

No. 26-289

In the Supreme Court of the United States

CITY OF BRUNSWICK,

Petitioner,

v.

HONEYWELL INTERNATIONAL, INC., ET AL.,

Respondents.

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

SUPPLEMENTAL BRIEF FOR PETITIONER

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SUPPLEMENTAL BRIEF FOR PETITIONER

Pursuant to Rule 15.8, this supplemental brief addresses two developments in the past week material to this case, which is currently scheduled for the October 16 Conference.

First, on Monday, yet another circuit decided the question presented. The question concerns appeals of orders remanding a case to state court under 28 U.S.C. §1447(d): Does such an appeal trigger an automatic stay pending appeal such that the state court cannot proceed? In *Parish of Cameron v. Devon Energy Production Co.*, the Fifth Circuit issued a published opinion squarely answering yes: It adopted an “automatic stay” rule that “deprives the state court of jurisdiction” to proceed. No. 26-30505, 2026 WL 3002118, at *1, *6 (5th Cir. Oct. 5, 2026). And it expressly sided with “the Fourth and Eleventh Circuits,” citing the Eleventh Circuit’s decision in this case. *Id.* at *2 & n.2.

Second, yesterday the State of Louisiana and Cameron Parish filed an application in this Court seeking vacatur of that Fifth Circuit order and certiorari before judgment. Application 38, *Louisiana v. Devon Energy Prod. Co.*, No. 26A___ (Oct. 8, 2026) (*Louisiana Application*).

This petition is now even more certworthy. The split is deeper. The question’s importance is now undeniable. And this vehicle’s strength is clearer than ever: This is the rare case that presents the question free of any emergency, piecemeal posture or looming threat of mootness.

The Court should call for a response and grant the petition. At a minimum, it should reschedule this petition to be considered alongside the *Louisiana* vacatur application.

I. The Fifth Circuit’s decision intensifies the split.

The Fifth Circuit has joined the minority side of the split, expressly agreeing with the Fourth and Eleventh Circuits that a §1447(d) appeal triggers an automatic stay. See *Parish of Cameron*, 2026 WL 3002118, at *1; *City of Martinsville v. Express Scripts, Inc.*, 128 F.4th 265, 268 (4th Cir. 2025); Pet. App. 1a-36a. As the petition explained, the First, Second, Seventh, Ninth, Tenth, and D.C. Circuits have all taken the opposite position—with the Ninth Circuit explaining why in a thorough, precedential decision. See *California ex rel. Harrison v. Express Scripts, Inc.*, 139 F.4th 763, 765-73 (9th Cir. 2025), cert. denied, No. 25-327 (Jan. 12, 2026); Pet. 14 (collecting cases).

The split is square. Like the other cases in the split, the Fifth Circuit decision arises in the same exact context: appeals from remand orders in the federal-officer-removal context. *Parish of Cameron*, 2026 WL 3002118, at *1. And it even involved the precise procedural scenario in this case and the Ninth Circuit case: The remand order was mailed to the state court before the notice of appeal was filed. See *id.* at *2, *5-6; Pet. 16, 25-26.

The split is now meaningfully deeper than when the Court denied certiorari in *California*, *supra*, No. 25-327. See Pet. 16. There, the procedural wrinkle just mentioned was offered as a reason to deny certiorari, because no

court had adopted an automatic-stay rule in that precise scenario. Br. in Opp. 4-5, *California, supra*, No. 25-327. Now, two circuits have: the Eleventh in this case, and the Fifth in Monday’s decision.

The Fifth Circuit’s decision also illustrates the peril of waiting for further percolation. See Pet. 19. That decision broke from prior circuit law, upsetting expectations and destabilizing already-completed litigation. Previously, as the petition explained, the Fifth Circuit indicated it would *not* impose an automatic stay: It had denied a stay discretionarily in this context, a result incompatible with a rule that stays must be automatically granted. See *Plaquemines Par. v. Chevron USA, Inc.*, 84 F.4th 362, 373-78 (5th Cir. 2023); Pet. 13. But on Monday, the Fifth Circuit reversed course and adopted an automatic-stay rule, minimizing *Plaquemines Parish* because it had not addressed “automatic stays” expressly. *Parish of Cameron*, 2026 WL 3002118, at *4 & n.5. That shift threatens chaos for all the courts and litigants in other cases who relied on the absence of an automatic stay. Will years of state-court proceedings be voided retroactively? See Pet. 19; Pet. App. 9a, 13a n.8. Similar uncertainty will infect all the other circuits with decisions like *Plaquemines Parish* that currently treat stays as discretionary. Further percolation will not heal the split—enough circuits on each side are entrenched. See Pet. 18. It will just magnify the confusion and potential fallout. See Pet. 19.

