No.

IN THE

Supreme Court of the United States

RUBICON RESOURCES, LLC,

Petitioner,

v.

KEO RATHA, ET AL.,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Rubicon obtained a final judgment in this case, Plaintiffs exhausted the appellate process, and this Court denied certiorari. Then Congress amended the operative statute. Plaintiffs invoked the amendment as a basis for reopening the judgment under Rule 60(b). The district court refused, both because the amendment did not apply to Plaintiffs' case and because the district court had provided two alternative grounds for ruling in Rubicon's favor, neither of which the statute affected. But on appeal, the en banc Ninth Circuit construed the statutory amendment as a legislative command to reopen the judgment. It then went even further and used the Rule 60(b) appeal to declare, de novo, that the district court had also erred as to the independent grounds that the statutory amendment did not affect.

This petition presents two questions about the limits of Rule 60(b) and the finality of judgments:

1. Whether a post-judgment amendment to the governing statute is an impermissible basis for reopening a final judgment retroactively under Rule 60(b)(6).

2. Whether a court of appeals exceeds its authority under Rule 60(b) when it reviews the merits of the underlying judgment de novo, rather than limiting review to the Rule 60(b) decision and applying abuse of discretion.

PARTIES TO THE PROCEEDING

Petitioner (defendant-appellee below) is Rubicon Resources, LLC.

Respondents (plaintiffs-appellants below) are Keo Ratha; Sem Kosal; Sophea Bun; Yem Ban; Nol Nakry; Phan Sophea; and Sok Sang.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Rubicon Resources, LLC discloses that its parent corporation is High Liner Foods (USA), Incorporated, which is a subsidiary of High Liner Foods Inc., a Canadian public company (Toronto Stock Exchange ticker symbol: HLF).

RELATED PROCEEDINGS

Keo Ratha et al. v. Rubicon Resources, LLC, No. 23-55299 (9th Cir. en banc judgment entered Feb. 20, 2026)

Keo Ratha et al. v. Phatthana Seafood Co., Ltd. et al., No. 2:16-cv-04271-JFW-AS (C.D. Cal. judgment entered Dec. 21, 2017, reopening denied Mar. 3, 2023)

Keo Ratha et al. v. Phatthana Seafood Co., Ltd. et al., No. 18-55041 (9th Cir. judgment entered as amended May 31, 2022)

Keo Ratha et al. v. Phatthana Seafood Co. Ltd. et al., No. 22-411 (U.S. cert. denied Dec. 5, 2022)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules and Regulations

Other Authorities

INTRODUCTION

Our judicial system has long depended on a basic rule of repose: final judgments end litigation. They conclusively settle the parties' rights and obligations, subject only to narrow forms of post-judgment relief and the ordinary Article III appellate hierarchy. By a 6-5 vote, the en banc Ninth Circuit here flouted that foundational premise by ordering a final judgment reopened long after the fact for two impermissible reasons: a new statute adopted *after* the final judgment, and the appeals court's de novo conclusion that the final judgment was erroneous. That decision splits from every recognized concept of finality.

Plaintiffs (Respondents here) brought a claim against Petitioner Rubicon Resources, LLC on a theory requiring them to prove that Rubicon knowingly "benefit[ed]" from other defendants' violations of the Trafficking Victims Protection Reauthorization Act ("TVPRA"). In 2017, Rubicon won summary judgment rejecting that claim on three independent grounds, one of which was that the statute did not cover Plaintiffs' theory—an unsuccessful *attempt* to benefit. The Ninth Circuit affirmed, and this Court denied Plaintiffs' petition for certiorari.

Then, in 2023, Congress amended the TVPRA to make even an inchoate "attempt to benefit" actionable. Plaintiffs returned to the district court with a request to reopen the final judgment under Federal Rule of Civil Procedure 60(b)(6). The district court and a Ninth Circuit panel agreed that the statutory amendment did not apply retroactively and could not supply the "extraordinary circumstances" required to reopen a final judgment. *See BLOM Bank SAL v. Honickman*, 605 U.S. 204, 216 (2025) (Rule 60(b)(6) applies only in truly "extraordinary circumstances").

On rehearing en banc, however, the Ninth Circuit reversed by a 6-5 vote. The Ninth Circuit's decision is a dramatic expansion of Rule 60(b) that conflicts with other circuits in two important respects.

First is the holding that the post-judgment legislative enactment was an extraordinary circumstance justifying reopening a final judgment. This holding conflicts with decisions of at least three circuits, which recognize that a later congressional enactment cannot disturb a judgment that courts have already finally resolved. Those courts recognize that a new enactment cannot compel courts to do the same thing by effectively ordering them to reopen their judgments under Rule 60(b)(6). As those courts have recognized, reopening a final judgment under these circumstances violates the strict limits on Rule 60(b)(6) and separation-of-powers principles.

Second, the Ninth Circuit split from at least nine other circuits on the scope of Rule 60(b) review. It permitted Plaintiffs to convert their post-judgment Rule 60(b) motion into a plenary merits review of the underlying judgment; the en banc court ordered the judgment set aside simply because it thought, de novo, that the underlying judgment was wrong. But as the en banc dissent recognized, other circuits have held that appellate review of a Rule 60(b) denial may not include plenary review of the underlying judgment's merits, but rather is limited to abuse-of-discretion review of the Rule 60(b) denial itself.

These two holdings allowed Plaintiffs to reopen a final judgment in Rubicon's favor after the judicial process had run its course. The consequences of such a dramatic expansion of Rule 60(b) reach far beyond this case. If a post-judgment amendment to a statute supplies extraordinary circumstances, then final judgments remain exposed to legislative revision long after direct review has ended. And if appellate courts can order Rule 60(b) relief whenever they disagree with the underlying judgment's merits, simply because a district court references the underlying judgment, then a Rule 60(b) motion becomes a gateway to plenary appellate review. This Court should grant review to restore the finality that Rule 60(b) and the separation of powers serve to protect.

OPINIONS AND ORDERS BELOW

The en banc decision of the Ninth Circuit reversing the district court's denial of Rule 60(b) relief is reported at 168 F.4th 541 and reproduced at Pet. App. 1a-72a. The vacated panel decision of the Ninth Circuit affirming the district court's denial of Rule 60(b) relief is reported at 111 F.4th 946 and reproduced at Pet. App. 73a-136a. The decision of the district court denying Rule 60(b) relief is not reported (but is available at 2023 WL 2762044) and is reproduced at Pet. App. 137a-152a. The decision of the district court granting summary judgment is not reported (but is available at 2017 WL 8293174) and is reproduced at Pet. App. 153a-168a.

