No. 26-429

In the Supreme Court of the United States

UNITED STATES OF AMERICA ex rel.
GWEN THROWER, *Petitioner*,
v.
ACADEMY MORTGAGE CORPORATION, *Respondent*.

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

BRIEF OF *AMICI CURIAE* FIRST LIBERTY INSTITUTE, THE HERITAGE FOUNDATION, AND ALLIANCE DEFENDING FREEDOM IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

As a nonprofit, public interest law firm dedicated to defending religious liberty for all Americans, First Liberty Institute maintains a strong interest in the outcome of this case. First Liberty provides *pro bono* legal representation to individuals and institutions of all faiths—Catholic, Jewish, Muslim, Native American, Protestant, the Falun Gong, and others.

In the regular course of its practice, First Liberty frequently litigates and settles civil rights cases, including actions under 42 U.S.C. § 1983 and statutory challenges under the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb–2000bb-4 ("RFRA"), and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc–2000cc-5 ("RLUIPA").

First Liberty often partners with outside counsel from private law firms who provide an excellent quality of legal services on a *pro bono* basis to represent religious liberty plaintiffs who could never afford to defend their First Amendment rights without such help. Statutory fee provisions, like the one at issue in this matter, have played an important role in helping offset sometimes significant hours expended by both First Liberty and co-counsel.

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[1] Counsel of record for all parties received notice at least ten days prior to the due date of *amici curiae's* intention to file this brief. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief.

While First Liberty and many public interest firms like it rely on the gracious donations of supporters, awards of attorneys' fees in meritorious cases can provide seed money to help the firm represent the next plaintiffs who need legal assistance and access to the courts. And receiving the time value of those monetary awards is equally as crucial. As an *amicus*, First Liberty maintains an interest both in seeking clarification in the law related to post-judgment interest on attorneys' fees under 28 U.S.C. § 1961(a) and in ensuring that people of all faith traditions continue to receive meaningful access to federal courts in civil rights litigation.

The Heritage Foundation is a research and educational institution whose mission is to formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. To support and further these goals, The Heritage Foundation's Legal Action Center engages in public interest litigation, often representing clients *pro bono* in matters concerning constitutional rights. The Heritage Foundation shares the interest as an *amicus* in seeking clarification on the law and in ensuring both that civil rights litigants receive meaningful access to federal courts and that government is held accountable when it exceeds its limited powers.

Alliance Defending Freedom is a nonprofit, public-interest legal organization providing strategic planning, training, funding, and litigation services to protect Americans' constitutional rights—including

the rights to freedom of speech, free exercise of religion, freedom of association, life, and equal protection. Since its founding in 1994, Alliance Defending Freedom has played a role in dozens of cases before this Court and many hundreds more before lower courts.

Alliance Defending Freedom joins this brief to highlight the importance of attorneys' fees when a party safeguards constitutional or civil rights. The organization has often litigated to protect civil rights plaintiffs' ability to recover some measure of their expenditures after successfully challenging a government actor's unlawful policies and practices. *E.g.*, *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021). Ensuring that public-interest law firms receive the time value of an attorneys' fee award encourages representation of civil rights plaintiffs and is the best interpretation of 28 U.S.C. § 1961(a)'s text.

INTRODUCTION AND SUMMARY OF ARGUMENT

To uncover hidden fraud and deter corporate misconduct, Congress enacted the False Claims Act. In doing so, Congress deliberately chose to allow private individuals to bring claims under the FCA on behalf of the United States. And to incentivize these whistleblowers and their counsel, the FCA rewards them with a monetary share of the funds recovered after a successful claim plus mandatory attorneys' fees.

But the FCA is not the only instance in which Congress made a deliberate choice to enlist the public's help in rooting out misconduct. Congress gave private individuals power to enforce civil rights statutes. And Congress also gave courts the ability—though discretionary—to reward successful plaintiff attorneys with attorneys' fees.

To enforce civil rights laws, Congress had two principal choices. Congress could have authorized a significant expansion of the Department of Justice to litigate civil rights cases. It could, alternatively, have privatized the system and allowed free market principles to encourage private attorneys to undertake that massive effort. The former would require Congress to raise taxes and maintain a larger government bureaucracy, while the latter would place the cost of fighting civil rights violations on the offenders. With the former, Congress would be dispersing the cost of defending civil rights across the entire nation; with the latter, Congress would give cities and states that violate civil rights an additional financial incentive to cease such conduct.

