

25-5666
No. *DN*

ORIGINAL

In The

Supreme Court of the United States

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

William P. DeBoskey
Petitioner

v.

Goshen Mortgage, LLC. et al
Respondents

On Petition for a Writ of Certiorari
to the United State Court of Appeals
for the Eleventh Circuit
(Eleventh Circuit No. 24-12314; District Court No. 8:24-00325)

PETITION FOR WRIT OF CERTIORARI

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Questions Presented

1. Whether a federal court may remand a case for lack of diversity jurisdiction based on speculation about an LLC's citizenship without allowing jurisdictional discovery or making factual findings.
2. Whether the Eleventh Circuit erred in affirming a remand order based on speculation rather than evidence, imposing an impossible burden on the removing party, and disregarding unrebutted proof of diversity.

Parties To the Proceedings

Petitioner: William P. DeBoskey

Respondent: Red Stick Acquisition, LLC as a substituted party plaintiff for Goshen Mortgage, LLC., represented in the Eleventh Circuit by;

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Rule 29.6 Statement

Petitioner, William P. DeBoskey, is an individual and therefore no corporate disclosure statement is required under Supreme Court Rule 29.6.

Table of Contents

Questions Presented	i
Parties To the Proceedings	ii
Rule 29.6 Statement.....	iii
Table of Contents	iv
Table of Authorities	v
Statutes and Rules.....	v
Introduction.....	1
Opinions Below.....	2
Jurisdiction.....	2
Statutory Provisions Involved	3
Statement Of the Case.....	5
Reasons For Granting Petition.....	7
A. Conflict With Supreme Court Precedent	7
B. Deepening Circuit Split on Jurisdictional Discovery	8
C. Eleventh Circuit Ignored Its Own Precedent	10
D. National Importance of Diversity Jurisdiction Issue	11
E. Ideal Vehicle for Review	12
F. Broader Policy Implications and Amicus Support	13
Conclusion	14
Certificate of Service	16

Table of Authorities

Cases

Aaron v. National Union Fire Insurance Co., 876 F.2d 1157 (5th Cir. 1989)	8
Belleville Catering Co. v. Champaign Marketplace, LLC, 350 F.3d 691 (7th Cir. 2003)	9
Boit v. Gar-Tec Products, Inc., 967 F.2d 671 (1st Cir. 1992).....	8
Chalwest Holdings, Ltd. v. Ellis, 924 F.2d 1011 (11th Cir. 1991)	10
Land v. Dollar, 330 U.S. 731 (1947)	7
Lincoln Benefit Life Co. v. AEI Life, LLC, 800 F.3d 99 (3d Cir. 2015)	8,12
McNutt v. General Motors Acceptance Corp., 298 U.S. 178 (1936)	7,11
Odyssey Marine Exploration, Inc. v. Unidentified Shipwrecked Vessel, 657 F.3d 1159 (11th Cir. 2011)	10
Shipley v. Helping Hands Therapy, 996 F.3d 1157 (11th Cir. 2021).....	2
Steel Co. v. Citizens for a Better Environment, 523 U.S. 83 (1998)	7
Thermtron Products, Inc. v. Hermansdorfer, 423 U.S. 336 (1976)	2
United States v. Steele, 147 F.3d 1316 (11th Cir. 1998) (en banc)	10

Statutes and Rules

28 U.S.C. § 1254(1).....	2
28 U.S.C. § 1332(a)(1)	3,12,13
28 U.S.C. § 1441(a).....	3
28 U.S.C. § 1447(c)	2,3,5
28 U.S.C. § 1447(d).....	2,3,4

Supreme Court Rule 13	3
Supreme Court Rule 29.6	iii

Introduction

This case presents a recurring and nationally significant question: *whether federal jurisdiction can be defeated by silence and speculation rather than evidence, allowing limited liability companies to avoid federal court simply by concealing their membership.* In an era when LLCs dominate modern litigation yet often refuse to disclose their members, this problem has far-reaching consequences for federal jurisdiction, access to justice, and the integrity of the judicial system itself.

