No. 25-327

IN THE

Supreme Court of the United States

EXPRESS SCRIPTS, INC., *et al.*,

Petitioners,

v.

PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

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

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

DAWYN R. HARRISON
County Counsel
SCOTT KUHN
Assistant County Counsel
ANDREA ROSS
Principal County Counsel
OFFICE OF THE COUNTY COUNSEL
500 West Temple Street,
Suite 648
Los Angeles, CA 90012

LOUIS M. BOGRAD
Counsel of Record
ELIZABETH SMITH
LINDA SINGER
MOTLEY RICE LLC
401 9th Street, N.W.,
Suite 630
Washington, DC 20004
(202) 386-9627
lbograd@motleyrice.com

Counsel for Respondent

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131765

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTION PRESENTED

Whether an appeal under 28 U.S.C. § 1447(d) from a remand order issued in a case removed under the federal officer removal statute, 28 U.S.C. § 1442(a)(1), that has already been returned to the state court, is subject to an automatic stay pending appeal.

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Respondent, the People of the State of California, acting by and through Los Angeles County Counsel Dawyn R. Harrison, in accordance with Supreme Court Rule 15, submit this brief in opposition to Petitioners' Petition for Writ of Certiorari. The petition should be denied. There is no circuit conflict on the question presented; the Court of Appeals ruling was correct to distinguish the legal issue in this appeal from that in *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023); and this case presents a poor vehicle for addressing the question presented because Petitioners never sought a stay pending appeal in the Ninth Circuit and the Petition may be mooted by a merits ruling by the Ninth Circuit.

STATUTORY PROVISIONS INVOLVED

Petitioners overlook at least one relevant statutory provision. 28 U.S.C. § 2283 provides, in full:

> A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

28 U.S.C. § 2283.

FACTUAL BACKGROUND

Respondent, the People of the State of California, acting by and through Los Angeles County Counsel Dawyn R. Harrison, filed this suit in California Superior Court. The suit asserts a single claim for public nuisance

under California law against various pharmacy benefit management (PBM) companies. The complaint alleges that Petitioners contributed to a public nuisance by, *inter alia*, giving opioid medications preferred status on their drug formularies in exchange for manufacturer rebates and failing to adequately monitor for, identify, and refuse to fill suspicious prescriptions in Los Angeles County. Respondent brought this case to enforce California public nuisance law and to compel Petitioners to abate the public nuisance condition their misconduct created.

Respondent's amended complaint is expressly limited to the Petitioners' non-federal conduct. It expressly disclaims any connection to or reliance upon work Petitioners carry out for federal healthcare programs:

> This lawsuit relates to the Defendants' conduct in the *non-federal market* which resulted in the increased use, abuse, and diversion of opioids. The *allegations in this Complaint do not include and specifically exclude* Defendants' provision of PBM or mail order pharmacy services pursuant to contracts with the Department of Defense, the Office of Personnel Management, the U.S. Department of Veteran Affairs, the Veterans Health Administration, or any other federal agency. . . .

App. 29a (quoting *People of the State of California v. Express Scripts, Inc., et al.*, No. 2:23-cv-08570-SPG-PD, ECF 31, at ¶ 34 (C.D. Cal. Nov. 7, 2023) (emphases added)).

Petitioners removed this case to federal court pursuant to the federal officer removal statute, 28 U.S.C.

§ 1442(a)(1), contending that the People's claim against them necessarily related to their federal healthcare work and, notwithstanding the express disclaimer, opposed Respondent's motion to remand this case to California state court on this same basis. App. 20a. Relying on the disclaimer, both the District Court, App. 29a-30a, and the Court of Appeals, *California ex rel. Harrison v. Express Scripts, Inc.*, 154 F.4th 1069, 1090 (9th Cir. 2025),[1] rejected Petitioners' arguments and granted remand to state court; both courts also denied Petitioners' arguments for a stay pending appeal. App. 18a, 31a. The District Court's remand order was communicated to the California state court on February 28, 2024, the same day it was issued, well before Petitioners noticed their appeal from that order on March 29, 2024, and months before they asked the Ninth Circuit merits panel to rule on the stay issue in their opening merits brief, filed on July 22, 2024. *People of the State of California v. Express Scripts, Inc., et al.*, No. 2:23-cv-08570-SPG-PD, ECF 51 (C.D. Cal. Feb. 28, 2024). The state court has been proceeding with remanded pretrial proceedings since at least March 8, 2024, 21 months ago. Throughout this time, the remanded case has been proceeding in state court through demurrers, motions practice, and related pretrial and interlocutory appellate proceedings.

