pp. 24-26; *see also* Fed. R. Civ. P. 60(b) advisory committee's note to 1946 Amendment (citing four times to Moore & Rogers, *Federal Relief*). Regardless, the final Rule did not incorporate Professor Moore's statement, because the Committee later agreed "that all motions should be made within a reasonable time." Advisory Committee Proceedings 611; *supra* pp. 14-16. In any event, although Professor Moore testified during the discussion of the reasonable-time requirement, he did not suggest

that void judgments should be exempt from it. Advisory Committee Proceedings 611-12, 695-96.

Petitioner (at 17) also relies on Mitchell's statement that "the later [provisions of Rule 60(b)] have no limitation of time on them." *Id.* at 604. But this statement described the text of a *previous draft* of Rule 60 that had time limits only for motions under Rule 60(b)(1), (2), and (3). *See id.* at 604-10. Petitioner again ignores that the Committee expressly rejected this draft in favor of subjecting "all motions" to a "reasonable time" requirement. *Id.* at 611; *supra* pp. 14-16. Moreover, the implication of petitioner's (incorrect) reading of this quote is that no reasonable-time limit applies to motions under Rule 60(b)(5) or (6), either—a proposition that petitioner does not advance and this Court has repeatedly rejected. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 (1988); *Gonzalez*, 545 U.S. at 535; *Kemp*, 596 U.S. at 533.

Lastly, petitioner (at 17, 29-30) quotes former U.S. District Judge George Donworth's statement that the Committee should not "take away any present remedy" that existed before 1946. Advisory Committee Proceedings 615-16. Judge Donworth was endorsing a suggestion to add a "grab-all clause at the end" of Rule 60(b), which prompted the Committee to allow vacatur for "any other reason that justifies relief" in Rule 60(b)(6). *Id.* at 615-19. His statement thus proposed a new *basis* for vacatur, not an unstated exception to the reasonable-time limit.

D. Petitioner's Appeal to Lower-Court Decisions Fails

Petitioner (at 18-22) claims that, in the wake of the 1946 amendments to Rule 60, courts uniformly declined to apply the reasonable-time requirement to Rule 60(b)(4) motions. Even if true, this argument would not move the needle. Petitioner's lower-court cases are not binding,

and they provide "no warrant to ignore clear statutory language." *Milner*, 562 U.S. at 576.

Following the judicial herd would be especially unwarranted here. Petitioner's cases are avowedly atextual, with some of them conceding "it is true that the text of the rule dictates that the [Rule 60(b)(4)] motion will be made within 'a reasonable time.'" *United States v. One Toshiba Color Television*, 213 F.3d 147, 157 (3d Cir. 2000) (en banc) (cited at Pet. Br. 19); *accord V.T.A., Inc. v. Airco, Inc.*, 597 F.2d 220, 224 n.9 (10th Cir. 1979) (cited at Pet. Br. 18-19). This Court routinely rejects interpretations that defy the text even if "many Court of Appeals decisions … have embraced" them, because "*communis error facit jus* … is not the normative basis of this Court's jurisprudence." *Brogan v. United States*, 522 U.S. 398, 408 (1998). This case is no different.[4]

Regardless, petitioner misstates the state of play following Rule 60's amendment. Courts outside the Sixth Circuit repeatedly have denied untimely Rule 60(b)(4) motions.[5] The Court should "not flout all usual rules of

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[4] Petitioner (at 8, 19) also references Wright and Miller's statement that "there is no time limit on an attack on a judgment as void." 11 Charles Alan Wright et al., Federal Practice and Procedure § 2862 (3d ed. updated May 2025). But the authors admit their view contradicts the "literal[]" text of Rule 60, finding solace instead in lower-court decisions that circularly cite back to Wright and Miller or repeat petitioner's theme that a void judgment cannot "acquire validity." *Id.* § 2862 & n.3.

[5] *See, e.g.*, *Menashe v. Sutton*, 90 F. Supp. 531, 533 (S.D.N.Y. 1950); *United States v. Willenbrock*, 152 F. Supp. 431, 431 (E.D. Pa. 1957); *Rhodes v. Houston*, 258 F. Supp. 546, 559-61 (D. Neb. 1966), *aff'd*, 418 F.2d 1309 (8th Cir. 1969); *FDIC v. Brenesell (In re Brenesell)*, 109 B.R. 412, 418-19 (Bankr. D. Haw. 1989); *F'id. State Bank v. Oles*, 1991 WL 105614, at *2 (D. Kan. May 23, 1991); *In re Abaco Treasure Ltd.*, 1993 WL 13964708, at *1 (S.D. Fla. Feb. 11, 1993); *Schroeder v. K &*

statutory interpretation" to adopt petitioner's reading given such nonuniform practice. *See Milner*, 562 U.S. at 577.