JURISDICTION

The Ninth Circuit issued its en banc opinion on February 20, 2026. On May 14, 2026, Justice Kagan extended the time to file a petition for certiorari to and including July 20, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The version of 18 U.S.C. § 1595(a) in force at the time of final judgment stated in relevant part:

> An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

18 U.S.C. § 1595(a) (2022).

The current version of 18 U.S.C. § 1595(a), as amended in 2023, states in relevant part:

> An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, or attempts or conspires to benefit, financially or by

> receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

18 U.S.C. § 1595(a).

STATEMENT OF THE CASE

Plaintiffs sue Rubicon under § 1595(a) on an "attempt to benefit" theory

Plaintiffs are Cambodian nationals who allege that, between 2010 and 2012, two companies—Phatthana Seafood Co. and S.S. Frozen Food Co.—subjected them to forced labor and other abuses in their seafood-processing factories in Thailand. Pet. App. 154a-155a, 167a. Both the Thai and Cambodian governments investigated and concluded that the allegations of exploitation were false. Pet. App. 155a. But in 2016, Plaintiffs sued Phatthana and S.S. Frozen Food in the United States under the Trafficking Victims Protection Reauthorization Act ("TVPRA"). Pet. App. 156a.

Petitioner Rubicon Resources, LLC is a U.S. seafood distributor and a customer of Phatthana. It "did not recruit or employ Plaintiffs," Pet. App. 138a-139a, and Plaintiffs did not accuse Rubicon of committing forced labor, peonage, or human trafficking. In fact, "Rubicon's and Phatthana's relationship was nothing more than an ordinary purchaser-supplier relationship." *Ratha v. Phatthana Seafood Co.*, No. 16-cv-4271, 2017 WL 8292922, at *7 (C.D. Cal. Dec. 21, 2017).

Rather, Plaintiffs sued Rubicon under a provision of the TVPRA that allows recovery from those who knowingly "benefit" from a violation of that statute. But the evidence showed Rubicon did not actually benefit. Rubicon's alleged involvement consisted only of attempting to sell a single shipment of Phatthana seafood to a single U.S. retailer—unsuccessfully—and returning it unsold. Pet. App. 167a. Thus, Plaintiffs pressed a novel theory that required reading knowingly "benefit" to include *attempts* to benefit.

Rubicon obtains final judgment in its favor

In 2017, after extensive discovery, the district court granted summary judgment for Rubicon and the other defendants, in separate orders resting on multiple independent grounds.

As to the claims against Phatthana and S.S. Frozen Food, the district court held that neither company's conduct in Thailand was subject to the TVPRA because neither company was "present in" the United States, as required by 18 U.S.C. § 1596(a)(2). *Ratha*, 2017 WL 8292922, at *4, *aff'd*, 35 F.4th 1159 (9th Cir. 2022); *Ratha v. Phatthana Seafood Co.*, No. 16-cv-4271, 2017 WL 8292391, at *3 (C.D. Cal. Dec. 21, 2017).

The district court simultaneously granted Rubicon summary judgment, Pet. App. 153a-168a, holding that Plaintiffs had "no evidence" of any of the three additional elements for secondary TVPRA liability: participation in a trafficking venture (the "participation" ground), knowledge of trafficking (the "knowledge" ground), and receipt of a benefit (the "benefit" ground), Pet. App. 161a-167a (boldface omitted).

As to participation, the evidence showed only that Rubicon purchased seafood from Phatthana intending to market it in the United States. Pet. App. 161a. The district court held that was not nearly enough to show participation in a trafficking venture where there was no evidence that Rubicon had any operational or management role in Phatthana's employment practices. Pet. App. 162a-164a.

As to knowledge, Plaintiffs pointed to advocacy groups' general reports about Phatthana's abusive practices generally. Pet. App. 165a-166a. The court rejected that theory as well, holding that Plaintiffs "have failed to present any evidence that Rubicon … knew or should have known that human trafficking was occurring." Pet. App. 164a-165a. The court emphasized that Rubicon "actively sought to source product from companies that did not exploit their workers" and "reasonably relied on industry and government audits and certifications." *Id.*

As to benefit, the district court observed that it was "undisputed that Rubicon never sold any product processed at Phatthana's … factory during the time that any of the Plaintiffs were employed there." Pet. App. 167a. Plaintiffs thus advanced "a number of novel theories," and the district court rejected them all. *Id.* Most notable was the argument that Rubicon could be liable merely for *attempting* to benefit from selling Phatthana product. *Id.* The court found no "factual or legal support" for that claim. *Id.*

The Ninth Circuit affirmed. As to Rubicon, it addressed only the benefit ground. It held that no reasonable jury could find that Rubicon actually benefited, financially or otherwise, from Phatthana's alleged TVPRA violations. *Ratha v. Phatthana Seafood Co.*, 35 F.4th 1159, 1174-76 (9th Cir. 2022). And, relevant here, it rejected Plaintiffs' attempt theory, concluding that § 1595(a)'s text—which required that a non-perpetrator "knowingly benefit[]"—could not encompass unsuccessful attempts to benefit. *Id.* at 1175-76. The court noted that the TVPRA created both attempt and conspiracy liability as to *other* provisions—but not § 1595(a). *Id.* at 1176 (discussing 18 U.S.C. § 1594(a)). Since that benefit holding was sufficient to affirm as to Rubicon, the panel found no need to consider the district court's alternative grounds. *Id.* at 1175.[1] The Ninth Circuit denied rehearing. *Id.* at 1164.

Plaintiffs then sought certiorari on unrelated issues regarding whether the TVPRA applied extraterritorially to Phatthana and S.S. Frozen Food. Plaintiffs' petition did not challenge the dismissal of their claim against Rubicon at all. This Court denied the petition without calling for a response. *Ratha v.*

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[1] The Ninth Circuit also affirmed the district court's holding that the TVPRA did not apply extraterritorially to Phatthana or S.S. Frozen Food because Plaintiffs had not satisfied § 1596(a).

Phatthana Seafood Co., 143 S. Ct. 491, 491 (2022) (No. 22-411).

Plaintiffs seek Rule 60(b) relief after Congress amends § 1595(a)

After this Court denied certiorari, Congress enacted the Abolish Trafficking Reauthorization Act of 2022 ("ATRA"), on January 5, 2023. ATRA amended § 1595(a) to add attempt and conspiracy liability for non-perpetrators. Pub. L. No. 117-347, § 102, 136 Stat. 6199, 6200 (2023). As amended, § 1595(a) now authorizes civil actions against "whoever knowingly benefits, *or attempts or conspires to benefit*," from knowing participation in a qualifying venture. 18 U.S.C. § 1595(a) (emphasis added). ATRA labeled the amendment a "technical and clarifying update"; it did not state that the amendment applied retroactively. 136 Stat. at 6200.

Three weeks after ATRA's enactment, Plaintiffs returned to the district court seeking relief from the final judgment under Rule 60(b)(6). Pet. App. 137a. They argued that ATRA "retroactively clarifies" that § 1595(a)'s "benefit" element had always included attempts to benefit, and that the amendment abrogated the Ninth Circuit's prior affirmance of summary judgment for Rubicon. Pet. App. 143a. Plaintiffs argued that the statutory amendment supplied the "extraordinary circumstances" required for Rule 60(b)(6) relief. *Id.*; *see, e.g.*, *BLOM Bank*, 605 U.S. at 210; *see also Gonzalez v. Crosby*, 545 U.S. 524, 535 (2005).