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1. Petitioners moved for rehearing and/or rehearing en banc of the Court of Appeals' merits ruling. That motion remains pending, having been held in abeyance by the Ninth Circuit pending this Court's decision in *Chevron USA Inc. v. Plaquemines Parish*, No. 24-813 (cert. granted June 16, 2025), which is scheduled to be argued on January 12, 2026. *See People of the State of California v. Express Scripts, Inc., et al.*, No. 24-1972, ECF 89 (9th Cir. Oct. 27, 2025) (holding further proceedings in abeyance).

THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED

I. Contrary to Petitioners' Contention, There Is No "Square and Unmistakable" Circuit Split on the Question Presented.

The Petition wrongly asserts that there is a clear circuit split on the question presented. Pet. at 12-16 (citing *City of Martinsville v. Express Scripts, Inc.*, 128 F.4th 265 (4th Cir. 2025)). That is not so. There is a critically important factual distinction between the Fourth Circuit's *Martinsville* ruling and the present case that obviates Petitioners' claim of an intercircuit conflict.

In *Martinsville*, the Fourth Circuit repeatedly emphasized that the notice of appeal in that case had been filed *before* the district court sent its remand order to the Virginia state court. *See* 128 F.4th at 267-68 ("[A] state court may not proceed after a remand until the remand order is physically mailed to it. 28 U.S.C. § 1447(c). And after the district court issued the remand order—but before the district court got to the post office—Express Scripts and OptumRx noted an immediate appeal challenging the order, as permitted by statute."); *id.* at 268 ("Express Scripts beat the clerk to the punch, docketing an appeal of the remand order before the order was mailed."); *id.* at 271 ("The district court did not fully transfer control over the case until it mailed a copy of the remand order to the state court. *See* § 1447(c). So at the time of the appeal, the district court still had an action it needed to take before it could shunt the case elsewhere—the statutorily required mailing of the order."); *id.* at 272 ("So Express Scripts and OptumRx's appeal divested the

district court of authority over the issues involved in that appeal, and the district court had no power to mail its order to state court.").

By contrast, in the present case, not only had the district court sent the remand order to the state court before the notice of appeal was filed, but the state court also had initiated proceedings in the remanded case well before Petitioners appealed the district court ruling, and months before they asked the Ninth Circuit to rule on the question of a stay. *See People of the State of California*, No. 2:23-cv-08570-SPG-PD, ECF 51. This is a critical procedural difference between the two cases.

Even the Fourth Circuit panel acknowledged that whether the stay was sought before or after the case was formally remanded could matter. The City of Martinsville had argued that "*Coinbase* and the *Griggs* principle only halts proceedings that would continue in a federal district court after the appeal. Thus, Martinsville seems to suggest, the *Griggs* principle has no impact because there was nothing more for the district court to do after it signed the remand order." 128 F.4th at 271. The Fourth Circuit recognized the potential significance of this distinction, but expressly declined to decide the issue, *id.* ("even if Martinsville is correct about the scope of *Coinbase*—a question we need not decide"), precisely because the formal notice of remand had not been mailed at the time that the appeal was noticed. *Id.*

To be sure, neither the Ninth Circuit in the case under review, nor the dissent in *Martinsville*, relied on this temporal distinction in rejecting the *Martinsville* majority's analysis. They simply—and correctly—

concluded that *Coinbase*'s reasoning should not apply to appeals from remand orders pursuant to 28 U.S.C. § 1447(d). But it is wrong to say, as Petitioners do here, that this Petition presents a "square and unmistakable" circuit conflict, Pet. at 12, when the ruling they identify as in conflict expressly declined to decide the issue as presented by the facts *in this case.* Thus, there is no clear circuit conflict and certiorari should not be granted on the grounds that such a circuit split exists.[2]