The issue arises in thousands of cases each year across the country, affecting property owners, small businesses, and individual litigants entitled by statute to a federal forum but denied access because of opaque LLC structures and inconsistent judicial approaches. Other circuits require courts to base jurisdictional rulings on evidence, permit jurisdictional discovery, or at least demand a *prima facie* showing before remand. The Eleventh Circuit, by contrast, allowed remand here even though the plaintiff LLC refused to disclose its members, the defendant produced unrebutted evidence of diverse citizenship, and no discovery or factual findings were ordered. That conflict among the circuits—and within the Eleventh Circuit’s own precedent—creates widespread uncertainty for courts and litigants alike.

This case thus presents issues far beyond one homeowner or one foreclosure. It asks whether courts may disregard the safeguards designed to prevent forum manipulation, protect property rights, and ensure uniformity in federal jurisdiction—questions that implicate *due process, separation of powers, and the right to a fair and*

impartial tribunal. Because the petition raises a systemic and recurring problem of exceptional importance, it is likely to draw the interest of organizations concerned with *property rights, civil procedure, federal jurisdiction, and access to justice.* This case offers a clean vehicle for resolving the conflict, providing the clarity and uniformity urgently needed in this critical area of law.

Opinions Below

The opinion of the United States Court of Appeals for the Eleventh Circuit affirming the district court's remand order was entered on May 23, 2025, and is provided in the appendix at (App. A-2). The district court's order remanding the case to the Circuit Court of Hernando County, Florida, was entered on July 17, 2024, and is provided in the appendix at (App. B-2).

Jurisdiction

The court of appeals entered judgment on May 23, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

The district court remanded the case pursuant to 28 U.S.C. § 1447(c). While 28 U.S.C. § 1447(d) generally bars appellate review of remand orders, this Court has held that the bar does not apply where the remand order rests on grounds beyond those specified in § 1447(c). See *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 351 (1976). The Eleventh Circuit itself has likewise recognized that untimely motions to remand do not insulate remand orders from review. *Shipley v. Helping Hands Therapy*, 996 F.3d 1157, 1162 (11th Cir. 2021).

Here, the district court's remand rested on speculation about jurisdictional facts, not on a valid statutory ground under § 1447(c). That places the order outside the scope of § 1447(d)'s bar and makes appellate review proper.

This petition is timely filed within 90 days of the entry of judgment below, in accordance with Supreme Court Rule 13.

Statutory Provisions Involved

1. 28 U.S.C. § 1332(a)(1) provides in relevant part:

“The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—

(1) citizens of different States.”

2. 28 U.S.C. § 1441(a) provides:

“Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

3. 28 U.S.C. § 1447(c) provides in relevant part:

“A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of

removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."

4. **28 U.S.C. § 1447(d) provides:**

"An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise."

Statement Of the Case

A. Foreclosure Action and Substitution of Parties.

This case arises out of a mortgage foreclosure action in Florida state court, later removed on diversity grounds, where the district court remanded based on speculation rather than evidence. In May 2016, Goshen Mortgage, LLC, a Delaware entity, filed a mortgage foreclosure action in the Circuit Court for Hernando County, Florida. In July 2018, Red Stick Acquisitions, LLC, was substituted as plaintiff and filed an amended complaint. Red Stick based its alleged enforcement rights on “corrective assignments” executed two years after the original complaint was filed.

Throughout the litigation, petitioner sought discovery concerning Red Stick’s standing, its right to enforce the note, and the citizenship of its members. Red Stick refused to disclose its members even when directly asked.

B. Removal to Federal Court and District Court Proceedings.

On February 7, 2024, petitioner removed the case to the United States District Court for the Middle District of Florida pursuant to 28 U.S.C. §§ 1441, 1443, and 1446.

On April 9, 2024, the district court issued an order to show cause regarding the timeliness of removal (App. B-16). Petitioner responded that the court lacked authority to remand *sua sponte* absent a timely motion by the plaintiff (App. B-18).

On April 30, 2024, Red Stick filed a motion to remand, 84 days after removal, outside the 30-day limit imposed by 28 U.S.C. § 1447(c) (App. B-86). The district court recognized that this untimely filing waived any procedural objections to removal.

