

No. 25-1352

IN THE
Supreme Court of the United States

DEBORAH KOLLMAN AS EXECUTOR OF
THE ESTATE OF STEPHANIE A. SMITH,
Petitioner,

v.

MERCY HEALTH-CLERMONT HOSPITAL, LLC;
EMERGENCY MEDICINE PHYSICIANS OF
CINCINNATI, LTD.; SAMANTHA YELLEY, D.O.;
AND LABORATORY CORP. OF AMERICA HOLDINGS,
Respondents.

On Petition for a Writ of Certiorari to
the Ohio Court of Appeals for the
Twelfth Judicial District

**REPLY IN SUPPORT OF
PETITION FOR WRIT OF CERTIORARI**

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REPLY BRIEF FOR PETITIONER

The briefs of Respondents Mercy Health-Clermont Hospital, LLC; Emergency Medicine Physicians of Cincinnati, Ltd.; and Samantha Yelley, D.O., confirm, rather than refute, the need for the Court’s review. They insist the Court lacks jurisdiction, claim that the absence of a federal circuit split renders this case unworthy of review, and assert that *Artis v. District of Columbia*, 583 U.S. 71 (2018), resolves this case. All of that is wrong. The Court has jurisdiction under Article III, and this case is an ideal vehicle for resolving the question presented, which by its nature evades federal circuit court review and which *Artis* left unresolved. The Court should grant the petition.

I. The Court Has Jurisdiction

Article III extends the judicial power to “all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties.” U.S. Const. art. III, § 2, cl. 1. That a case originates in state court and involves a state court’s interpretation of a federal statute has long been irrelevant to this Court’s jurisdiction; Article III allows this Court to hear such cases. *See generally, e.g., Cohens v. Virginia*, 19 U.S. 264, 413–23 (1821). This dispute, which turns on the proper interpretation of 28 U.S.C. § 1367(d), is not different: It arises under the laws of the United States and falls firmly within the Court’s appellate jurisdiction. U.S. Const. art. III, § 2, cl. 2.

This case also properly falls within the Court’s jurisdiction under 28 U.S.C. § 1257. Respondents wrongly read § 1257 as requiring Petitioner Smith to have challenged the “validity” of § 1367(d) to invoke the Court’s jurisdiction. Mercy Health Br. Op. 1. And they imply that because Congress has the power to except certain cases from the Court’s jurisdiction, and

because § 1257 says nothing about the “mere judicial construction” of a federal statute, Congress has excepted—silently—this type of case. *See id.*; U.S. Const. art. III, § 2, cl. 2; *Ex parte McCardle*, 74 U.S. 506, 514 (1868). Although Congress could except cases like this, it hasn’t. Jurisdiction under § 1257(a) is not limited to “validity” challenges. *Contra* Mercy Health Br. Op. 1. That statute also gives the Court the authority to review state-court cases involving “statutes of . . . the United States” when a federal “right” is “specially set up or claimed.” § 1257(a). Smith explicitly claimed a federal statutory right here: to stop the clock on the limitations period for her state-law claims under § 1367(d). Thus, via § 1257, Congress affirmed the Court’s Article III jurisdiction over cases like this.

II. Further Percolation Is Unnecessary

Respondents’ contention that this case is not worthy of review because there is no underlying federal-court split is a red herring. Mercy Health Br. Op. 13–14; EMP Br. Op. 15. While it’s true that “federal lower courts have produced [a] singular interpretation” of § 1367(d), EMP Br. Op. 15, it’s irrelevant.

A schism among the federal courts is just one of many justifications for this Court’s review. Certiorari is also proper when a state court “has decided an important question of federal law that has not been, but should be, settled by this Court.” U.S. Sup. Ct. R. 10(c). Here, the state appellate court held, contrary to the statute’s plain text, that § 1367(d) did not toll the state limitation period applicable to Smith’s claims. Whether lower courts are correctly interpreting the language of a federal statute designed to protect plaintiffs’ state-law claims is an important question of federal law calling for the Court’s review.