II. The Ninth Circuit's Decision Regarding a Stay Pending Appeal Was Correct.

For at least three reasons, the *Griggs* principle discussed in *Coinbase* does not apply to the present case and, thus, the Court of Appeals' decision below was correctly decided. First, under the *Griggs* principle, "[a]n appeal, including an interlocutory appeal, 'divests the district court of its control over *those aspects of the case involved in the appeal.*'" *Coinbase*, 599 U.S. at 740 (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)) (emphasis added). Where, as in

2. As Petitioners acknowledge, Pet. at 15, every other Court of Appeals to decide the issue has agreed with the Ninth Circuit that the rationale of *Coinbase* does not extend to appeals of remand orders under Section 1447(d). *See City of Chicago v. B.P. P.L.C.*, No. 25-1916, ECF 73 (7th Cir. Aug. 1, 2025); *Gov't of Puerto Rico v. Express Scripts, Inc.*, 119 F.4th 174, 184 n.3 (1st Cir. 2024); *County of Westchester v. Express Scripts, Inc.*, No. 24-1639, ECF 72 (2d Cir. Sept. 6, 2024); *Plaquemines Parish v. Chevron USA, Inc.*, 84 F.4th 362, 378 (5th Cir. 2023); *Georgia v. Clark*, 2023 U.S. App. LEXIS 34018 (11th Cir. Dec. 21, 2023). Admittedly, as Petitioners note, those other rulings came in summary orders denying stays pending appeal. But they lend unanimous support to the conclusion that, if any case was wrongly decided, it was the Fourth Circuit ruling in *Martinsville*, not the decision below.

Coinbase, the appellant has a right not to have to litigate in court at all, it can fairly be said that "the entire case is essentially 'involved in the appeal.'" *Id.* at 741. By contrast, where the sole question on appeal is in which court the case should be heard, only that question is involved in the appeal, and other proceedings advancing the litigation may proceed while the question of "which court" is being resolved. Second, and relatedly, this Court has repeatedly held that, absent evidence of bias, there is no meaningful constitutional distinction between litigation in state versus federal court; litigation in either forum satisfies the constitutional requirements of due process. Thus, there is no reason to believe that Petitioners "will be irreparably injured absent a stay." *Nken v. Holder*, 556 U.S. 418, 426 (2009). Finally, unique constitutional issues of federalism and comity restrict federal court injunctions against pending state court legal proceedings, which strongly argue against imposition of a stay of the active state-court litigation here (unlike in *Martinsville*). *Younger v. Harris*, 401 U.S. 37 (1971); 28 U.S.C. § 2283. For each of these reasons, the Court of Appeals was correct to deny an automatic stay pending appeal.

A. In an appeal under 28 U.S.C. § 1447(d), the "entire case" is not "involved in the appeal," so the *Griggs* principle is not implicated.

An appeal under 28 U.S.C. § 1447(d) is fundamentally different from an appeal from a denial of a motion for mandatory arbitration pursuant to 9 U.S.C. § 16(a), the statute at issue in *Coinbase.* An interlocutory appeal under the latter provision asks, in essence, whether there is any basis for the matter to proceed in court *at all.* And, the determination in *Coinbase* that "the entire case is essentially involved in the appeal," 599 U.S. at 741, rests

on the understanding that, "[a]bsent an automatic stay . . . , Congress's decision in § 16(a) to afford a right to an interlocutory appeal would be largely nullified." *Id.* at 743.

> If the district court could move forward with pre-trial and trial proceedings while the appeal on arbitrability was ongoing, then many of the asserted benefits of arbitration (efficiency, less expense, less intrusive discovery, and the like) would be irretrievably lost—even if the court of appeals later concluded that the case actually had belonged in arbitration all along.

Id.