Plaintiffs directed their motion only to the benefit ground of the district court's grant of summary judgment. Plaintiffs had no argument ATRA affected the district court's two other independent grounds for summary judgment, participation and knowledge. And their motion did not assert error in those independent grounds as a basis for relief from the final judgment.

The district court denies Rule 60(b) relief, and a Ninth Circuit panel affirms

The district court denied the Rule 60(b) motion, observing that Rule 60(b) relief is an "extraordinary remedy that works against the interest of finality and should be applied only in exceptional circumstances." Pet. App. 142a (cleaned up). The court concluded that ATRA did not apply retroactively. Pet. App. 148a-150a. And even if it did, the court held, the amendment "d[id] not apply to or in any way affect" the participation and knowledge grounds of the underlying judgment, and thus "would not alter" that judgment. Pet. App. 146a. The upshot was that the court declined to reopen the judgment under the Ninth Circuit's multi-factor test governing Rule 60(b)(6) motions asserting a change in law. Pet. App. 152a.

A Ninth Circuit panel affirmed the denial of Rule 60(b)(6) relief, concluding that ATRA did not apply retroactively. Pet. App. 119a-120a. Judge Ikuta's panel opinion warned that even if Congress had directed the courts to apply the change retroactively, "Congress cannot require federal courts to reopen final judgments to do so, because this would violate separation-of-powers principles." Pet. App. 94a. Judge Graber dissented, because she believed that ATRA applied retroactively and that the district court's alternative grounds for ruling for Rubicon were incorrect on the merits. Pet. App. 121a-122a, 136a n.5. As the panel opinion noted, however, the dissent "ignore[d] the question whether a final judgment can be reopened under Rule 60(b)(6) based on a legislative change in the law." Pet. App. 95a n.5.

The en banc Ninth Circuit reverses the district court's denial of Rule 60(b) relief

On rehearing en banc, however, the Ninth Circuit reversed by a 6-5 vote. Pet. App. 8a, 43a. It held that ATRA applied retroactively and that the amendment supplied extraordinary circumstances warranting Rule 60(b)(6) relief. Pet. App. 14a-42a. In reaching that conclusion, the en banc panel ignored Rubicon's argument and the panel opinion's recognition that reopening due to purportedly retroactive legislation "risk[ed] running afoul of" the separation of powers. Pet. App. 94a-95a.

The en banc majority then went further. Although Plaintiffs' motion rested on ATRA and addressed only the benefit ground of the underlying judgment—the only ground Plaintiffs have ever asserted ATRA could affect—the majority held that it could also review de novo the district court's original holdings on participation and knowledge. Pet. App. 38a. It reasoned that the district court opened them for review because the district court had "incorporated them into the decision under review by relying on them to deny Plaintiffs' Rule 60(b) motion." Pet. App. 36a. But it cited only the district court's brief observation that Plaintiffs' Rule 60(b) argument did not affect the independent knowledge and participation grounds for the district court's grant of summary judgment. Pet. App. 37a. The en banc court then reversed the district court's original merits determinations from more than eight years earlier, finding enough evidence of participation and knowledge to send the case to trial. Pet. App. 38a-40a. This was despite the district court's holding—which the en banc court did not disturb—that Phatthana, the only alleged perpetrator with whom Rubicon did business, was not liable under the TVPRA. *See Ratha*, 2017 WL 8292922, at *4, *8.

Judge Callahan dissented, joined to various degrees by Judges Milan Smith, Bade, Bress, and Johnstone. The dissent argued that ATRA did not apply retroactively and that the majority had improperly reopened unrelated portions of the underlying judgment. Pet. App. 43a-72a. The majority, she explained, "create[d] a novel rule for Rule 60(b) appeals" that contravened *Browder v. Director, Department of Corrections of Illinois*, 434 U.S. 257 (1978), which held that "an appeal from denial of Rule 60(b) relief does not bring up the underlying judgment for review." Pet. App. 65a-66a. (Callahan, J., dissenting) (quoting *Browder*, 434 U.S.

at 263 n.7). By treating the district court's passing reference to its original judgment as license to reopen unrelated merits issues and review them de novo, "the majority ha[d] taken the unprecedented step of departing from this long-standing rule," putting the Ninth Circuit "at odds with every other circuit in the country and with the Supreme Court." Pet. App. 67a. (Callahan, J., dissenting). "This error," she underscored, "cannot be overstated." Pet. App. 68a.

REASONS FOR GRANTING THE WRIT

The Ninth Circuit's decision below conflicts with other circuits and this Court's precedents in two independent respects: It relied on a post-judgment change to the governing statute to reopen a final judgment under Rule 60(b)(6). *Infra* § I. And it stretched Rule 60(b) review to encompass de novo merits review of the underlying judgment. *Infra* § II. While independent, the second error amplified the first: Because the post-judgment enactment affected only one ground for final judgment, the Ninth Circuit had to revisit the others to reopen the case—and it held that it could do so based purely on its own de novo disagreement with the district court (there being no other basis for revisiting them). Both questions are exceptionally important. *Infra* § III. And this case is an excellent vehicle to address them both. *Infra* § IV.

I. In Relying On A Legislative Change To Reopen A Final Judgment Under Rule 60(b)(6), The Ninth Circuit Created A Circuit Split And Violated This Court's Precedents.

The Ninth Circuit held that legislation retroactively amending the law is an "extraordinary circumstance" under Rule 60(b)(6), requiring a district court to reopen a final judgment that rested on the meaning of the statute before the amendment. Pet. App. 41a-42a. That decision splits with at least three other circuits and defies this Court's settled principles on finality and separation of powers.

A. The Ninth Circuit's decision splits with at least three other circuits.

The circuits are divided over whether a post-judgment statutory amendment can supply the "extraordinary circumstances" required to reopen a final judgment under Rule 60(b)(6). The Ninth Circuit held that it can, while three other circuits have disagreed.

Central to the position of the three circuits on the other side is this Court's opinion in *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211 (1995). *Plaut* held that "Congress may not declare by retroactive legislation that the law applicable to [a case that has reached final judgment] was something other than what the court said it was." *Id.* at 227. Thus, even though the statutory amendment in *Plaut* was retroactive, this Court held that the separation of powers precluded applying it to reopen final judgments. Several circuits have applied *Plaut* to the

Rule 60(b) context specifically, rejecting the idea that post-judgment congressional enactments may constitute "extraordinary circumstances" that warrant reopening a final judgment under Rule 60(b)(6).

