No. 25-934

IN THE

Supreme Court of the United States

GORE AND ASSOCIATES
MANAGEMENT COMPANY, INC.,

Petitioner,

v.

SLSCO LTD. AND HARTFORD
FIRE INSURANCE COMPANY,

Respondents.

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

PETITIONER'S REPLY BRIEF

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The Brief in Opposition confirms the central and important question presented. Specifically, Respondents do not identify any finding—by the district court or the court of appeals—that the assignments at issue were "improperly or collusively made" within the meaning of 28 U.S.C. § 1359. Instead, they defend dismissal based solely on petitioner's asserted failure to prove, by admissible evidence, the citizenship of non-party assignors.

That shift reveals the significance of this case. It presents a threshold and recurring question about the proper scope of § 1359: may a federal court dismiss a diversity action without ever finding collusion, based solely on an asserted failure of proof regarding non-parties? The decision below answers that question yes.

That answer cannot be reconciled with § 1359's text or this Court's precedent. Section 1359 withdraws jurisdiction only where a party has been "improperly or collusively made" to invoke federal jurisdiction. 28 U.S.C. § 1359. It does not authorize dismissal based on evidentiary deficiencies unrelated to collusion, much less the absence of proof regarding non-parties.

Resolving the decision below is of significant importance because it essentially creates a legal rule: that a federal court may dismiss a diversity action without any finding of collusion, based solely on a plaintiff's inability—years after filing—to prove the citizenship of upstream non-party assignors. That rule departs from the statutory framework and from this Court's teaching that the § 1359

inquiry is directed at collusive manufactured jurisdiction, not evidentiary reconstruction of non-party citizenship.

Respondents attempt to recast this case as a fact-bound dispute about evidentiary sufficiency. But that argument assumes the correctness of the legal rule petitioner challenges. The question presented is antecedent and dispositive: whether such an evidentiary requirement exists at all under § 1359 absent a finding of collusion.

Because the decision below answers that important question in a manner that departs from the statute and this Court's precedent, review is necessary.

A. The Question Presented Is Important, Recurring, and Warrants This Court's Review

Respondents take the position that this Court should deny the writ petition because the Petition presents no question warranting this Court's review. It identifies no circuit split, no unresolved question of federal law, and no departure from accepted judicial practice. However, the opposition fails to mention that Rule 10 also permits review where a court decides that there exist an important federal question warranting resolution. Petition submits to this Court that this case presents an important question practical importance concerning the proper administration of diversity jurisdiction under 28 U.S.C. § 1359. The consequences will impact commercial litigation and directly control which litigants are able to seek judicial relief. Assignments, as in this case, are common in commercial litigation. The rule adopted below presents the following consequences: dismissal years into litigation

based on evidentiary gaps; mandatory reconstruction of non-party citizenship; avoidance of the statutory collusion inquiry

The only required inquiry under § 1359 is whether the assignment at issue was collusive. Ignoring this, under the rule adopted below, federal jurisdiction in multiparty cases becomes unstable. Even where jurisdiction is properly invoked at the outset, courts may later require litigants to reconstruct—often long after filing—the citizenship of upstream, non-party entities, or face dismissal.

This approach creates at least three problems. First, it transforms § 1359 from a statute targeting collusive manufacture of jurisdiction into a broad evidentiary trapdoor that can be unlocked years into litigation. The statute's focus is on improper or collusive assignments, yet the decision below permits dismissal without any finding of impropriety, based solely on evidentiary insufficiency.

Second, it introduces substantial uncertainty into federal jurisdiction. Parties can no longer rely on jurisdictional determinations made at or near the outset of litigation. Instead, jurisdiction may be revisited years later based on retrospective evidentiary demands concerning non-parties, as occurred here after remand and extended proceedings. Pet. App. 44a; 16a–29a. Third, it creates inconsistent and unpredictable standards for what proof is required. The decision below offers no clear guidance as to what level of evidence is sufficient; how far back ownership structures must be traced back; and when such proof must be developed.

The result is a landscape in which jurisdiction depends not on statutory criteria, but on after-the-fact evidentiary reconstruction—often under compressed timelines and with incomplete information.

Respondents suggest that this case lacks importance because it turns on its particular facts. But the rule they defend is not case-specific. It applies broadly to any action involving assigned claims and permits dismissal whenever a court deems proof of non-party citizenship insufficient—even where no collusion exists and none is found.

This Court's intervention is necessary to restore the proper scope of § 1359 and to ensure that federal jurisdiction is governed by the statute's text and purpose, rather than by ad hoc evidentiary requirements untethered to any finding of collusion.