The same is not the case here. There is no question that the People's claim against Petitioners belongs in court. The only question is whether the correct forum is a state or federal court. And no adverse consequences flow (nor are any of the asserted benefits "irretrievably lost") from allowing the case to move forward in state court while the appeal on removal is pending. Proceedings in state court while the appeal is pending will move the case forward toward eventual resolution. And, any adverse rulings against Petitioners may be revisited by the federal district court if the remand order is ultimately reversed. *See* Fed. R. Civ. P. 60(b) (Relief from a Judgment or Order). The one question that will not be considered by the state court on remand is the precise question that is at issue in this appeal: whether the case properly belongs in state or federal court. That question will ultimately and exclusively be answered by the federal courts, regardless of whether state court proceedings have been stayed; it will not be considered, let alone answered, by the California state courts. Thus, Petitioners will suffer no harm whatsoever—

and the litigation will advance—by allowing the case to proceed in state court while the appeal of the remand order is pending.

In this regard, the right to compel arbitration at issue in *Coinbase* is, as *Coinbase* itself recognized, more akin to doctrines of absolute and/or qualified immunity and double jeopardy—other contexts in which the courts have recognized a right to an automatic stay pending appeal—than it is to the question of federal officer removal jurisdiction under 28 U.S.C. § 1442(a)(1). *Coinbase*, 599 U.S. at 742 n.4 (citing *United States v. Montgomery*, 262 F.3d 233, 239-40 (4th Cir. 2001) (double jeopardy); *United States v. LaMere*, 951 F.2d 1106, 1108 (9th Cir. 1991) (same); *United States v. Grabinski*, 674 F.2d 677, 679 (8th Cir. 1982) (same); *United States v. Dunbar*, 611 F.2d 985, 988-89 (5th Cir. 1980) (en banc) (same); *Chuman v. Wright*, 960 F.2d 104, 105 (9th Cir. 1992) (qualified immunity); *Yates v. Cleveland*, 941 F.2d 444, 448-49 (6th Cir. 1991) (same); *Apostol v. Gallion*, 870 F.2d 1335, 1338 (7th Cir. 1989) (same); *Stewart v. Donges*, 915 F.2d 572, 575-76 (10th Cir. 1990) (both)). In the immunity and double jeopardy contexts, the party invoking the doctrine claims a constitutional right not to be haled into court at all; the benefits of that constitutional protection would be largely lost if the underlying case were to proceed in court pending an appellate court's review of the applicability of the doctrine.

As this Court recognized in *Coinbase*, the situation is largely similar in cases where a trial court rejects a motion to compel arbitration. To be sure, unlike immunity and double jeopardy, the proponent of arbitration would be subject to further proceedings to decide the underlying

claim; but the critical similarity is that those follow-up proceedings would not take place in a court of law. And, as *Coinbase* noted, the benefits of being allowed to proceed in arbitration rather than litigation may well be largely lost if the trial court is permitted to move forward with the case while the interlocutory appeal of the denial of arbitration under 9 U.S.C. § 16(a) remains pending. *Coinbase*, 599 U.S. at 743.

Not so here. Petitioners, and others asserting a right to remove a case to federal court under Section 1442(a)(1), have no claim to avoid litigation proceedings in court altogether. To the contrary, it is undisputed that, following resolution of the merits of their appeal of the order granting remand pursuant to 28 U.S.C. § 1447(d), the People's public nuisance claim will move forward with pre-trial proceedings, and eventually to trial, *in a court of law.* The only question to be resolved through the appeal is in which court that will occur.

Moreover, as discussed below, civil procedures comporting with the requirements of due process apply in both state and federal court; thus, all parties will be subject to largely similar procedures in either court. So proceedings in state court on remand during the pendency of the appeal simply serve to advance the litigation while awaiting a final determination as to the court in which the litigation will ultimately be resolved.[3] And, even if

3. The *Martinsville* case itself demonstrates the wisdom of permitting pretrial proceedings to advance in state court while the appeal of the district court's remand order is pending. Two months after the Fourth Circuit issued its order granting an automatic stay pending appeal in that case (but many months after the district court had issued its remand order), the same

Petitioners were aggrieved by one or another ruling by the state court while their appeal is pending, if their appeal of the remand order is ultimately successful, they would then be able to ask the federal district court to reconsider and alter any such rulings. Fed. R. Civ. P. 60(b). This Court "has recognized that a district court ordinarily has the power to modify or rescind its orders at any point prior to final judgment in a civil case." *Dietz v. Bouldin*, 579 U.S. 40, 46 (2016) (citing *Marconi Wireless T. Co. of Am. v. United States*, 320 U.S. 1, 47-48 (1943)).