The Tenth Circuit, for instance, has held that a congressional change in the law is not "the type of extraordinary circumstance that warrants relief under Rule 60(b)(6)." *Okla. Chapter of Am. Acad. of Pediatrics v. Fogarty*, No. 05-5100, 2010 WL 3341881, at *2 (10th Cir. July 20, 2010). The court considered the plaintiffs' argument that a "recent amendment" to a statutory term demonstrated "that Congress did not agree with [the court's earlier] interpretation" of the statute. *Id.* The court rejected that argument as "carr[ying] no weight." *Id.* The court reasoned that it would violate *Plaut* and the separation of powers for Congress to amend a statute "to call into question the finality of [the court's] judgment" interpreting the statute. *Id.*

The Eleventh Circuit agrees. It has cautioned that the "separation of powers" is undermined "when the actions of [Congress] threaten an Article III court's independence and impartiality in the execution of its decisionmaking function." *United States v. Rojas*, 53 F.3d 1212, 1214 (11th Cir. 1995). Hewing to those principles, the court has explained that statutes that sap "the full force and effect of federal courts' final judgments" are unconstitutional. *Rivera v. Allin*, 144 F.3d 719, 725 (11th Cir. 1998), *abrogated by Jones v. Bock*, 549 U.S. 199 (2007). Thus, when rejecting a district court judgment granting a Rule 60(b)(6) motion based on a purported congressional change in the law, the Eleventh Circuit underscored that "Congress may not mandate the reopening of a final judgment," a conclusion that it called "obvious in light of *Plaut*." *Raven v. Oppenheimer & Co.*, 74 F.3d 239, 243 n.9 (11th Cir. 1996). And it "doubt[ed]" that "the separation of powers problem [could] somehow be avoided by seeking Rule 60(b)(6) discretionary relief premised upon a new congressional pronouncement." *Id.* Plainly, therefore, the Eleventh Circuit would reject the Ninth Circuit's position that the district court lacked discretion not to reopen the final judgment in light of a (purportedly) retroactive amendment.

The Seventh Circuit has similarly rejected the idea that legislative changes—even "clear and authoritative" ones—"justify reopening" a final judgment under Rule 60(b)(6). *Norgaard v. DePuy Orthopaedics, Inc.*, 121 F.3d 1074, 1077 (7th Cir. 1997). To the contrary, the Seventh Circuit has repeatedly emphasized that Article III entrusts the federal judiciary with "the authority to make a conclusive decision, one not subject to legislative revision." *Rodriguez v. Cook County*, 664 F.3d 627, 629-30 (7th Cir. 2011) (explaining this rule as applied to a state statute); *Baez-Sanchez v. Barr*, 947 F.3d 1033, 1036 (7th Cir. 2020) (explaining that judicial decisions are "not subject to disapproval or revision by" Congress). Reopening a "closed case[]" under Rule 60(b)(6) because of a congressional change in the law "would violate the Constitution" by "diminishing [the] rights the [winners] possessed under the judgments rendered [by the judicial branch] before [Congress enacted] the new legislation." *Norgaard*, 121 F.3d at 1077.

Other circuits have applied the same principle outside the Rule 60(b) context, consistently recognizing that congressional acts cannot override a court's final judgment. For instance, the Second Circuit has rejected the idea that a "congressional overruling" of a case could disturb "a final judgment" "entered before [the congressional] enactment," for that "would violate the constitutional principle of separation of powers." *Schwartz v. Merrill Lynch & Co.*, 665 F.3d 444, 454 (2d Cir. 2011) (rejecting argument that the Lilly Ledbetter Act could undo a final judgment); *see also Benjamin v. Jacobson*, 172 F.3d 144, 161 (2d Cir. 1999) (explaining that, "[u]nder the separation of powers, Congress lacks the authority to alter a finally rendered [retrospective] judgment").

The First Circuit, heeding these finality and separation-of-powers principles, has similarly held that Congress may not disturb the judicial department's "final" pronouncement about what a statute means. *United States v. Vazquez-Rivera*, 135 F.3d 172, 177 (1st Cir. 1998). There, the government argued that a subsequent amendment "clarifi[ed]" Congress's "intent in the original law" to reach conduct the First Circuit had held was excluded. *Id.* The court rejected the amendment as "legally irrelevant," warning that crediting Congress's views would displace the judicial department's "last word" on what the law meant. *Id.*[2]

In the decision below, the Ninth Circuit took the opposite path, relying on a statutory development to reopen a final judgment entered more than eight years earlier. The Ninth Circuit held that a retroactive congressional enactment satisfies the "extraordinary circumstances" required to reopen a final judgment under Rule 60(b)(6). Pet. App. 41a-42a. The court viewed Congress's legislative amendment in ATRA as intended "to correct *Ratha I's* error" interpreting TVPRA and to say "what the law … always meant"—the opposite of what the courts had said it meant. Pet. App. 33a. And the court's finding of "extraordinary circumstances" relied expressly and crucially on its "legal conclusions" that "ATRA resolved an ambiguity and had retroactive effect." Pet. App. 42a. The Ninth Circuit thus held that the district court erred by declining to reopen the final judgment to apply the amended law

[2] Judges in the Fourth and Sixth Circuits have also expressed views that place them at odds with the Ninth Circuit's approach here. Judge Wilkinson, writing for the Fourth Circuit, rejected an interpretation of a state statutory amendment that would have disturbed the court's prior judgment interpreting the unamended statute, and thus would have "provoke[d] a fight of constitutional dimensions" under *Plaut*. *Ward v. Dixie Nat'l Life Ins. Co.*, 595 F.3d 164, 178 (4th Cir. 2010). And Judge Sutton, joined by Judge Kethledge in a concurrence in the Sixth Circuit's denial of rehearing en banc, cautioned that reading a statute in a way that would upset a final judgment "trespass[es] on the separation-of-powers guarantees of the Constitution." *Peabody Coal Co. v. Dir., Off. of Workers' Comp. Programs*, 857 F.3d 310, 311, 313-14 (6th Cir. 2014).

retroactively. Pet. App. 41a-42a. That holding is inconsistent with the other circuits' positions.

B. The Ninth Circuit's reopening of a final judgment based on legislative command offends this Court's precedents and the separation of powers.

The Ninth Circuit's decision flouts two legal principles that this Court has emphasized.

1. The first is that post-judgment changes "in the law by themselves rarely constitute the extraordinary circumstances required for relief under Rule 60(b)(6)." *Agostini v. Felton*, 521 U.S. 203, 239 (1997) ("[i]ntervening developments" rarely justify reopening); *Gonzalez*, 545 U.S. at 536-37 (the evolution of the law is not "extraordinary"); *see also BLOM Bank*, 605 U.S. at 212 (surveying cases that have "consistently reaffirmed" that courts should only apply Rule 60(b)(6) in truly "extraordinary circumstances"). That admonition reflects that changes in the law are "hardly extraordinary." *Gonzalez*, 545 U.S. at 536.