On June 21, 2024, the district court issued a second order to show cause, raising for the first time whether complete diversity existed (App. B-27). The court directed petitioner to provide evidence that no member of Red Stick was a citizen of Florida.

On July 5, 2024, petitioner filed a response with multiple public records and sworn affidavits. These included affidavits of non-service at a Florida address attributed to Red Stick, court filings from other states listing different addresses for Red Stick, and bar association records indicating that individuals associated with the LLC resided outside Florida (App. B-96). Red Stick submitted no contrary affidavits, declarations, or other evidence identifying its members or establishing their citizenship. Despite repeated opportunities, it never identified a single member or disclosed their citizenship.

Nevertheless, on July 17, 2024, the district court granted Red Stick's motion to remand, concluding that diversity jurisdiction had not been established (App. B-2).

C. Court of Appeals Proceedings.

Petitioner appealed. On May 23, 2025, a panel of the United States Court of Appeals for the Eleventh Circuit affirmed the district court's remand order (App. A-2). The panel held that petitioner had not met his burden to establish diversity jurisdiction.

Petitioner timely filed a motion for panel rehearing and rehearing en banc (App. A-11). He argued that the district court erred by remanding without requiring jurisdictional discovery, without holding an evidentiary hearing, and without making

findings of fact concerning LLC citizenship, despite unrebutted evidence suggesting diversity. The motion was denied (App. A-33).

Reasons For Granting Petition

A. Conflict With Supreme Court Precedent.

The Decision Below Conflicts with This Court’s Precedent Requiring Evidence-Based Jurisdictional Findings.

This Court has long held that federal courts must determine *jurisdictional facts* based on *evidence, not assumptions*. In *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936), the Court made clear that “the party who seeks the exercise of jurisdiction in his favor … must support [jurisdictional allegations] by competent proof” when they are contested. Likewise, in *Land v. Dollar*, 330 U.S. 731, 735 n.4 (1947), the Court explained that where *jurisdictional facts* are challenged, the district court must resolve those facts, “by *affidavits or otherwise*,” before proceeding. And in *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94–95 (1998), the Court reaffirmed that Article III jurisdiction is a *threshold requirement*: “*without jurisdiction the court cannot proceed at all.*”

The decision below disregards these holdings. After raising the citizenship of the substituted LLC plaintiff *sua sponte*, the district court received unrebutted documentary evidence from the removing party indicating that no member was a Florida citizen. Yet it remanded the case without ordering jurisdictional discovery, *without holding an evidentiary hearing*, and without making findings of fact. In affirming, the Eleventh Circuit sanctioned precisely the sort of assumption-based

adjudication this Court has prohibited, allowing jurisdiction to rest on *speculation rather than proof.*

B. Deepening Circuit Split on Jurisdictional Discovery.

The Eleventh Circuit’s Decision Deepens a Circuit Split on Jurisdictional Discovery Standards.

The Eleventh Circuit’s ruling also deepens an existing division among the circuits. Other courts of appeals recognize that when jurisdictional facts are disputed and the district court does not conduct an evidentiary hearing, the removing party need only make a *prima facie* showing of jurisdiction.

- **First Circuit:** In *Boit v. Gar-Tec Products, Inc.*, 967 F.2d 671, 675–76 (1st Cir. 1992), the court held that without an evidentiary hearing, the plaintiff “need only make a *prima facie showing of jurisdiction*,” meaning it must present *plausible evidence* that, if credited, would establish jurisdiction.
- **Third Circuit:** In *Lincoln Benefit Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105–09 (3d Cir. 2015), the court acknowledged the difficulties of proving LLC citizenship and held that reasonable allegations, made in good faith after diligent inquiry and supported by available public records, are sufficient at the pleading stage; if challenged, the plaintiff is *entitled to jurisdictional discovery*.
- **Fifth Circuit:** In *Aaron v. National Union Fire Insurance Co.*, 876 F.2d 1157, 1160–61 (5th Cir. 1989), the court required only “*summary*

judgment-type evidence" at the preliminary stage and emphasized that contested jurisdictional facts cannot be resolved against the removing party without proper findings.