For all of these reasons, pretrial proceedings in state court on remand related to the merits of the People's claim are not "involved in the [Petitioners'] appeal" from the order granting remand. The *Griggs* principle articulated by this Court in *Coinbase* is thus not implicated here and provides no basis for an automatic stay during Petitioners' interlocutory appeal of the remand ruling. And, absent the applicability of the *Griggs* principle, there is simply no basis to support a requirement of an automatic stay pending appeal,[4] especially in the absence of any express statement by Congress supporting such a stay and in the face of the countervailing considerations (including the

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panel dispensed with oral argument and issued its merits ruling, affirming the district court's remand order on the grounds that the PBM defendants had waived their right to removal under 28 U.S.C. § 1442(a)(1). *City of Martinsville v. Express Scripts, Inc.*, 2025 WL 1039624 at *1 (4th Cir. Apr. 8, 2025) (unpublished opinion). So the only thing ultimately accomplished by the stay pending appeal was to further delay state court resolution of a case that had been pending since 2018.

4. Petitioners, of course, remain free to seek a discretionary stay pending appeal if they can satisfy the requirements for such a stay under *Nken*, 556 U.S. at 434.

explicit countervailing legislative text in 28 U.S.C. § 2283) discussed in the following sections.

B. This Court has repeatedly acknowledged that, absent concerns about bias, there is no meaningful distinction between litigation in state and federal courts.

This Court has long held that state courts, equally with federal courts, are bound by, and do in fact uphold, "the solemn responsibility . . . 'to guard, enforce, and protect every right granted or secured by the constitution of the United States.'" *Zwickler v. Koota*, 389 U.S. 241, 248 (1967) (quoting *Robb v. Connolly*, 111 U.S. 624, 637 (1884)). Moreover, the Fourteenth Amendment Due Process Clause ensures that, in both civil and criminal cases, state courts maintain a standard of procedural due process that is "consistent with the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions." *Hebert v. Louisiana*, 272 U.S. 312, 317 (1926); *see* U.S. Const. amend. XIV, § 1. While "differences arise naturally between the procedures in the state courts and those in the federal courts," state court procedures "unquestionably represent 'due process of law,'" and thereby do not substantially differentiate the rights available to litigants in state or federal court. *Bute v. Illinois*, 333 U.S. 640, 649-50, 650 n.4 (1948); *see also United Gas Pub. Serv. Co. v. Texas*, 303 U.S. 123, 140 (1938) ("The state is entitled to determine the procedure of its courts, so long as it provides the requisite due process."). Because state court procedures are bound to meet the due process standard incorporated through the Fourteenth Amendment, procedural differences between the two fora do not inherently harm litigants.

See Hebert, 272 U.S. at 317 (affirming that due process principles "are applicable alike in all the states, and do not depend upon or vary with local legislation").

This Court consistently trusts that state courts adhere to this standard. *See*, *e.g.*, *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 431 (1982) (noting that "[m]inimal respect for the state processes, of course, precludes any *presumption* that the state courts will not safeguard federal constitutional rights" (emphasis in original)); *California v. Grace Brethren Church*, 457 U.S. 393, 417 n.37 (1982) (rejecting "appellees' argument to the extent that it assumes that the state courts will not protect their constitutional rights"); *Stone v. Powell*, 428 U.S. 465, 493 n.35 (1976) (rejecting that "state courts cannot be trusted to effectuate [constitutional] values through fair application" because "we are unwilling to assume that there now exists a general lack of appropriate sensitivity to constitutional rights in the trial and appellate courts of the several States"). Thus, this Court has declared that "a pending state proceeding, in all but unusual cases, would provide the federal plaintiff with the necessary vehicle for vindicating his constitutional rights[.]" *Steffel v. Thompson*, 415 U.S. 452, 460 (1974).