Any other approach would constantly threaten "the finality of judgments," *id.* at 535 (citation omitted), which are supposed to "fix the rights of parties and entitle them to go about their lives," *Margoles v. Johns*, 798 F.2d 1069, 1072 (7th Cir. 1986) (citation omitted). That limitation is especially important for Rule 60(b) motions under paragraph (6): They are subject to no time bar whatsoever, and therefore "may threaten final judgments *years* after they are entered," *BLOM Bank*, 605 U.S. at 215 (emphasis added)—just as Plaintiffs' Rule 60(b)(6) motion did here. That is why this Court recently emphasized that Rule 60(b)(6), as a "catchall provision," is "available only in narrow circumstances," and may not "'[b]e used to circumvent'" or "swallow" the preceding five (themselves narrow) Rule 60(b) avenues for relief. *Id.* at 211 (quoting *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 n.11 (1988)). Preserving the finality of judgments thus requires applying a "very strict" understanding of Rule 60(b)(6) in which changes in the law will almost never justify reopening final judgments. *Gonzalez*, 545 U.S. at 535 (citation omitted).

The Ninth Circuit's decision flips these finality principles on their head, treating a routine legal development as extraordinary under Rule 60(b)(6). The only circumstance the Ninth Circuit actually relied on as purportedly extraordinary was its "legal conclusion[]" about a legislative change. Pet. App. 42a. But if that is enough, Rule 60(b)(6)'s narrow residual clause could easily become a general license to reopen final judgments whenever Congress later revises the law. That is especially untenable here: Plaintiffs' Rule 60(b) motion invoked a statutory development that at most addressed one ground for final judgment, and identified no defect in the original proceedings beyond the statutory development. The Ninth Circuit thus treated the very circumstance this Court has called routine as extraordinary.

2. The Ninth Circuit's decision also violates the separation of powers. Its rule allows Congress to accomplish indirectly exactly what *Plaut* says

Congress may not do directly: unsettle a final judgment by retroactively declaring that the law "was something other than what" the judgment said it was. *Plaut*, 514 U.S. at 227. The Ninth Circuit reasoned that Congress amended TVPRA to correct the court's previous incorrect interpretation of the scope of liability under the statute, doing so by "clarify[ing] retroactively what the law already meant" before the case reached final judgment. Pet. App. 34a. And it held that Congress's "inten[tion] for the ATRA to have retroactive effect" "fatally undermine[d]" the district court's judgment. Pet. App. 4a, 34a. To the Ninth Circuit, the statute, and only the statute, required revising that judgment, and the district court lacked discretion to leave it unchanged.

But Article III vests the "judicial power" in the courts, not Congress, and with it the authority to say "final[ly] and conclusive[ly]" what the law means in a case that has reached final judgment. *Plaut*, 514 U.S. at 226; *Gordon v. United States*, 69 U.S. 561, 561 (1864); *Fogarty*, 2010 WL 3341881, at *2 (Rule 60(b)(6) is not a mechanism for "call[ing] into question the finality of [a court's] judgment" interpreting a statute when Congress amends the law). The Ninth Circuit's approach cedes that authority. By treating Congress's retroactive "clarification" as an extraordinary circumstance effectively requiring reopening under Rule 60(b)(6), the court made the judiciary the instrument of the very legislative revision of final judgments that *Plaut* forbids. Allowing the Ninth Circuit's decision to stand thus threatens to drain *Plaut* of much of its force.

Indeed, *Plaut*'s discussion of Rule 60(b) underscores why the Ninth Circuit's rule offends the separation of powers.[3] *Plaut* distinguished Rule 60(b) itself from an impermissible legislative command to reopen a final judgment, reasoning that Rule 60(b) merely "authorizes discretionary judicial revision of judgments" as a function of "the courts' own inherent and discretionary power." 514 U.S. at 233. That is, Rule 60(b) itself does not violate the separation of powers because it "does not impose," and does not permit Congress to impose, a "legislative mandate to reopen." *Id.* Equally, that implies that Rule 60(b) may not act as a mere vessel for enforcing a forbidden "legislative instruction to reopen a final judgment," for that would "impinge[] upon the independent constitutional authority of the courts." *Id.* at 234.

The decision below deploys precisely that constitutionally impermissible tactic. Although Rule 60(b) in theory gives district courts a measure of discretion, the Ninth Circuit perceived none with respect to ATRA. It found that the district court had no choice but to deem ATRA a clear congressional command to reopen a final judgment: the very thing that *Plaut* makes clear breaches the separation of powers.

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[3] *Plaut* did not involve a Rule 60(b) motion only because Congress's retroactive statutory amendment in that case provided for reopening "on motion by the plaintiff." 514 U.S. at 215. Nothing in *Plaut* suggested that the problem was the label on that motion, rather than the legislative revision of a final judgment.

II. The Ninth Circuit Created A Circuit Conflict And Violated This Court's Precedents In Reconsidering The Underlying Judgment On Appeal.

A. The Ninth Circuit's decision splits with at least nine other circuits.

The Ninth Circuit split with at least nine circuits over whether courts may award Rule 60(b) relief based on disagreement with the merits of the underlying judgment rather than a cognizable basis for Rule 60(b) relief. The Ninth Circuit asserted that it may reverse the denial of a Rule 60(b) motion, and order a judgment reopened, simply because the court of appeals disagrees on de novo review with the merits of the underlying judgment. At least nine other circuits—the First, Second, Fourth, Fifth, Sixth, Seventh, Eighth, Tenth, and Eleventh Circuits—have squarely rejected that position.

The Sixth Circuit's decision in *Tyler v. Anderson*, 749 F.3d 499 (6th Cir. 2014), is illustrative. It explained that "Rule 60(b) proceedings are subject to only limited and deferential appellate review." *Id.* at 509 (quoting *Gonzalez*, 545 U.S. at 535). With respect to a "district court's denial of a Rule 60(b) motion for relief from judgment," appellate courts review "for an abuse of discretion." *Id.* (citation omitted). That is why an appellate court reviewing a Rule 60(b) denial "does not consider the merits of the underlying judgment" de novo. *Id.* "Rule 60(b) does not allow a defeated litigant a second chance to convince the court to rule in his or her favor." *Id.* These principles serve to protect the policy enshrined in Rule 60(b) "favoring finality of judgments and termination of litigation." *Id.*

The First Circuit has held that "an appeal from the denial of [a Rule 60(b)] motion *will not expose* the merits of the underlying judgment to appellate scrutiny." *Karak v. Bursaw Oil Corp.*, 288 F.3d 15, 18 (1st Cir. 2002) (emphasis added). That is, review of a Rule 60(b) denial cannot "produce a Lazarus-like effect; it cannot resurrect appellants' expired right to contest the merits of the underlying judgment, nor bring the judgment itself before [the appellate court] for review." *Rodriguez-Antuna v. Chase Manhattan Bank Corp.*, 871 F.2d 1, 2 (1st Cir. 1989).

