

No. _____

IN THE
Supreme Court of the United States

EL CENTRO DEL BARRIO D/B/A CENTROMED,
Petitioner,

v.

ARTURO GONZALEZ, on behalf of himself and
all others similarly situated,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Jurisdiction under two removal statutes is at issue. A provision of the Public Health Service Act, 42 U.S.C. § 233(*l*), provides for removal of civil actions against defendants the Secretary of Health and Human Services has—under 42 U.S.C. § 233(*g*) and (*h*)—deemed to be Public Health Service employees for purposes of § 233(*a*)’s suit immunity. The Attorney General must appear in state court within fifteen days of notice of the action, and must advise the state court “whether the Secretary has determined under subsections (*g*) and (*h*)” that the defendant is deemed an employee of the Public Health Service “with respect to the actions or omissions that are the subject of” the action. *Id.* § 233(*l*)(1). The appearance and advice “shall be deemed to satisfy § 233(*c*),” which requires removal. “If the Attorney General fails to appear” within that period, the action “shall be removed” to federal district court on the deemed employee’s petition. *Id.* § 233(*l*)(2). The federal officer removal statute, 28 U.S.C. § 1442(*a*)(1), separately affords removal jurisdiction to adjudicate federal defenses of “any person acting under” a federal officer.

The questions presented are:

1. Whether the Attorney General’s timely state court appearance extinguishes removal jurisdiction under 42 U.S.C. § 233(*l*)(1), including a deemed Public Health Service employee’s removal right under 42 U.S.C. § 233(*l*)(2).
2. Whether the thirty-day procedural time limit for removal in 28 U.S.C. § 1446(*b*)(1) is triggered at service based solely on a deemed defendant’s subjective knowledge of its own federal status.

PARTIES TO THE PROCEEDING

The parties to the proceedings in the court of appeals are:

Petitioner El Centro del Barrio, doing business as CentroMed, is a community health center and deemed Public Health Service employee. CentroMed was the defendant in the District Court for the Western District of Texas and appellant in the Court of Appeals for the Fifth Circuit.

Respondent Arturo Gonzalez is a former CentroMed patient. He was the plaintiff in the district court and appellee in the Fifth Circuit.

The United States participated in the district court and Fifth Circuit proceedings as a non-party and amicus curiae, respectively.

CORPORATE DISCLOSURE STATEMENT

Petitioner has no parent corporation and no shareholders own ten percent or more of its stock.

RELATED PROCEEDINGS

This case arises from the following proceedings:

- *Gonzalez v. El Centro Del Barrio*, No. 2024-CI-11266 (Dist. Ct., Bexar Cnty., Tex., filed May 28, 2024) (removed to W.D. Tex. Aug. 2, 2024).
- *Gonzalez v. El Centro Del Barrio*, No. 5:24-cv-00852 (W.D. Tex. Feb. 6, 2025).
- *Gonzalez v. El Centro Del Barrio*, No. 25-50092 (5th Cir.).

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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Petitioner El Centro del Barrio (CentroMed) respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The Fifth Circuit's decision is reported at 167 F.4th 271 and reproduced at App. 1a–16a. The district court's unreported order is available at 2025 WL 542249 and reproduced at App. 17a–29a.

JURISDICTION

The Fifth Circuit entered judgment on February 6, 2026, and denied a timely petition for panel and *en*

banc rehearing on March 20, 2026. This Court’s jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Pertinent statutory provisions, 42 U.S.C. § 233(a)–(d), 28 U.S.C. § 1442(a)(1), and 28 U.S.C. § 1446(b), are reproduced in the Appendix at App. 40a–60a, 61a, and 62a–63a, respectively.

STATEMENT

A.

The Federally Supported Health Centers Assistance Act (FSHCAA) of 1992, as amended, extends to federally designated health centers—and their officers, board members, employees, and certain contractors—the “same” absolute immunity 42 U.S.C. § 233(a) has afforded to Public Health Service employees since 1970. 42 U.S.C. § 233(g)(1)(A); *see* Pub. L. No. 102-501, 106 Stat. 3268 (Oct. 24, 1992). In 1995, following an initial three-year demonstration project, Congress made the program permanent and added procedural protections for health centers and their personnel, including the removal provision at issue. Pub. L. No. 104-73, 109 Stat. 777 (Dec. 26, 1995).