B. The Decision Below Imposes an Extra-Statutory Rule and Conflicts with § 1359 and This Court's Precedent

Respondents invoke Rule 10, but the decision below does not merely apply settled law—it adopts a legal rule:

> that a plaintiff invoking diversity jurisdiction through assignment must prove, by admissible evidence, the citizenship of non-party assignors, and that failure to do so requires dismissal—even absent any finding of collusion.

That rule drove the outcome. The district court expressly declined to reach collusion because petitioner failed to establish assignor citizenship. Pet. App. 28a n.4. The

court of appeals affirmed dismissal on that same basis, holding petitioner "did not meet its burden." Pet. App. 6a. Respondents rely on *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936), but *McNutt* does not define the scope of proof required under § 1359. It does not require proof of non-party citizenship as a freestanding jurisdictional prerequisite.

By transforming that evidentiary showing into a dispositive requirement, the decision below imposes a rule that goes beyond the statute and this Court's precedent. Section 1359 withdraws jurisdiction only where a party has been "improperly or collusively made." 28 U.S.C. § 1359. The statutory focus is collusion. This Court's decision in *Kramer v. Caribbean Mills, Inc.*, 394 U.S. 823, 826–29 (1969), reflects that focus. Courts must ensure assignments are not used to manufacture jurisdiction—not impose independent evidentiary hurdles unrelated to that inquiry. The decision below departs from that framework. It permits dismissal:

- without any finding that the assignment was collusive;
- without determining that jurisdiction was manufactured; and
- based solely on failure to prove non-party citizenship.

Respondents argue courts may "look beyond the nominal parties." But that is a tool for detecting collusion—not a substitute for the statutory inquiry. *Kramer* does not authorize dismissal absent a finding of collusion.

Moreover, Respondents rely on *Aponte-Dávila v. Municipality of Caguas*, 828 F.3d 40, 46–47 (1st Cir. 2016), for the proposition that jurisdiction must be proven by a preponderance of the evidence. But *Aponte-Dávila* concerns proof of party citizenship—not non-party assignors under § 1359. The First Circuit transformed that general burden into a new rule: that a plaintiff must prove the citizenship of assignors before a court may even reach collusion. See Pet. App. 11a–12a (two-step framework). That extension has no basis in *Aponte-Dávila* or this Court's precedent. Respondents' reliance on *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 570–71 (2004), is similarly misplaced. *Grupo Dataflux* concerns timing of jurisdiction—not evidentiary burdens regarding non-parties.

C. The Absence of Any Collusion Finding Is Dispositive and Makes This a Clean Vehicle

Respondents argue petitioner failed a "threshold" requirement. That reframes the error. Under § 1359, the dispositive question is collusion. The district court never reached that question because it found petitioner's evidence insufficient. Pet. App. 28a n.4. The First Circuit affirmed without any finding that the assignments were collusive. Pet. App. 6a. That approach inverts the statute. Section 1359 does not authorize dismissal without determining whether jurisdiction was collusively manufactured.

The courts below made no finding of collusion. They dismissed solely because petitioner failed to satisfy the evidentiary burden imposed by the First Circuit. Respondents argue evidentiary rulings independently support the judgment, pointing to findings that petitioner's

evidence was "unreliable, speculative, [and] inadmissible." Pet. App. 27a. But those rulings are not independent. They were made to evaluate whether petitioner satisfied the threshold requirement of proving non-party citizenship.

If that requirement is incorrect, those rulings cannot sustain the judgment.

D. Respondents' Fact-Bound Framing Does Not Resolve the Legal Question

Respondents emphasize petitioner's lack of pre-filing verification and discovery responses stating "none in possession." App. 115a–132a. Those facts go to evidentiary sufficiency—not whether § 1359 requires such proof absent collusion.

They also cite "suspicious circumstances," including assignment timing and retained financial interests. But no court made a finding of collusion based on those facts. If collusion exists, § 1359 provides the mechanism. The courts below never applied it.

Respondents characterize the case as routine. But no decision of this Court holds that:

- plaintiffs must prove non-party assignor citizenship; or

- failure to do so warrants dismissal absent collusion.

The rule adopted below is novel. It expands jurisdictional burdens beyond the statute and this Court's precedent. That is precisely the type of legal issue warranting review.

CONCLUSION

The Court should ignore Appellees' unpersuasive arguments and exercise its jurisdiction over both the writ petition and the appeal. The District Court's erroneous dismissal for lack of subject matter jurisdiction was improper because Gore was unable to prove the citizenship of non-parties. 28 U.S.C. § 1359 bars jurisdiction only where an assignment is improperly or collusively made to invoke federal jurisdiction. There was no finding that the assignments relative to this case were collusive nor improperly marshalled as the plaintiff to manufacture diversity, the dismissal was improper.

Respectfully submitted,

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