E. Petitioner's Due-Process Argument Is Forfeited and Incorrect

Petitioner (at 9, 28-30) periodically alludes to due process while simultaneously insisting it "does not contend that Rule 60 or Rule 60(c)(1) are unconstitutional." Pet. Br. 22. Indeed, petitioner forfeited any free-standing due-process challenge, which the decision below explicitly acknowledged. Pet.App.21a ("Coney Island does not mount a constitutional attack on Rule 60."). This Court should not entertain an argument that was both forfeited below and expressly disclaimed in petitioner's opening brief. Pet. Br. 22; *see also OBB Personenverkehr AG v. Sachs*, 577 U.S. 27, 37-38 (2015). To the extent petitioner instead makes a constitutional-avoidance argument, that canon does not apply where, as here, the text is plain. *Bondi v. VanDerStok*, 145 S. Ct. 857, 876 (2025).

In any case, petitioner's due-process argument fails. Rule 60(c)(1)'s "reasonable time" limitation generously allows a case-by-case determination that accounts for,

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K Ins. Grp., Inc., 70 F.3d 1274, at *2 (7th Cir. 1995) (unpublished table op.); *Parker v. Kitzhaber*, 100 F.3d 963, at *1 n.1 (9th Cir. 1996) (unpublished table op.); *Jeffreys v. United Techs. Corp.*, 69 F. App'x 28, 30 (2d Cir. 2003); *Lawson v. United States*, 2006 WL 8440308, at *4 (E.D. Va. Mar. 20, 2006); *W. Shoshone Nat'l Council v. United States*, 73 Fed. Cl. 59, 63 (Fed. Cl. 2006), *aff'd*, 279 F. App'x 980 (Fed. Cir. 2008); *Karim-Panahi v. Wash. Metro. Area Transit Auth.*, 2008 WL 5640693, at *1 (D.C. Cir. Dec. 19, 2008); *Garcia v. United States*, 2021 WL 3202164, at *1 (9th Cir. July 28, 2021); *Brown v. Bank of Am. Corp.*, 2024 WL 4799545, at *1 (1st Cir. Aug. 26, 2024); *Saregama India, Ltd. v. Aiyer*, 2024 WL 4163938, at *1-2 (11th Cir. Sept. 12, 2024); *Shorter v. Baca*, 2025 WL 900434, at *3 (9th Cir. Mar. 21, 2025); *United States v. Brinskele*, 2025 WL 2423903, at *8 (N.D. Cal. Aug. 6, 2025).

among other things, when the moving party had notice of the grounds for the Rule 60(b) motion. *Supra* p. 17. Rule 60(c)(1) thus functions like other procedural rules that affect personal jurisdiction, such as forfeiture and waiver. *Supra* pp. 20-21. Just as defendants can waive personal jurisdiction by participating in court proceedings, *Ins. Corp. of Ir.*, 456 U.S. at 703, so too can defendants waive personal-jurisdiction challenges under Rule 60(b)(4) by having actual notice of a default judgment and failing to timely file, *see Days Inn Worldwide, Inc. v. Patel*, 445 F.3d 899, 905-06 (6th Cir. 2006). Waiver does not infringe due process, *see Ins. Corp. of Ir.*, 456 U.S. at 702-05; neither does Rule 60(c)(1).

F. Petitioner's Policy Arguments Also Lack Merit

1. Petitioner (at 23-24) asserts that an atextual reading of Rule 60 will not produce inequitable results. According to petitioner, a successful Rule 60(b)(4) motion to vacate a default judgment causes the dismissal without prejudice of the underlying complaint, allowing plaintiffs to file an amended complaint and cure any defects in the service of the original complaint by effectuating proper service of the amended complaint. And if the plaintiff files the amended complaint after the statute of limitations runs, petitioner hypothesizes that the plaintiff can relate the amended complaint back to the original complaint under Rule 15(c)(1)(B). With this chain of contingencies, petitioner concludes, tardy Rule 60(b)(4) motions will not prejudice plaintiffs in the way that the trustee has shown.