The FSHCAA’s protections allow health centers “to reallocate desperately needed health care dollars from the coffers of private medical malpractice insurance companies to direct services for hundreds of thousands more poor and rural Americans.” 141 Cong. Rec. H14273-07, 1995 WL 733808 (daily ed. Dec. 12, 1995) (statement of Rep. Wyden). The FSHCAA was passed after Congress determined that although private malpractice insurance expenses

constituted one of health centers' most significant expenses—accounting for \$50 million in spending on insurance premiums in Fiscal Year 1989—less than ten percent of money spent on premiums had been “paid out in actual claims payments and related costs.” H.R. Rep. No. 104-398, at 4–6 (1995), *reprinted in* 1995 U.S.C.C.A.N. 767, 769.

As amended, the FSHCAA provides for a prospective application-and-approval process through which health centers request and receive “final and binding” confirmation from the Department of Health and Human Services (HHS) that they are deemed to be federal employees, in advance of and for a specified period. 42 U.S.C. § 233(g)(1)(A)–(D); *see also* H.R. Rep. No. 104-398, at 3–4. A deeming determination, when positive, is reflected in an HHS-issued Notice of Deeming Action (essentially, a certificate of insurance) for a “calendar year.” 42 U.S.C. § 233(g)(1)(A).

When a deemed PHS employee is sued in state court, the employee must deliver all “process served” to HHS’s designated representative. 42 U.S.C. § 233(b). The agency’s representative, in turn, “shall promptly furnish” the pleadings to the “United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.” *Id.* The Attorney General must appear in the state court within fifteen days of that notice “and advise such court as to whether the Secretary has determined under subsections (g) and (h), that such entity . . . is deemed to be an employee of the Public Health Service for purposes of this section with respect to the actions or omissions that are the subject of such civil action or proceeding.” 42

U.S.C. § 233(l)(1). The report required by § 233(l)(1), once given, “shall be deemed to satisfy § 233(c),” which in turn mandates that the state court “action or proceeding . . . shall be removed.” *Id.* § 233(c). Removal is permissible “any time before trial.” *Id.*

If the Attorney General “fails” to appear, advise, and remove on a deemed PHS defendant’s behalf “within the time period prescribed” under § 233(l)(1), the defendant may remove the action itself for a “hearing” and “determination” “as to the appropriate forum or procedure” for the assertion of the plaintiff’s claims. *Id.* § 233(l)(2).

Outside of the PHS Act, the federal officer removal statute, 28 U.S.C. § 1442(a)(1), affords an independent basis on which deemed PHS employees may seek to remove actions against them to assert their colorable federal defenses.

B.

Petitioner El Centro del Barrio (CentroMed) is a Texas nonprofit, community-based health center that receives federal funding under Section 330 of the Public Health Service Act, *codified at* 42 U.S.C. § 254b *et seq.*, to provide primary health care and related services within a federally-designated medically underserved area. App. 2a, 5a. The Secretary of HHS deemed CentroMed to be a PHS employee for the year in which the events giving rise to this action occurred, App. 2a, affording CentroMed the same absolute immunity given to actual PHS employees under 42 U.S.C. § 233(a). App. 2a–3a, 5a.

On May 28, 2024, CentroMed patient Arturo Gonzalez commenced a putative class action in Texas

state court, alleging harms arising from CentroMed’s purported failure “to take and implement adequate and reasonable measures to ensure that [Plaintiffs’] Private Information was safeguarded.” App. 2a. The complaint made no mention of CentroMed’s receipt of PHS Act funding or deemed federal status.

CentroMed was served on June 26, 2024. App. 5a. Two days later, CentroMed delivered the pleadings to HHS in accordance with 42 U.S.C. § 233(b)’s notification process. App. 5a. On July 12, 2024—16 days after service and 14 days after CentroMed notified HHS—the Attorney General, through the U.S. Attorney for the Western District of Texas, notified the state court that “CentroMed has been ‘deemed’ to be an ‘employee of the Public Health Service’” but that “HHS has not yet provided its report as to whether the deemed status of CentroMed . . . extends to the acts or omissions that are the subject of this civil action.” App. 35a. The Attorney General’s July 12, 2024 notice provided that HHS had “notified” the Attorney General four days earlier, on July 8, 2024. App. 34a.