The Second Circuit has prohibited parties from "us[ing] proceedings seeking relief from or modification of a judgment under [Rule] 60 simply to relitigate matters settled by the original judgment." *Donovan v. Sovereign Sec., Ltd.*, 726 F.2d 55, 60 (2d Cir. 1984). It follows that in the Second Circuit, an appeal of a Rule 60(b) denial "brings up only the correctness of the [denial] itself," without "permit[ting] the appellant to attack the underlying judgment for error that could have been complained of on direct appeal." *Daily Mirror, Inc. v. N.Y. News, Inc.*, 533 F.2d 53, 56 (2d Cir. 1976) (cited by *Browder*, 434 U.S. at 263 n.7).

The Fourth Circuit has concluded that "[i]n ruling on an appeal from a denial of a Rule 60(b) motion[,] [an appellate court] may not review the merits of the underlying order; it may only review the denial of the motion with respect to the grounds set forth in Rule 60(b)." *In re Burnley*, 988 F.2d 1, 3 (4th Cir. 1993) (per curiam); *see also MLC Auto., LLC v. Town of S. Pines*, 532 F.3d 269, 277 (4th Cir. 2008) (same). And it may do so only "under an abuse of discretion standard." *Burnley*, 988 F.2d at 3. That limited "scope of review causes … difficulty" for parties who "urge[] [the Fourth Circuit] to consider the merits of the district court's" underlying judgment. *MLC Auto.*, 532 F.3d at 277.

The Fifth Circuit has held that its review of a Rule 60(b) denial "is 'limited to the district court's exercise of discretion in denying the Rule 60(b) motion …,' and *may not extend in any way* to a consideration of the merits of the [underlying] case." *United States v. O'Neil*, 709 F.2d 361, 373 (5th Cir. 1983) (emphasis added) (citation omitted); *see also, e.g.*, *Chick Kam Choo v. Exxon Corp.*, 699 F.2d 693, 694-95 (5th Cir. 1983) (appellate review of a Rule 60(b) denial "is strictly limited to determining whether the district court's denial of the Rule 60(b) motion constituted an abuse of discretion").

The Seventh Circuit has specifically rejected the position "that, by contesting the merits of the judgment in a Rule 60 motion, a litigant gets a second crack at appeal." *Bell v. McAdory*, 820 F.3d 880, 883 (7th Cir. 2016). Rather, as "many decisions say[]," "disagreement with the merits of the underlying judgment simply is not a reason for relief under Rule 60(b)." *Id.* (collecting cases). And litigants are not "entitled to litigate [through Rule 60(b)] whether the original judgment was right." *Id.* Numerous other Seventh Circuit decisions have reinforced these principles. *See, e.g.*, *Tinsley v. City of Indianapolis*, 92 F.3d 1187 (7th Cir. 1996) ("A party requesting relief under Rule 60(b) is not entitled to a review of the merits of the underlying judgment.").

The Eighth Circuit has made clear that Rule 60(b) "is not a vehicle for simple reargument on the merits." *Broadway v. Norris*, 193 F.3d 987, 990 (8th Cir. 1999); *see also id.* ("[R]eargu[ing] … the merits" "is not the purpose of Rule 60(b)."). And because a Rule 60(b) motion that attempts to reargue the merits of the underlying judgment flouts that rule, that "alone is sufficient to prevent a holding that [a] [d]istrict [c]ourt abused its discretion in denying the motion." *Id*.

The Tenth Circuit "'review[s] [a] district court's denial of a Rule 60(b) motion for abuse of discretion,' considering only the denial of Rule 60(b) relief and not the merits of the underlying judgment." *Gossett v. Helphinstine*, No. 22-7001, 2022 WL 3641818, at *1 (10th Cir. Aug. 24, 2022) (quoting *Servants of the Paraclete v. Doe*, 204 F.3d 1005, 1009 (10th Cir. 2000)). "An appeal from a denial of a Rule 60(b) motion" thus "addresses only the district court's order denying the motion, and not the underlying decision itself." *Servants*, 204 F.3d at 1009.

Finally, the Eleventh Circuit has stressed that "[a]n appeal of a ruling on a Rule 60(b) motion … is narrow in scope, addressing only the propriety of the denial or grant of relief," and "review[ing] only for abuse of discretion." *Am. Bankers Ins. Co. v. Nw. Nat'l Ins. Co.*, 198 F.3d 1332, 1338 (11th Cir. 1999). The appeal "does not raise issues in the underlying judgment for review," and thus "may not be used to challenge mistakes of law which could have been raised on direct appeal." *Id.*

The Ninth Circuit plainly parted ways with this overwhelming consensus. In the decision below, the Ninth Circuit not only reconsidered the merits of the underlying judgment anew—despite no discussion of those merits appearing anywhere in Plaintiffs' Rule 60(b) motion—it explicitly reviewed those merits de novo. In denying the motion, the district court limited itself to the single ground for Rule 60(b) relief that Plaintiffs had asserted. Pet. App. 143a-145a. And it underscored that the asserted ground "only … affected … [the] 'attempt to benefit' argument" in the "decision granting summary judgment"; it "d[id] not apply to or in any way affect the [other two] grounds" for granting summary judgment. Pet. App. 145a-147a. On appeal, however, the Ninth Circuit reached back eight years to reevaluate the merits of the underlying judgment and avowedly "review[ed]" all "three grounds on which the district court had premised its grant of summary judgment." Pet. App. 36a.

Worse, while the Ninth Circuit acknowledged upfront that it must review Rule 60(b) denials for abuse of discretion, Pet. App. 13a, it did not apply that deferential standard when reviewing the underlying judgment on the merits. Rather, the Ninth Circuit expressly "review[ed] de novo" the participation and knowledge grounds of the district court's grant of summary judgment and concluded that "the district court erred as a matter of law" as to both. Pet. App. 38a-39a (capitalization altered). And that "legal" error simply reflected the Ninth Circuit's disagreement with the application of the summary-judgment standard to the record evidence—exactly the type of determination that should be most within the district court's discretion to decline to revisit. That clear split from the decisions of at least nine other circuits warrants review.

B. The Ninth Circuit's review of the underlying judgment's merits defies this Court's Rule 60(b) precedents.

The Ninth Circuit's decision to overturn two independent grounds for the district court's grant of summary judgment contravened this Court's precedents establishing bedrock tenets of Rule 60(b) review and flouted jurisdictional limits on direct appeals.

1. Nearly 50 years ago, in *Browder v. Director, Department of Corrections of Illinois*, 434 U.S. 257 (1978), this Court observed that a "Court of Appeals may review [a Rule 60(b)] ruling only for abuse of discretion, … and an appeal from denial of Rule 60(b) relief does not bring up the underlying judgment for review." *Id.* at 263 n.7. These two precepts go hand in hand: Because "Rule 60(b) proceedings are subject to only limited and deferential appellate review," *Gonzalez*, 545 U.S. at 535 (citing *Browder*, 434 U.S. at 263 n.7), an appellate court cannot evaluate the Rule 60(b) denial, much less reexamine the merits of the underlying judgment, de novo. Rule 60(b) simply does not afford an opportunity to reconsider the merits of a settled judgment anew.