Further, Petitioners' contention that Petitioners face the likelihood of a potentially "hostile" state court absent this Court's intervention is without merit. *See* Pet. at 26-27. It is well settled that a "state court may not deny a federal right," as "federal law is law in the State as much as laws passed by the state legislature." *Howlett ex rel. Howlett v. Rose*, 496 U.S. 356, 369 (1990); *Miles v. Illinois Cent. R. Co.*, 315 U.S. 698, 703-04 (1942) (affirming that federal laws are "binding on every citizen and every

court and enforceable wherever jurisdiction is adequate for the purpose"); *Stone*, 428 U.S. at 493 n.35 ("State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law."). Accordingly, state courts could not, and would not, deprive Petitioners of any right owed to them under federal law. State courts' obligation to honor due process standards in their procedures undermines any assertion that litigating in state court could materially aggrieve the Petitioners. *Bute*, 333 U.S. at 668 (The "basic and historic power of the states to prescribe their own local court procedures" is subject to the "broad constitutional prohibition in the Fourteenth Amendment against the abuse of that power.").

Nonetheless, even if there *were* evidence of bias in the state court proceedings on remand, which Petitioners have not even attempted to demonstrate, any adverse rulings by the state court would be subject to reconsideration and revision if the remand ruling were overturned and the case returned to federal court. Fed. R. Civ. P. 60(b)(6) ("On motion and just terms, the court may relieve a party or its legal representative from . . . [an] order, or proceeding for . . . any other reason that justifies relief."); *see also Dietz*, 579 U.S. at 46. Thus, even if the case had been improperly remanded, Petitioners would not be irrevocably bound by any allegedly 'hostile' state court determination.

C. Staying proceedings in state court would raise significant constitutional issues under *Younger v. Harris*, 401 U.S. 37 (1971) and the Anti-Injunction Act, 28 U.S.C. § 2283.

Staying remanded proceedings in state court would also raise profound constitutional questions that were not implicated by the automatic stay issue in *Coinbase.* In *Younger v. Harris*, this Court held that there is a "national policy forbidding federal courts [from] stay[ing] or enjoin[ing] pending state court proceedings except under special circumstances" that are not present here. 401 U.S. at 41; *cf.* 28 U.S.C. § 2283 ("A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments."). Principles of federal/state comity and federalism limit the authority of federal courts to enjoin state court proceedings. *Younger*, 401 U.S. at 44-49.

While the scope of *Younger* abstention has been narrowed by subsequent decisions of this Court, *see*, *e.g.*, *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69 (2013), the principle still unquestionably applies on the facts presented herein. This Court has held that federal courts should abstain from enjoining "civil enforcement proceedings" in state court, particularly where the proceeding is "initiated by 'the State in its sovereign capacity'" to vindicate important state interests. *Id.* at 80 (citing *Trainor v. Hernandez*, 431 U.S. 434, 444 (1977)); *see Middlesex*, 457 U.S. at 432 ("The policies underlying *Younger* are fully applicable to noncriminal judicial proceedings when important state interests are involved."). In particular,

Huffman v. Pursue, Ltd., 420 U.S. 592 (1975), is virtually on all fours with the present case. In *Huffman*, this Court held that *Younger* abstention precluded a federal court from staying a state civil enforcement proceeding in which a county government sought to enjoin a defendant from violating state public nuisance laws, precisely the facts in the present case. In *Huffman*, this Court emphasized that "an offense to the State's interest in the nuisance litigation is likely to be every bit as great as it would be were this a criminal proceeding," because the sovereign's intent to enforce its public nuisance law "in important respects is more akin to a criminal prosecution than are most civil cases." *Id.* at 604. The same is true here. Thus, contrary to the argument in the Petition, the reasoning in *Coinbase* cannot simply be extended to this case without consideration of the profound implications for comity between state and federal courts and federalism.[5]

And this is without even considering the implications for this case of the federal Anti-Injunction Act, 28 U.S.C. § 2283, a federal statutory provision that dates from 1948 and that reflects a principle of federal law that has been in effect since 1793.[6] Section 2283 provides, in full: "A

5. Of course, as already discussed, the *Younger v. Harris* doctrine was not at issue in *Martinsville*, at least under the panel majority's reasoning, since the case was still pending in federal district court when Defendants noticed their appeal, because the remand order had not yet been mailed to the state court to restore its jurisdiction over the matter.