On July 23, 2024, the Attorney General, in a “supplemental” filing, informed the state court that it would “not intervene . . . or move to substitute itself in El Centro del Barrio’s stead as the party defendant” because it “ha[d] now determined that El Centro del Barrio was not deemed to be a Public Health Service employee for purposes of the acts or omissions giving rise to the suit and that this action therefore is not subject to the provisions of 42 U.S.C. § 233.” App. 31a.

On August 2, 2024, CentroMed removed the suit to the District Court for the Western District of Texas, citing 42 U.S.C. § 233(*l*)(2) and 28 U.S.C. § 1442(a)(1),

and seeking an adjudication of its claimed PHS Act immunity. App. 2a, 4a, 6a. Plaintiff moved to remand within thirty days. App. 6a. The United States, appearing as a “non-party,” likewise urged remand. App. 6a.

Without argument, the district court granted Plaintiff’s remand motion, finding each basis for removal procedurally defective. App. 6a. As to the FSHCAA, the district court construed the Attorney General’s initial appearance in state court as having satisfied § 233(*l*)(1), thus precluding CentroMed’s removal under § 233(*l*)(2). App. 24a. Regarding the federal officer removal statute, the district court found the complaint “does not contain any federal claims that would justify removal.” App. 26a, but concluded § 1446(b)(1) “applies to this case and bars [CentroMed’s § 1442] removal.” App. 29a. The district court rejected the application of § 1446(b)(3) to the timeliness analysis because “[e]ven if the [U.S.’s] designation notices constitute “other paper” . . . Plaintiff did not file the notices or disclose new information that would permit removal.” App. 28a.

The Fifth Circuit affirmed the district court’s remand order, concluding that CentroMed, despite its final and binding deemed federal status, had no removal right under either 42 U.S.C. § 233(*l*)(2) or 28 U.S.C. § 1442(a)(1). App. 1a–2a, 16a. On the former, the Fifth Circuit concluded that the Attorney General’s initial, “limited purpose” appearance, App. 35a, “complied with and satisfied § 233(*l*)(1), and that the Attorney General was not required to agree that this action can be removed.” App. 12a. In the Fifth Circuit’s estimation, § 233(*l*) “plainly” authorizes the Attorney General to preclude a deemed PHS

employee's removal by merely appearing in state court. App. 13a. As to federal officer removal, unlike the district court, the Fifth Circuit found the complaint "affirmatively reveal[ed] on [its] face the information [CentroMed] needed to invoke federal-officer removal." App. 15a. Although the complaint itself merely alleged CentroMed's failure "to protect its patients' personal information," the Fifth Circuit found the alleged acts and omissions occurred "during the time when CentroMed had been deemed a PHS employee." App. 15a. Accordingly, the Fifth Circuit concluded CentroMed's removal—"37 days after it was served with the petition"—was "too late" under § 1446(b)(1). App. 15a.

No court has reached the merits of CentroMed's § 233(a) immunity defense.

REASONS FOR GRANTING THE PETITION

Certiorari is warranted to resolve a conflict in the lower courts, preserve Article III adjudication of official immunity defenses, and ensure that federal courts fulfill their "virtually unflagging obligation" to exercise their jurisdiction. *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976); *see also Cohens v. Virginia*, 19 U.S. 264, 404 (1821) (Marshall, C.J.) ("We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.").

I. The Fifth Circuit’s Construction of 42 U.S.C. § 233(l) Conflicts with a Decision of the Ninth Circuit and Cannot be Squared with this Court’s Precedents

Review is warranted to resolve a circuit split on a fundamental “who decides” question—that is, who decides whether a deemed PHS employee is immune under 42 U.S.C. § 233(a) in any given lawsuit: the Attorney General, as the final arbiter, or, when that executive branch decision is contested, the appropriate federal court. Because of conflicting interpretations of the PHS Act’s removal provision, 42 U.S.C. § 233(l), the Attorney General’s immunity determinations are reviewable in the Ninth Circuit, but unreviewable in the Fifth.