- **Seventh Circuit:** In *Belleville Catering Co. v. Champaign Marketplace, LLC*, 350 F.3d 691, 693–94 (7th Cir. 2003), the court vacated a judgment where the record did not identify the members of an LLC, admonishing that "it is not possible to litigate under the diversity jurisdiction with details kept confidential from the judiciary." The Seventh Circuit held that jurisdictional assumptions are impermissible and that courts, counsel, and parties share the duty to establish diversity through actual evidence of membership and citizenship.

The Seventh Circuit has been especially clear on this point. In *Belleville Catering Co.* the court admonished that "it is not possible to litigate under the diversity jurisdiction with details kept confidential from the judiciary," and vacated a judgment where LLC citizenship had been obscured. That concern is precisely what occurred here. By sanctioning jurisdictional assumptions, the Eleventh Circuit's approach enables LLCs to frustrate federal jurisdiction by withholding disclosure of their members. Indeed, in theory, an LLC formed in one state could add members from every other state, thereby defeating diversity jurisdiction altogether without ever producing evidence of its structure. Such a rule not only deepens the conflict among circuits but also creates a blueprint for abuse.

C. Eleventh Circuit Ignored Its Own Precedent.

The Eleventh Circuit Abandoned Its Own Binding Precedent on Jurisdictional Fact-Finding.

The decision below not only deepens an existing circuit split but also conflicts with the Eleventh Circuit's own prior decisions requiring a *prima facie* showing of jurisdiction absent an evidentiary hearing. Under the Eleventh Circuit's prior-panel-precedent rule, earlier panel decisions bind later panels unless overturned by the court en banc or by this Court. See *United States v. Steele*, 147 F.3d 1316, 1317–18 (11th Cir. 1998) (en banc).

Yet in *Chalwest Holdings, Ltd. v. Ellis*, 924 F.2d 1011 (11th Cir. 1991), the Eleventh Circuit reversed a dismissal for lack of jurisdiction where the district court failed to hold an evidentiary hearing after the defendant contested jurisdictional facts. As the Eleventh Circuit explained:

If a district court does not conduct an evidentiary hearing on a jurisdictional motion to dismiss, the court *must deny the motion* if the plaintiff can present *plausible evidence* tending to show that the court has jurisdiction. *Chalwest Holdings, Ltd. v. Ellis*, 924 F.2d 1011, 1014 (11th Cir. 1991) (emphasis added).

Likewise, when subject-matter jurisdiction is challenged, the district court has the *authority to resolve factual disputes* and the discretion to devise a method for deciding the jurisdictional issue—considering *extrinsic evidence* such as deposition testimony and affidavits. *Odyssey Marine Expl., Inc. v. Unidentified Shipwrecked Vessel*, 657 F.3d 1159 (11th Cir. 2011).

Here, the court did neither: it made *no jurisdictional findings*, permitted *no discovery*, and remanded on *speculation despite unrebuted record evidence*.

The decision below ignored these controlling precedents, effectively requiring the removing party to *prove a negative* — that no member of the opposing LLC shared its citizenship — without discovery, without a hearing, and despite unrebutted evidence indicating diversity. That standard contradicts both this Court’s requirement that jurisdictional facts be resolved on evidence rather than assumption, see *McNutt* and the Eleventh Circuit’s own jurisprudence.

This intra-circuit conflict underscores the need for review. At minimum, it warrants vacatur and remand so the Eleventh Circuit can reconcile its decision with binding precedent it failed to follow.

D. National Importance of Diversity Jurisdiction Issue.

The Decision Below Undermines the Uniform Application of Diversity Jurisdiction Nationwide.

Limited liability companies, (LLC’s) are now among the most common litigants in state and federal courts. Unlike corporations, LLCs assume the citizenship of each of their members — information often known only to the LLC itself. This creates fertile ground for abuse, as litigants can obscure their membership structure to frustrate removal or manipulate forum selection.