Congress chose to privatize the system, provide market incentives to enforce civil rights, and subject government to the proverbial "invisible hand" of local taxpayers to hold elected representatives responsible for the waste of taxpayer dollars lost in defense of civil rights violations. *See* Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* 456 (Roy Hutcheson Campbell et al. eds., Liberty Fund Glasgow 1981). In short, Congress, by enacting 42 U.S.C. § 1988, harnessed free market principles to incentivize lawful government behavior, and justifiably so. *See* Catherine R. Albiston & Laura Beth Nielsen, *The Procedural Attack on Civil Rights: The Empirical Reality of Buckhannon for the Private Attorney General*, 54 UCLA L. REV. 1087, 1090 (2007) ("This private enforcement system decentralizes enforcement decisions . . . and helps insulate enforcement from capture by established interests. It is also less expensive for taxpayers . . . ."); George L. Priest, *The Ambiguous Moral Foundations of the Underground Economy*, 103 YALE L.J. 2259, 2274 (1994) (finding that "[t]raditional comparisons of the market to political organization have conceded the superiority of the market in terms of both wealth creation and the *maximization of individual liberty*" (emphasis added)).

Thus, every time an attorney successfully navigates the heavily mined waters of civil rights litigation—including immunity defenses, mootness issues, and lack of respondeat superior liability—to find his or her attorney fee request being reduced by a court for some reason or another, there is some erosion of the free market principles upon which rests the privatized enforcement of civil rights. That is not to

say that attorney fee awards must always be robust. But when a court is addressing an attorney fee award, it necessarily means the civil rights plaintiff suffered and proved a civil rights violation—a difficult task for even the most accomplished attorney.

Suffice it to say, attorneys' fees are not merely about compensating attorneys who undertake the representation of those oppressed and damaged by government, often at significant risk to their regular practice. Just as important, and possibly more so, they provide the incentive for governments, especially with the outcry of local taxpayers upon the media announcement of an attorney fee judgment, to reform their unlawful conduct and refrain from civil rights violations in the future.[2]

This case is about the post-judgment interest on those attorney fee awards. More importantly, however, it is an opportunity to solidify the market-based incentives and free-enterprise principles that undergird the private enforcement of civil rights laws to ensure actual violations are cured as soon as possible, reducing needless waste of scant judicial resources and saving American taxpayers untold millions of dollars.

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[2] In addition, because school districts, counties, cities, and other political subdivisions are usually insured by an insurance carrier common to many other government entities, attorney-fee awards and the applicable post-judgment interest serve to motivate the insurance carrier to notify all of its clients to reform their unlawful practices to conform to the ruling and avoid future insurance losses.

ARGUMENT

I. Attorneys who win civil rights litigation are entitled to compensation.

It is impossible to understand civil rights litigation without experiencing it from the plaintiff's perspective. No rational attorney would undertake a civil rights case in hopes of obtaining an attorney fee award. First, federal courts provide special liability protections for government actors that are not available to private litigants, such as an exemption from respondeat superior liability, *see Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 701 (1978), and qualified immunity, *see Hope v. Pelzer*, 536 U.S. 730, 739 (2002).

Then there is the imbalance of resources. Suing a city usually draws insurance defense counsel who are well-trained and well-compensated on an hourly basis, win or lose. Of course, the evidence needed to establish liability—usually extensive records for custom and practice cases, for example—is in the hands of defendants who happily bill the taxpayers for prolonged discovery fights. Suing a state or the United States draws an unlimited bench of talent and a limitless budget for defense spending.

Then, if a civil rights litigant manages to secure a victory against staggering odds, there is further major litigation over the fees owed to the successful plaintiff. The defense, especially private counsel for cities and counties paid through insurance products or self-insurance, continue to bill for the fight over the fees, which can and often does extend as long as the merits litigation.

Fortunately for our nation, attorneys do step up to press civil rights cases. And for their labor, Congress provided a mechanism to compensate them for their time spent: courts may, in their discretion, allow the prevailing plaintiff "a reasonable attorney's fee . . . ." 42 U.S.C. § 1988(b). And it is the moment that the court grants that request that secures entitlement to compensation. The battle for the amount of fees may lay before the civil rights litigator, but the entitlement is assured. It is that judgment from which interest accrues.[3]

A. Congress's statutory scheme requires interest from the judgment establishing entitlement to attorneys' fees.

Section 1961(a) begins with a categorical command: Interest shall be allowed on any money judgment in a civil case recovered in a district court. It then directs that interest "shall be calculated from the date of the entry of the judgment." 28 U.S.C. § 1961(a). Nothing in that language postpones interest until every component of the monetary obligation has been reduced to a precise figure.

A judgment establishing an unconditional entitlement to reasonable attorneys' fees adjudicates a monetary obligation. The fact that a court must later calculate the amount does not alter the nature of that obligation.

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[3] So too here. Under the FCA, attorneys' fees are mandatory. 31 U.S.C. §3730(d)(2). And no one disputes that Thrower was entitled to attorneys' fees upon entry of the dismissal order. It is that entitlement—that judgment—when interest begins to accrue.