The lower court concluded that the “clear” and “plain” text of § 233(l) permits the Attorney General to report a “case-specific deeming decision” in state court, which, when “negative,” precludes removal and judicial review of that decision, despite its effect on the rights and remedies of parties to litigation. App. 8a–14a. The decision below found room in § 233(l)(1) for this additional decision, “made by HHS and the Attorney General” in that subsection’s “actions or omissions” phrase. App. 13a (concluding a “difference of opinion about that determination does not qualify as grounds for removal”).¹

¹ The 1995 FSHCAA eliminated HHS’s obligation to have a “consultation with the Attorney General” prior to making a deeming determination. *Compare* FSHCAA of 1992, Pub. L. No. 102-501, 106 Stat. 3268 (Oct. 24, 1992) *with* FSHCAA of 1995, Pub. L. No. 104-73, 109 Stat. 777 (Dec. 26, 1995).

Though the Fifth Circuit framed this additional determination in “deeming” language, it is functionally equivalent to the government’s ultimate litigation-specific coverage decision under § 233(c)—*i.e.*, whether a defendant’s alleged conduct is a “medical . . . or related function” within the scope of its deemed employment. § 233(a). The Fifth Circuit acknowledged the settled and strong presumption of judicial review of executive actions, but found it “inapplicable” to the statutory construction exercise before it because, in its view, the statute’s “text is clear” and not “reasonably susceptible to divergent interpretation.” App. 13a (citing *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 229 (2020)).²

In *Blumberger v. Tilley*, the Ninth Circuit described the same statute as a “thicket,” “hardly a model of clarity,” “far from clear,” and a “statutory fog,” and noted the provisions at issue are “subject to different interpretations, each one plausible.” 115 F.4th 1113, 1126–27, 1138–39 (9th Cir. 2024), *cert. denied*, 145 S. Ct. 2818 (2025). The “key to unlocking” the meaning of § 233(l), as the Ninth Circuit explains, is in understanding the distinction Congress drew between the “different determinations made by different department heads,” whose different statutory responsibilities “reflect[] their different expertise.” *Id.* at 1128. The statute provides the HHS

² Cutting against its own analysis, and undermining its passing attempt to avoid the conflict with the Ninth Circuit, the Fifth Circuit acknowledged differing circuit court interpretations of § 233(l). App. 10a, 11a (“Not all circuit courts to address [the Attorney General’s obligation under § 233(l)(1)] have agreed on what the Attorney General must do within 15 days.”).

Secretary, who has “expertise in administering healthcare policies and services,” exclusive authority to designate federally supported health centers and their personnel as federal employees for purposes of § 233(a) immunity. *Id.* In contrast, Congress tasked the Attorney General, given his expertise in representing the interests of the United States and defending the public fisc, with making a “litigation-specific” coverage determination and defending covered individuals or entities. *Id.* at 1128–29.³

In the Ninth Circuit, in keeping with the statute’s text, “it is an employee’s deemed status,” determined (in advance) by the Secretary under § 233(g) and (h), not any case-specific determination by HHS or the Attorney General, “that triggers the removal provisions of § 233(l)(1).” *Id.* at 1134. There, a defendant’s deemed status affords “the right to remove and removal under § 233(l)(1) should be automatic upon the Attorney General’s appearance.” *Id.* The Ninth Circuit expressly rejected the premise on which the decision below hinged: that the statute implies “an additional deeming decision by the Secretary—one that occurs *after litigation has commenced* and applies with respect to the ‘actions or omissions’ giving rise to the suit.” *Id.* at 1131–32. Under the Ninth Circuit’s reading, nothing in § 233 “provides for such an ex-post deeming decision by the Secretary . . .” *Id.* at 1132 (“Because subsection (l)(1)

³ As the *Blumberger* majority observed, the existence of federal jurisdiction neither diminishes nor alters the government’s ability to represent its interests. *Id.* at 1135, 1140 (recognizing Attorney General “is free to contest” deemed defendant’s claimed immunity in a “hearing”) (citing § 233(c)).

cross-references the Secretary's *prospective deeming decision*, we are satisfied that it *does not* create some sort of *additional* decision by the Secretary.") (emphasis added).