The decision below sanctions precisely this tactic. By remanding on the assumption of non-diversity, despite unrebutted evidence to the contrary, the Eleventh Circuit effectively allows LLC plaintiffs to defeat federal jurisdiction simply by concealing their membership. That result undermines uniformity in the application of diversity

jurisdiction and denies defendants access to the federal forum Congress provided in 28 U.S.C. § 1332.

The problem is recurring and systemic. Courts have repeatedly recognized the difficulty of establishing LLC citizenship at the removal stage. The Third Circuit has observed that “[t]he citizenship of an LLC is often difficult to ascertain and may frustrate legitimate removal, See *Lincoln Benefit Life Co.* It therefore held that good-faith allegations supported by available evidence are sufficient to preserve jurisdiction, with discovery available if challenged. The Eleventh Circuit’s contrary approach not only encourages strategic nondisclosure by LLCs but also creates a serious *imbalance* between plaintiffs and defendants in removal practice, depriving defendants of the federal forum to which they are entitled.

E. Ideal Vehicle for Review.

This Case Presents an Ideal Vehicle for Resolving the Question.

This case squarely presents the question. The district court raised the issue of diversity *sua sponte*; the removing defendant submitted multiple affidavits and public records establishing non-Florida citizenship; the plaintiff offered no rebuttal; and the court nevertheless remanded without discovery or an evidentiary hearing. The Eleventh Circuit affirmed.

There are no vehicle problems. The jurisdictional dispute is dispositive, the record is complete, and the issue was preserved and resolved at every stage. This case therefore provides an excellent opportunity for the Court to resolve the entrenched conflict, restore consistency with its own precedents, and clarify the evidentiary

standard for establishing diversity when LLC citizenship is at issue. Given the ubiquity of LLCs in modern litigation, resolving this question now will provide urgently needed guidance for courts and litigants nationwide.

F. Broader Policy Implications and Amicus Support.

The Decision Below Invites Forum Manipulation by LLCs and Raises Broader Policy Concerns.

This case carries implications far beyond a single foreclosure dispute. Limited liability companies now dominate modern commercial litigation, yet their opaque membership structures permit forum manipulation on a scale Congress never intended when it enacted 28 U.S.C. § 1332. The decision below creates a blueprint for plaintiffs to defeat federal jurisdiction simply by concealing membership information, leaving defendants without access to the federal courts Congress designed to ensure impartiality and uniformity. As stated previously, an LLC could add a member in every state and *permanently defeat diversity jurisdiction*—rendering federal courts powerless to act.

The problem is both systemic and recurring. Across the country, foreclosure defendants, small businesses, and individual litigants face similar tactics where LLCs strategically withhold information, frustrating diversity jurisdiction and manipulating forums to their advantage. Without guidance from this Court, lower courts will continue issuing conflicting decisions, and litigants will face uncertainty and unequal treatment based solely on geography.

Moreover, this issue invites amicus interest from organizations concerned with property rights, foreclosure reform, civil procedure, and access to federal courts. Clarifying the evidentiary standard for establishing diversity jurisdiction when LLC citizenship is at issue would bring much-needed uniformity to a problem affecting thousands of cases nationwide

Conclusion

The district court remanded this case without resolving disputed jurisdictional facts, without permitting discovery, and without requiring the substituted LLC plaintiff to disclose the citizenship of its members. The Eleventh Circuit affirmed, effectively sanctioning a rule that allows LLCs to defeat federal jurisdiction through silence and assumption. That result conflicts with this Court's precedents, deepens a division among the circuits, and presents a question of exceptional importance for the uniform application of diversity jurisdiction.

The questions presented recurs frequently in modern litigation, and only this Court can resolve the entrenched conflict and restore uniformity. Jurisdictional determinations must rest on *evidence, not speculation*. This Court's intervention is *essential* to protect defendants nationwide from strategic jurisdictional *gamesmanship*.

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

Respectfully submitted,

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Certificate of Service

I, William P. DeBoskey, do hereby certify that I have served three (3) copies of the foregoing Petition for Writ of Certiorari and one (1) copy of the Appendix on each party listed below by U.S. first class mail, postage prepaid, this 15th day of September 2025.

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The above documents were addressed and mailed to each party at the addresses shown above on the date indicated.

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Date: September 15, 2025