II. The recent developments confirm the question is important and recurring.

The Fifth Circuit’s decision is the latest proof that the question presented arises constantly. See Pet. 21. And by

choosing to issue a precedential decision—on a motions-panel order—the court recognized the question’s significance and the need for guidance. That guidance should be uniform nationwide, which only this Court can supply.

Louisiana’s vacatur application also underscores the question’s importance. As the State explains, fundamental federalism concerns are at stake: the power and independence of state judiciaries and the proper relationship between state and federal courts. *Louisiana* Application 20, 24, 28-30, 34-35. And as Louisiana’s case (and this one) demonstrates, the question presented often arises in suits brought to vindicate governmental interests on matters of public significance. *Id.* at 34; see also, *e.g.*, *City of Martinsville*, 128 F.4th at 268; *City of Chicago v. BP p.l.c.*, No. 25-1916, Dkt. 73 (7th Cir. Aug. 1, 2025); *County of Westchester v. Express Scripts, Inc.*, No. 24-1639, Dkt. 72.1 (2d Cir. Sept. 6, 2024); *Att’y Gen. of N.J. v. Dow Chem. Co.*, No. 24-1753, Dkt. 24 (3d Cir. July 24, 2024); *Gov’t of P.R. v. Express Scripts, Inc.*, 119 F.4th 174, 184 n.3 (1st Cir. 2024). State courts, lower federal courts, and litigants—state and local governments chief among them—need to know what stay rule applies, and this Court should settle the question now.

III. This is a uniquely strong vehicle.

This is the rare vehicle that allows orderly review of the question presented. See Pet. 24-25. As Louisiana’s application for vacatur and certiorari before judgment explains, most vehicles will require expedited intervention from this Court. Generally, a stay-pending-appeal issue arises at the start of an appeal and becomes moot once the appeal ends. See *Louisiana* Application 4, 36. Those

“obvious mootness risks” require the Court to grant review midstream and rush to decision to outrun the rest of the appeal. *Id.* at 36-37; see also Pet. 25.

This vehicle is different. Here, the court of appeals decided the stay question along with the merits of the appeal. The appeal is over, so no ongoing proceedings threaten to moot the question.* And the stay issue remains significant, because it determines whether appellate jurisdiction existed in the first place. Pet. 8, 24-25; see Pet. App. 8a-9a, 18a-19a. With this vehicle, no extraordinary action is needed—the Court can simply review the question presented in the normal course.

The “peculiar” aspects of this vehicle that Louisiana identifies (at 5) are features, not bugs. That the stay issue goes to appellate jurisdiction ensures there is no mootness concern. That the defendant never asked for an automatic stay ensures the question presented is outcome-determinative: There is no chance a discretionary stay could have issued. See Pet. 24. The Court should not pass up this unusually strong vehicle.

If it does, *Louisiana* underscores the danger. The question will keep coming to this Court in interim-docket applications. At least when the application comes from the side *opposing* an automatic stay (as in *Louisiana*), the Court has the option of resolving the application on discretionary grounds without reaching the merits. But

* Nor would district-court proceedings interfere: The district court stayed the case pending the disposition of this certiorari petition. See Order, *City of Brunswick v. Honeywell Int’l, Inc.*, No. 2:22-cv-00132, Dkt. 61 (S.D. Ga. Sept. 16, 2026).

when the application comes from the side *seeking* an automatic stay, the Court will be forced to confront the merits—if the automatic-stay rule is correct, the Court cannot deny a stay. Rather than wait to be cornered into deciding this important question on an abbreviated basis, the Court should grant plenary review now.

* * *

Louisiana’s application well explains why certiorari and reversal are warranted. This case is an ideal companion or alternative to *Louisiana* because it ensures mootness will not impede the Court’s review. The Court should therefore grant this petition—and in the immediate term, call for a response or at least reschedule the petition to be considered alongside *Louisiana*.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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