That appellate review of a Rule 60(b) denial is only of the Rule 60(b) denial itself, and not the underlying judgment, also means that the Rule 60(b) motion in question limits appellate review. *See, e.g.*, *Wells Fargo Bank, N.A. v. AMH Roman Two NC, LLC*, 859 F.3d 295, 299 (4th Cir. 2017) ("We review a district court's denial of a Rule 60(b) motion for abuse of discretion; in so doing we do not review the merits of the underlying order but rather only whether the movant satisfied the requirements for Rule 60(b) relief."). Plaintiffs' Rule 60(b) motion here addressed solely ATRA. *Supra* 9-10. There were no Rule 60(b) bases to attack other aspects of the underlying judgment.

The district court's role under Rule 60(b) was limited to addressing the ATRA-based argument raised in the Rule 60(b) motion, and so was the Ninth Circuit's role in reviewing its Rule 60(b) decision. In ignoring those constraints, the Ninth Circuit plainly disregarded the time-honored principles of *Browder* and its progeny on the boundaries of Rule 60(b) review.

2. The Ninth Circuit's ruling also cannot be squared with *Bowles v. Russell*, 551 U.S. 205 (2007). That decision made clear that the 30-day statutory time to appeal in civil litigation, 28 U.S.C. § 2107(a), and the 14-day limit on court-granted extensions, *id.* § 2107(c), establishes a limit on appellate jurisdiction. *Bowles*, 551 U.S. at 213. And as *Browder* explained, a Rule 60(b) motion is not a mechanism to circumvent or extend "the time for appeal from … the original [underlying] judgment." 434 U.S. at 263 n.7.

It is well established that reviewing the merits of the underlying judgment is the province of a direct appeal. *See, e.g.*, *In re Design Classics, Inc.*, 788 F.2d 1384, 1386 (8th Cir. 1986) ("When an error of law is alleged, the proper vehicle for attack on that error is the direct appeal."). In light of *Bowles*, then, treating Rule 60(b) as a vehicle to resurrect the merits of the underlying judgment would be tantamount to allowing a jurisdictionally impermissible second appeal. *See, e.g.*, *Bell*, 820 F.3d at 883 ("[A]llow[ing] the court of appeals to address the propriety of the original judgment" on review of a Rule 60(b) denial "would be equivalent to accepting a jurisdictionally untimely appeal." (citing *Browder*, 434 U.S. at 263 n.7)); *Silas v. Sears, Roebuck & Co.*, 586 F.2d 382, 386 (5th Cir. 1978) ("[A]ppellate review of the denial of a Rule 60(b) motion must be narrower in scope than review of the underlying order of dismissal so as not to vitiate the requirement of a timely appeal.").

But a jurisdictionally impermissible second appeal is precisely what the Ninth Circuit granted Plaintiffs when it treated Rule 60(b) review as an opportunity to reconsider issues that the parties could have challenged only on direct appeal. That maneuver ran headlong into *Bowles*'s clarification that direct appeals are jurisdictionally time-limited, *see Bell*, 820 F.3d at 883, and the well-settled principle that "Rule 60(b) relief is not appropriate as a substitute for direct appeal of a judgment," *Design Classics*, 788 F.2d at 1386; *see also, e.g.*, *Chick Kam Choo*, 699 F.2d at 694-95 ("[A] Rule 60(b) appeal may not be used as a substitute for the ordinary process of appeal once the time for such has passed, particularly where, as here, mistakes of law are alleged as the primary grounds for the appeal."); *Daily Mirror*, 533 F.2d at 56 (Rule 60(b) review "does not permit the appellant to attack the underlying judgment for error that could have been complained of on direct appeal.").

3. The Ninth Circuit's only justification for avoiding these precedents was a perfunctory assertion that the district court had "incorporated [the original grounds for summary judgment] into the decision under review by relying on them to deny Plaintiffs' Rule 60(b) motion." Pet. App. 36a. That is wrong both factually and legally.

Factually, the district court did no such thing. It simply noted that ATRA "does not apply to or in any way affect" the participation and knowledge grounds of the underlying judgment, and thus "would not alter" that judgment. Pet. App. 146a. The nature of the statutory change, and its lack of effect on the underlying judgment, were "factors weigh[ing] heavily against" finding extraordinary circumstances under Rule 60(b)(6)—i.e., factors cutting heavily against a sufficient showing of Rule 60(b)(6) grounds—but nothing more. Pet. App. 146a. And those factors were ones that district courts must always consider under the Ninth Circuit's multi-factor test governing Rule 60(b)(6) motions asserting a change in law. Pet. App. 40a-41a. The district court's observation certainly did not amount to substantive incorporation of the underlying judgment's merits into the Rule 60(b) denial.

Legally, moreover, the district court had no ability to sweep the underlying judgment's merits into its Rule 60(b) denial. Just as a litigant seeking Rule

60(b) relief may not seek reconsideration of the merits of the underlying judgment, *see, e.g.*, *Tinsley*, 92 F.3d 1187, so too a district court may not undertake such consideration, *see CNF Constructors, Inc. v. Donohoe Constr. Co.,* 57 F.3d 395, 400 (4th Cir. 1995) ("To the extent that the post-judgment motion sought to have the district court reconsider its ruling with respect to the [issues addressed in the district court's original order], it [is] clearly improper, because Rule 60(b) does not authorize a motion merely for reconsideration of a legal issue." (alterations in original) (citation omitted)).

A fortiori, an appellate court reviewing a Rule 60(b) denial may not sua sponte dig up the merits of the underlying judgment either, *see O'Neil*, 709 F.2d at 373—let alone do so based on a legally mistaken belief that the district court "incorporated by reference," Pet. App. 13a, the merits of the underlying judgment into its Rule 60(b) denial.

III. The Questions Presented Are Exceptionally Important.

This case presents questions of exceptional importance that test a foundational premise of civil litigation: whether final judgments conclusively settle parties' rights and obligations or instead remain widely vulnerable to reopening under Rule 60(b) and later legislative command.

Since its early days, this Court has repeatedly stressed finality as foundational to the very fabric of our judicial system. "[T]he aid of judicial tribunals would not be invoked for the vindication of rights of person and property," this Court has explained, "if … conclusiveness did not attend the judgments of such tribunals." *S. Pac. R.R. Co. v. United States*, 168 U.S. 1, 49 (1897). Rather, "[t]here must be an end to litigation someday." *Ackermann v. United States*, 340 U.S. 193, 198 (1950). The "free, calculated, deliberate choices" litigants make that culminate in final judgment thus "are not to be relieved from." *Id.* This Court has underscored time and again that doing so would undermine the "vitally important interest[]" in "preserv[ing] … 'the finality of judgments.'" *Yeager v. United States*, 557 U.S. 110, 117-18 (2009) (quoting *Crist v. Bretz*, 437 U.S. 28, 33 (1978)); *see also, e.g.*, *United States v. Denedo*, 556 U.S. 904, 916 (2009) ("[J]udgment finality is not to be lightly cast aside ….").