The Fifth Circuit's reading of § 233(*l*) yields—while the Ninth Circuit's reading avoids—two foreseeable consequences this Court's longstanding immunity jurisprudence recognizes as highly disfavored. First, the decision “effectively insulate[s] the Attorney General's deeming advice to the state court—and the ultimate decision not to certify scope of employment—from judicial review,” thereby leaving the deemed defendant with “no meaningful forum in which to challenge the government's failure to certify scope of employment.” *Id.* at 1135; *see id.* at 1138 (rejecting notion “judicial review remains available . . . in state court or an APA action”). Second, the decision reduces Article III judges to “petty functionaries . . . required to rubber-stamp the decision of a scarcely disinterested executive officer, but stripped of capacity to evaluate independently whether that decision is correct.” *Gutierrez de Martinez v. Lamagno*, 515 U.S. 417, 426 (1995). Such a “strange course becomes all the more surreal when [as here] one adds to the scene the absence of an obligation on the part of the Attorney General's delegate to conduct a fair proceeding, indeed, any proceeding.” *Id.* at 429 (rejecting outcome in which “courts could do no more, and no less, than convert the executive's scarcely disinterested decision into a court judgment”).

The Ninth Circuit's take on § 233 is faithful to its text and the presumption of judicial review: “if one thing about § 233 is plain, it is that Congress did not

plainly commit th[e coverage] inquiry to the unreviewable judgment of the Attorney General.” *Blumberger*, 115 F.4th at 1137. As this Court has consistently stated, judicial review of dispositive executive branch actions “will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress.” *De Martinez*, 515 U.S. at 424–25 (citation omitted). Examining the PHS Act through that lens, the Ninth Circuit found nothing therein that “could alter fundamentally the answer to the ‘who decides’ question.” *Id.* at 1137 (citing *De Martinez*, 515 U.S. at 426); *see id.* at 1139 (affirming its “reading of § 233(l)(1) is correct as a textual matter and comports with the Supreme Court’s admonition that we should construe such provisions in favor of judicial review.”).

At bottom, it is untenable for the Attorney General’s “refusal-of-coverage decisions under § 233”—which are neither disinterested nor infallible—to be reviewable in one circuit but not another. *Blumberger*, 115 F.4th at 1135–37 (citing *De Martinez*, 515 U.S. at 434).⁴ This Court’s review is necessary to resolve the conflict, correct the Fifth Circuit’s departure from the accepted role of Article III courts in reviewing executive branch action, and ensure uniformity in the application of statutory procedures designed to safeguard the federal interests that PHS Act immunity serves.

⁴ The Solicitor General would be hard pressed to disagree given the government’s rehearing petition in *Blumberger*, which advanced the construction of § 233(l) the Fifth Circuit subsequently adopted. *See* Appellee United States’ Pet. for Reh’g En Banc, *Blumberger v. Tilley*, No. 22-56032, Dkt. No. 82 at 16–17 (9th Cir. Nov. 25, 2024).

II. The Fifth Circuit’s Decision Creates a Conflict in the Lower Courts as to the Application of 28 U.S.C. § 1446(b)

Federal defendants and those acting under them enjoy a broad statutory right to remove to federal court civil actions commenced in state court “for or relating to any act under color of such office.” 28 U.S.C. § 1442(a)(1).

The procedures applicable to § 1442(a)(1) removals are largely set forth in 28 U.S.C. § 1446. That section imposes two distinct thirty-day limits, triggered by different events. 28 U.S.C. § 1446(b). First, § 1446(b) specifies a thirty-day limit for a defendant to remove after receiving “the initial pleading.” § 1446(b)(1). Second, “if the case stated by the initial pleading is not removable,” a defendant has “thirty days” to remove after receiving “an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” § 1446(b)(3). Section (b)(3), in other words, functions as an “equitable, case-specific exception[]” to § 1446(b)(1)’s time limit. *Enbridge Energy, LP v. Nessel*, 146 S. Ct. 1074, 1083 (2026).

The lower court’s timeliness analysis rested entirely on CentroMed’s subjective knowledge of its deemed PHS employee status and its presumed familiarity with the scope of its federal (as opposed to any non-federal) responsibilities. App. 14a–15a. As the district court correctly observed, the complaint “does not contain any federal claims that would justify removal.” App. 26a. Without importing CentroMed’s own knowledge as a gloss on the complaint, the lower court’s holding (that “the petition affirmatively

revealed on its face” the basis for federal officer removal) cannot be squared with the actual initial pleading. App. 15a.