Notably, petitioner does not cite a single case in which (1) a court grants a Rule 60(b)(4) motion based on defective service, (2) that court dismisses the complaint without prejudice and provides leave to amend, (3) the plaintiff files an amended complaint after the statute of limitations has expired, (4) the plaintiff effectuates timely service of

the amended complaint, *and* (5) the court accepts that the amended complaint relates back to the original.

That lack of precedent should not surprise, as petitioner is wrong on both the law and the equities. District courts granting Rule 60(b)(4) motions may dismiss the entire proceeding and enter judgment or dismiss the complaint with prejudice—either outcome would bar the plaintiff from simply amending the complaint. *E.g.*, *Mason v. Quintanilla*, 775 F. Supp. 1134, 1136 (N.D. Ill. 1991) (dismissing entire proceeding); *Int'l Hous. Ltd. v. Rafidain Bank Iraq*, 712 F. Supp. 1112, 1120 (S.D.N.Y. 1989) (same), *rev'd in part on other grounds*, 893 F.2d 8 (2d Cir. 1989); *One Media IP Ltd. v. Henry Hadaway Org.*, 2017 WL 492202, at *5 (M.D. Tenn. Feb. 7, 2017) (dismissing with prejudice). And a plaintiff cannot use Rule 15's relation-back doctrine to render timely a *new* complaint filed in a *new* case after the statute of limitations has run. *Velez-Diaz v. United States*, 507 F.3d 717, 719 (1st Cir. 2007).

Even if everything works as petitioner envisions—which is far from certain—the equities still weigh against petitioner. If defendants wait long enough, plaintiffs will no longer have the witnesses or evidence necessary to sustain judgments. *See* Pet.App.29a; *supra* p. 18.

2. Petitioner also argues that defendants are not obliged "to act with any sort of alacrity if they believe a court lacks jurisdiction over them." Pet. Br. 24-25. Petitioner (at 10, 25) cites this Court's statements that defendants are "always free to ignore the judicial proceedings" and challenge a judgment "on jurisdictional grounds in a collateral proceeding," *Ins. Corp. of Ir.*, 456 U.S. at 706, and that "the want of jurisdiction is a matter that may always be set up against a judgment when sought to be enforced," *Harris*, 55 U.S. (14 How.) at 339 (pre-dating Rule 60). Yet these statements say nothing about a collateral attack's timeliness under Rule 60(b).

And as explained, when the Court has considered Rule 60(b), the Court has consistently stated that "all" such motions must be timely filed. *E.g.*, *Kemp*, 596 U.S. at 538; *supra* p. 12.

3. Petitioner (at 25) next accuses the trustee of failing to "carefully scrutinize the validity of service of process." But the trustee's actions have nothing to do with petitioner's conceded failure to file its Rule 60(b)(4) motion within a reasonable time. Moreover, the trustee, who had not even been appointed at the time of the default judgment, properly relied on the statements in the entry of default and default judgment that petitioner had been served.

Petitioner (at 26) also alleges the trustee should have "acted sooner" to enforce the judgment. But Rule 60's text places the burden on the movant, not the judgment holder, to take prompt action to vacate void judgments. In any event, the trustee was appointed in June 2015 and immediately got to work collecting claims owed to the estate before turning to the default judgment against petitioner. She then engaged in a flurry of activity to collect the debt owed by petitioner. *Supra* pp. 4-5. Petitioner had notice of these efforts and still did nothing. Petitioner has only itself to blame for inexplicably waiting seven years to complain about improper service.

4. Finally, petitioner (at 26-28) hypothesizes that "unscrupulous plaintiff[s]" could intentionally serve defendants deficiently to secure default judgments. But that concern is a reason for trial courts to scrutinize the efficacy of service before entering default judgments, not a reason to defy the plain text of the Rule. *E.g.*, *Wilson v. Suntrust Bank, Inc.*, 2011 WL 1706763, at *1 (W.D.N.C. May 4, 2011). Moreover, Rule 60(c)(1)'s reasonable-time requirement already gives recipients of deficient service a window of time to challenge the judgment that balances

fairness and finality. The Court should not ignore Rule 60's plain text to address a problem unlikely to ever arise.

CONCLUSION

The court of appeals' judgment should be affirmed.

Respectfully submitted,

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