As these cases express, finality ensures that adjudicated rights remain secure. That is critical for companies that treat final judgments as concrete milestones allowing them to complete operational loops: that is, close investigations, stabilize compliance programs, release litigation-related burdens, make forward-looking operational decisions, and the like. A rule that unsettles final judgments after the ordinary appellate process is complete also creates costs beyond the parties directly affected: It weakens the legal certainty on which private actors rely when deciding how to comply, invest, contract, and move forward after litigation has ended. As scholars have noted, retroactive legal change can upset reliance interests and distort planning incentives. *See generally, e.g.*, Jill E. Fisch, *Retroactivity and Legal Change: An Equilibrium Approach*, 110 Harv. L. Rev. 1055 (1997); Louis

Kaplow, *An Economic Analysis of Legal Transitions*, 99 Harv. L. Rev. 509 (1986).

This case illustrates those uncertainties vividly. Rubicon had already obtained judgment in its favor on three independent grounds and obtained affirmance on appeal when Plaintiffs invoked a statutory amendment that the Ninth Circuit then seized upon to throw years of concluded litigation out the window. And in the several years between final judgment and the Ninth Circuit's surprise upset, Rubicon had acted in reliance on the final judgment—as it was entitled to do. Rubicon had, for instance, made sourcing decisions and entered into commercial transactions in reliance on the legal decisions and the information available at the time. Since Rubicon's line of business operates through extended supply chains, each of these sourcing and commercial decisions depended on each other. Internally, the final judgment also affected Rubicon's and its affiliates' audits and auditing processes, legal budgeting, and corporate governance, to name just a few implications. Once the Ninth Circuit reopened the case—eight years after the district court granted Rubicon summary judgment—Rubicon suddenly faced business uncertainty on numerous fronts: Its historical sourcing and commercial relationships became unsettled. Previously closed legal processes turned into live issues again. Rubicon and its affiliates had to confront renewed legal expenses, insurance and indemnity issues, auditing requirements, and so on.

Meanwhile, enterprising litigants who lost their cases years ago now have every incentive to hunt for nuggets of legal novelty that they might leverage to reopen final judgments. For instance, as here, losing parties may mine for later statutory enactments or further judicial decisions on an issue and recast even the most commonplace of legal developments as extraordinary circumstances that warrant reopening final judgments—long after the ordinary appellate process has ended. Worse, as here, the purported legal development a litigant invokes may be an implicit legislative directive to reopen a final judgment—or so an appellate court might conclude—that affects only one of multiple independent grounds supporting that final judgment.

The incentives for losing parties—and the attendant costs to prevailing parties—create destabilizing dynamics that call for this Court's urgent intervention. The decision below, if left to stand, may suddenly open courthouse doors to an indeterminate volume of finality-upending litigation. And because the Ninth Circuit's test for Rule 60(b)(6) motions premised on post-judgment changes in the law *requires* district courts to consider the relationship between the asserted change in law and the underlying judgment, *Phelps v. Alameida*, 569 F.3d 1120, 1134-40 (9th Cir. 2009), Rule 60(b)(6) decisions in the Ninth Circuit will invariably refer to the underlying judgment's grounds. *See, e.g.*, *Bell*, 820 F.3d at 883 ("Judges routinely say when denying Rule 60 motions that they do not see an error in the initial judgment."). Indeed, here, all the district court did was briefly discuss that required factor. *Supra* 31-32. Yet under the Ninth Circuit's ruling, that is enough to render the underlying judgment's merits perfectly appropriate material for appellate merits review. Pet. App. 36a-37a.

That is an alarming prospect for the nation's largest federal appellate court: The Ninth Circuit "account[s] for over 20% of the entire federal appellate caseload in the nation." United States Courts for the Ninth Circuit, *2022 Annual Report* 1 (2023). And at the district-court level, it accounts for roughly 18.5% of all district-court filings nationwide. United States Courts for the Ninth Circuit, *2024 Annual Report* 41 (2025). In 2024 alone, district courts within the Ninth Circuit terminated 49,348 civil cases, *id.* at 42, many via final judgment. A rule that makes final judgments more readily and indefinitely subject to reopening in that circuit thus affects a substantial swath of federal litigation.

For decades, litigants have relied on the wealth of established precedents making clear that legislative enactments may not reopen final judgments by fiat, *supra* 14-22, and that Rule 60(b) is not a mechanism for belatedly dredging up the merits of final judgments, *supra* 23-32. If the Ninth Circuit's approach were to stand, however, Rule 60(b) appeals in that circuit would frequently give impermissible effect to congressional directives to reopen settled judicial decrees. And they would effectively become second bites at the underlying judgment.

The questions presented thus carry sweeping practical consequences for countless litigants who have come to rely on final judgments to fix their legal rights and obligations.

IV. This Case Is An Ideal Vehicle To Resolve The Questions Presented.

This case presents an excellent vehicle for review. Both questions are cleanly presented, with the Ninth Circuit ruling on both. And resolving either of the questions in Rubicon's favor would warrant reversal, reinstatement of the final judgment, and an end to this litigation.

The Ninth Circuit squarely adopted the very rules Rubicon asks this Court to review. First, it treated ATRA as a retroactively applicable legislative command that supplied extraordinary circumstances under Rule 60(b)(6) for reopening the final judgment. That is, the court's rationale for finding extraordinary circumstances to reopen was its conclusion that Congress intended for ATRA to apply retroactively. Pet. App. 42a (relying on its "legal conclusion[]" that "ATRA … had retroactive effect"). The en banc panel reached that conclusion with no regard for the separation of powers, even though Rubicon argued that reopening would run afoul of *Plaut* and the original panel recognized the force of that argument. *See* Pet. App. 94a-95a. Second, the Ninth Circuit expressly reviewed the original summary-judgment grounds de novo rather than confining itself to abuse-of-discretion review of the Rule 60(b) denial. Pet. App. 36a-37a.

Both questions presented are also outcome-determinative. First, had the Ninth Circuit followed *Plaut*, it could not have found that ATRA's amendment was even a permissible basis for reopening the judgment—much less an extraordinary circumstance that justified reopening under Rule 60(b)(6). Second, had the court respected Rule 60(b)'s limits, it could not have altered the underlying grant of summary judgment.

Nor is there any factual complication that would impede review. The relevant facts are procedural and undisputed. And it is plain that without both of the Ninth Circuit's holdings, Plaintiffs could not have revived their claim or gotten the 2018 final judgment reopened. This case is therefore an ideal vehicle to reaffirm that Rule 60(b) protects finality consistently with the limits imposed by the separation of powers.

CONCLUSION

This Court should grant the petition for a writ of certiorari.

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