The lower court’s application of § 1446(b)(1) to CentroMed’s federal officer removal conflicts directly with Ninth Circuit precedent. In *Blumberger*, the Ninth Circuit, like the Fifth, was tasked with applying § 1446(b) in the context of a deemed PHS defendant’s federal officer removal. 115 F.4th at 1121–23. There, as here, the complaint gave no indication of the deemed PHS defendant’s connection or relationship with the federal government. *Id.* at 1122. Accordingly, the Ninth Circuit held, correctly, that § 1446(b)(1)’s clock was not triggered. *Id.*

The lower court’s treatment of § 1446(b)(3) is likewise inconsistent with the rule in the Ninth Circuit. The conclusion below, that “the Attorney General’s state-court filings do not support removal under § 1446(b)(3),” App. 15a, treats § 1446(b)(3) as a substantive prerequisite to removal, rather than as a claims-processing rule that merely starts a clock. The Ninth Circuit squarely rejects this reading. See *Dietrich v. Boeing Co.*, 14 F.4th 1089, 1094 (9th Cir. 2021) (distinguishing “facts sufficient to allow removal with facts sufficient to require removal within thirty days” and reiterating “a defendant *may* remove before it *must* do so”); *Rea v. Michaels Stores, Inc.*, 742 F.3d 1234, 1238 (9th Cir. 2014) (“[A]s long as the complaint or ‘an amended pleading, motion, order or other paper’ does not reveal that the case is removable, the 30-day time period never starts to run and the defendant may remove at any time.”).

The lower court’s timing analysis is contrary to the statute’s text and “highly detailed” design. *Enbridge*

Energy, 146 S. Ct. at 1083. As the Court recently held, “Congress provided that the ordinary 30-day deadline does not apply when a case at first appears unremovable, but a later ‘pleading, motion, order or other paper’ reveals that it is (or has become) removable.” *Id.* (quoting § 1446(b)(3)). The Fifth Circuit’s decision effectively excises “the ascertain[ment] provision in § 1446(b)(3)” from the overall scheme. *Id.* The Ninth Circuit’s approach, in contrast, is faithful to the statute’s text, preserving “the balance struck by Congress in the removal statutes.” *Id.* at 1084 (internal quotation and citation omitted).

III. The Questions Presented are Important

The questions presented are important and recurring, calling for prompt resolution and a uniform national rule to ensure defendants are not denied their right to a federal forum in which to assert their immunity defenses.

The interpretation of the PHS Act’s removal provision implicates the United States’ pecuniary interest and impacts more than 1,400 federally-funded, safety-net health care providers that collectively serve more than 32 million individuals annually. See Akash Pillai *et al.*, Kaiser Family Foundation, *Recent Trends in Community Health Center Patients, Services, and Financing* (Feb. 4, 2026), <https://www.kff.org/medicaid/community-health-center-patients-financing-and-services/>. The United States itself recognizes that the jurisdictional issues are of “exceptional importance,” having asserted as much in petitioning the Ninth Circuit to rehear *Blumberger en banc*. See Appellee United

States’ Pet. for Reh’g En Banc, *Blumberger v. Tilley*, No. 22-56032, Dkt. No. 82 (9th Cir. Nov. 25, 2024).

The interpretation and application of 28 U.S.C. § 1446(b)’s two procedural time limits impacts even more broadly. As the Court’s recent decision in *Enbridge Energy, LP v. Nessel*, illustrates, certiorari is appropriate to resolve conflicting interpretations of the rules governing removals. *See* 146 S. Ct. at 1081 (“[G]ranting certiorari to resolve the divide among the Courts of Appeals” regarding whether § 1446(b) is subject to equitable tolling).

Geographic inconsistency in access to a federal forum—and thus to official immunity—in a nationwide, federally funded program is untenable. *Hui v. Castaneda*, 559 U.S. 799, 805 (2010) (resolving two-circuit conflict on scope of § 233(a) immunity). The current circuit conflicts—as to both removal mechanisms—subject defendants engaged in identical, federally approved activity to vastly different outcomes in vindicating their statutory rights, based purely on location. This Court should take the opportunity now to resolve the uncertainty created by these conflicting, precedential interpretations.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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