6. *See Mitchum v. Foster*, 407 U.S. 225, 231-32 (1972) ("The anti-injunction statute goes back almost to the beginnings of our history as a Nation. In 1793, Congress enacted a law providing that no 'writ of injunction be granted (by any federal court) to stay proceedings in any court of a state. . . .'" (citing Act of March 2, 1793, 1 Stat. 335)).

court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." As this Court explained in *Atlantic Coast Line R. Co. v. Bhd. of Locomotive Eng'rs*, 398 U.S. 281 (1970):

> On its face, the present Act is an absolute prohibition against enjoining state court proceedings, unless the injunction falls within one of three specifically defined exceptions. . . . [We] hold that any injunction against state court proceedings otherwise proper under general equitable principles must be based on one of the specific statutory exceptions to § 2283 if it is to be upheld.

Id. at 286-87.[7]

Petitioners have not even attempted to argue how the automatic stay pending appeal they seek might fit within one of Section 2283's exceptions. Presumably, they would

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7. The *Younger* doctrine and the Anti-Injunction Act are separate, though closely related, limitations on federal courts' authority to stay proceedings in state courts. As this Court explained in *Mitchum*, "the Court [in *Younger*] carefully eschewed any reliance on the statute [§ 2283] in reversing the judgment, basing its decision instead upon what the Court called 'Our Federalism'—upon 'the national policy forbidding federal courts to stay or enjoin pending state court proceedings except under special circumstances.'" 407 U.S. at 230 (quoting *Younger*, 401 U.S. at 41, 44). Thus Petitioners would have to satisfy the requirements of both *Younger* and the statute to justify the stay pending appeal they seek.

assert that, as in *Coinbase*, such a stay was implicitly contemplated by Congress when it enacted the Removal Clarification Act in 2011. *Cf. Coinbase*, 599 U.S. at 740 ("Section 16(a) does not say whether the district court proceedings must be stayed. But Congress enacted § 16(a) against a clear background principle prescribed by this Court's precedents: [the *Griggs* principle]."). The problem for Petitioners, however, is that in the case of a stay of proceedings in state court the background principle against which Congress legislates is the opposite. The "longstanding tenet of American procedure," *id.*, at issue is that federal courts shall *not* issue injunctions to stay proceedings in state courts except in narrowly defined circumstances. And Section 2283 explicitly requires that an act of Congress must "expressly authorize[]" any such stay of state court proceedings. Yet 28 U.S.C. § 1447(d) is utterly silent about staying state court proceedings during the pendency of a remand appeal.[8]

8. Contrary to Petitioners' contention, Pet. at 19, the legislative history of the Removal Clarification Act also says nothing that would suggest that Congress intended to stay state court proceedings pending appeal of a remand order. Both the Congressional Record and the House Report indicate that the true impetus for expanding 28 U.S.C. §§ 1442 & 1447 was to shield federal officers from pre-civil suit discovery statutes and to allow for immediate review of remand orders. *See* 157 Cong. 1371-72 (2011); H.R. Rep. No. 112-17, pt. 1, at 3-4 (2011). The only mention of a stay in any of the legislative materials is contained in a description of the procedural history of *Price v. Johnson*, 600 F.3d 460 (5th Cir. 2010), which sparked statutory reform not because of the lack of a stay, but because Representative Johnson had been forced to appear for a pre-suit deposition under a Texas discovery statute—hence the pre-suit discovery concern. H.R. Rep. No. 112-17, pt. 1 at 3. Of course, even if Congress had been partially motivated by the lack of a stay in Rep. Johnson's case, that still would be insufficient to satisfy the express authorization requirement of Section 2283.