Plus, the reason there is no *federal* split on the question presented is that it can arise only in *state* court—and only in this procedural posture. The action must be timely initiated in state court, removed to federal court after the state-limitation period expires, and eventually returned to state court. There is no “more conventional and procedurally appropriate posture” or “better [set of] facts” in which to address the question. *Contra* EMP Br. Op. 13, 16.

Indeed, Smith’s petition presents the archetypal case, not a one-off anomaly. Plaintiffs file cases all the time on the last day of the state-law limitation period. Defendants routinely remove those cases to federal court, which for cases filed just before the state-law limitation period expires, necessarily occurs after that limitation period runs. And district courts often return those cases to state court either because no further federal hook remains or because removal was inappropriate in the first place. There is nothing “unique,” *id.* at 13, “highly singular,” or particularly “convoluted” about this posture, Mercy Health Br. Op. 6. Rather, the question presented targets a specific yet common scenario that has long confused lower courts and, by its nature, evaded federal review.

III. *Artis* Did Not Decide the Issue

Respondents also wrongly read *Artis* to hold that § 1367(d) tolling begins on the date a case is removed to federal court. Mercy Health Br. Op. 27–28; EMP Br. Op. 12. But *Artis* had nothing to do with removal or when tolling begins. The initial action there was filed in federal district court. *Artis*, 583 U.S. at 77. And the question presented there was about only what “tolled” means in § 1367(d). *Id.* at 74–75. If *Artis* says anything about the tolling period itself, it addressed when tolling *ends*, not when it *begins*. See *id.* (explaining

that the plaintiff’s refiled state-court “would be time barred” under the grace-period approach but not the stop-the-clock approach).

Smith’s case does not, as Respondents claim, “yield [the] absurdity” of permitting a plaintiff to “re-file in state court even [though] the limitations period on her claim had expired before she filed in federal court.” *See id.* at 85; EMP Br. Op. 18. *Artis* addressed only cases initially filed in federal court, not those removed from a timely filed state-court action, such as Smith’s. A claim already time-barred at its inception—which all agree is not the case here—would remain barred because § 1367(d) tolls only a limitations period that is still live when the federal claim is filed. *Artis*’s hypothetical reach does not resolve that issue.

The decision below illustrates the point. The Ohio appellate court read *Artis*’s “pending [in federal court]” phrase as a categorical textual limitation, holding that § 1367(d) “does not reach back in time” before removal and “offers no relief” if limitations expire before removal, regardless of when the state action was filed. Pet. App. 11a. That is the precise misinterpretation—converting *Artis*’s case-specific holding into a wide sweeping categorical rule that *Artis* said nothing about—that only this Court can correct.

Moreover, state courts do not agree on how to apply *Artis*’s rule. Some, such as the Alabama Supreme Court in *Murey v. City of Chickasaw*, 385 So. 3d 903 (Ala. 2023), have interpreted § 1367(d) to toll the state-law limitation period as of when the plaintiff timely files her initial action in state court, not as of when a defendant later removes the action to federal court. In *Murey*, the plaintiff timely filed her state-court action on the last day of the state-law limitation period, and the defendants later removed the case to federal court. *Compare Murey* at 907–08 with Pet.

App. 24a. After the federal court eventually dismissed the state-law claims, the plaintiff refiled in state court within 30 days, which the *Murey* Court determined was timely under § 1367(d). *Id.* at 911.

The relevant point here, which Respondents miss, is that *Murey* could have concluded the plaintiff's refiled action was timely only if it interpreted § 1367(d) as tolling time as of when the claim was first pending in state court. So although *Murey* didn't directly "address[] or discuss[]" *Artis* or when tolling begins under § 1367(d), its holding necessarily reveals that, unlike the Ohio appellate court here, it declined to read into § 1367(d) *Artis*'s "in federal court" limitation and that it interpreted § 1367(d) to toll the state-law limitation period when a plaintiff timely files in state court.

Per § 1367(d)'s plain text, this Court should do the same.

CONCLUSION

The petition for a writ of certiorari should be granted.

July 20, 2026

Respectfully submitted,

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