The *Griggs* principle articulated in *Coinbase* says nothing about the effect of a federal notice of appeal on proceedings in *state court*. *See Griggs*, 459 U.S. at 58 (filing notice of appeal "divests the *district court* of its control over those aspects of the case involved in the appeal") (emphasis added)). It most certainly offers no guidance regarding its interaction with the *Younger* doctrine and 28 U.S.C. § 2283, which both severely limit stays of state court proceedings. The Ninth Circuit correctly recognized that granting an automatic stay pending appeal would raise profound issues under the *Younger* abstention doctrine, App. 9a-11a, and properly declined to impose such a stay, especially absent any showing of the factors necessary to support a discretionary stay pending appeal under *Nken*. There is simply no call for this Court to address this issue, particularly as there is no circuit split whatsoever regarding the interplay between *Griggs* and *Younger*.

III. This Case Presents a Poor Vehicle for This Court's Review.

Finally, apart from the foregoing arguments, this case presents an awkward vehicle for this Court's consideration of the question presented for at least two separate reasons.

First, Petitioners never sought a stay pending appeal in the Ninth Circuit. The district court, applying the legal standard for a discretionary stay pending appeal articulated by this Court in *Nken*, 556 U.S. 418, denied Petitioners' stay request. Pet. at 9. Although Petitioners appealed the district court's denial of a stay along with the order granting remand, they never asked the Court of

Appeals to impose its own stay pending the appeal.[9] They did ask the Ninth Circuit to rule on the merits of their stay argument, but took no steps before the Court of Appeals to preclude the California state court from proceeding with its consideration of the remanded case during the appeal's pendency. Throughout the time the appeal has been pending in the Ninth Circuit, the underlying case has been moving forward in state court. Thus, any belated attempt to now stay the state court proceedings would either have to concede the validity of any state court proceedings during the pendency of the appeal or argue that they should simply be disregarded, and the work of the state courts wasted, even though Petitioners never asked the Court of Appeals to bar the state courts from proceeding with the case.

Second, this case also could potentially be mooted before this Court can decide the question presented. The Ninth Circuit has already ruled on the merits that the district court's remand order was correct. Pet. at 11. Petitioners then sought rehearing on that question, either by the panel or en banc, but the Court of Appeals has to date not indicated any interest in reconsidering its ruling. For example, the Court of Appeals has not even asked Respondent for its position on the rehearing request, even though it has been pending for months.

The Ninth Circuit did, at Petitioners' suggestion, agree to stay its consideration of the rehearing petition on the remand issue until this Court has decided *Chevron*

9. As the Petition acknowledges, Petitioners did not file an independent stay motion because the Ninth Circuit had recently denied a motion for an automatic stay pending appeal in a similar federal officer removal case. Pet. at 9.

USA, Inc. v. Plaquemines Parish, No. 24-813, a separate federal officer removal case raising distinct legal issues. *See People of the State of California v. Express Scripts, Inc., et al.*, No. 24-1972, ECF 89 (9th Cir. Oct. 27, 2025). But *Plaquemines Parish* is now scheduled for oral argument before this Court in January, months before briefing would even begin in this case. So it is possible, indeed likely, that this Court will render its ruling in *Plaquemines Parish* well before any ruling here, in which case the Court of Appeals could then deny rehearing of its merits ruling, thus rendering the current stay issue effectively moot.[10]

These are additional reasons for this Court not to grant review.

10. The People recognize, of course, that Petitioners would have the option of petitioning this Court for review of such a merits ruling and thereby provide grounds for this Court to consider whether to impose its own stay pursuant to the logic of *Coinbase*. Nevertheless, the procedural complexities involved highlight the inappropriateness of this case as a vehicle for addressing the question presented in the Petition.

CONCLUSION

For the foregoing reasons, the Petition for writ of certiorari should be denied.

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Respectfully submitted,

DAWYN R. HARRISON
County Counsel
SCOTT KUHN
Assistant County Counsel
ANDREA ROSS
Principal County Counsel
OFFICE OF THE COUNTY COUNSEL
500 West Temple Street,
Suite 648
Los Angeles, CA 90012

LOUIS M. BOGRAD
Counsel of Record
ELIZABETH SMITH
LINDA SINGER
MOTLEY RICE LLC
401 9th Street, N.W.,
Suite 630
Washington, DC 20004
(202) 386-9627
lbograd@motleyrice.com

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Counsel for Respondent