That rule respects the distinction between entitlement and quantification. Before entitlement is established, a party may possess only a disputed claim to fees. After entry of a judgment conclusively resolving entitlement, the party has a judicially recognized right to payment, even though the precise amount remains to be calculated. Interest is then computed using the amount ultimately determined to have been owed.

The Sixth Circuit applied that principle in *Associated General Contractors of Ohio, Inc. v. Drabik*, 250 F.3d 482 (6th Cir. 2001). There, the initial judgment awarded "reasonable attorney fees" without fixing the amount. Because that judgment unconditionally required payment and remained valid, the court held that interest accrued from its entry. *Id.* at 492. The Sixth Circuit later reiterated that post-judgment interest begins with the initial judgment recognizing the plaintiff's unconditional right to legal fees, not the later judgment quantifying the award. *Caffey v. UNUM Life Ins. Co.*, 302 F.3d 576, 591 (6th Cir. 2002).

The same reasoning applies here. The FCA provides that when the government does not proceed with an action, a person bringing the action or settling the claim "shall" receive reasonable expenses, attorneys' fees, and costs. 31 U.S.C. § 3730(d). The January 2023 judgment approved Thrower's settlement and left pending only the determination of her reasonable expenses, fees, and costs. Academy did not dispute that Thrower became entitled to reasonable attorneys' fees upon entry of that judgment. At that point, the obligation to pay was established, even though its precise amount remained unresolved.

The Ninth Circuit nevertheless held that a judgment cannot qualify as a "money judgment" on fees unless it identifies the parties *and* provides a definite and certain designation of the amount owed. *United States ex rel. Thrower v. Acad. Mortg. Corp.*, 172 F.4th 695, 697 (9th Cir. 2026). That interpretation inserts into § 1961(a) a quantification requirement Congress did not demand. The statute refers to "*any* money judgment," not merely a judgment immediately executable for a sum certain. 28 U.S.C. § 1961(a) (emphasis added).

Nor does the statute make immediate execution the event that starts interest. Section 1961(a) expressly selects "the date of the entry of the judgment." *Id.* Under the entitlement rule, no one must execute an unknown amount. Once the fee is quantified, the statutory rate is applied to that amount for the period beginning when the obligation to pay became conclusive.

The majority rule also prevents the accrual date from turning on drafting formalities. In a mandatory fee-shifting case, statutory entitlement may follow from the judgment by operation of law—even if the judgment does not repeat the statute's command. The Ninth Circuit acknowledged that the Fifth Circuit begins interest with a judgment when the prevailing party is unconditionally entitled to fees by statute, even if the judgment does not mention that entitlement. *Thrower*, 172 F.4th at 701 (quoting *Copper Liquor, Inc. v. Adolph Coors Co.*, 701 F.2d 542, 545 (5th Cir. 1983) (en banc) (per curiam)). That approach correctly focuses on the legal effect of the judgment rather than the presence or absence of particular words.

The proceedings below illustrate the importance of that distinction. The district court concluded that its January 2023 order did not expressly "enunciate" an unconditional entitlement to fees even though the FCA supplied that entitlement and Academy did not dispute it. The Ninth Circuit rejected that rationale but replaced it with a sum-certain requirement, holding that the May 2024 order was the first judgment specifying a definite amount. Under either approach, the accrual of interest turns on the form or sequencing of district court orders rather than on when the legal obligation to pay became fixed.

Conversely, the entitlement rule supplies a uniform accrual event: the judgment that conclusively establishes the right to fees. The Sixth Circuit concluded that Congress intended post-judgment interest on reasonable attorneys' fees and costs to run from the judgment unconditionally entitling the prevailing party to them. *Drabik*, 250 F.3d at 494. That interpretation gives effect to § 1961(a)'s command and provides a consistent starting point for calculating interest.

The decision below cannot derive support from *Kaiser Aluminum & Chemical Corp. v. Bonjorno*. *Kaiser* concerned the proper accrual date when an earlier damages judgment had been set aside because it lacked evidentiary support. *Kaiser Aluminum & Chem. Corp. v. Bonjorno*, 494 U.S. 827, 830 (1990). It did not decide when interest begins on a valid judgment establishing an unconditional but unquantified entitlement to attorneys' fees.

The Sixth Circuit has explained the distinction. A judgment vacated for lack of evidentiary support is legally void and unenforceable, while an unvacated judgment unconditionally awarding reasonable attorneys' fees is valid and enforceable. *Caffey*, 302 F.3d at 589. *Kaiser*'s requirement that damages be meaningfully ascertained does not compel the conclusion that an established fee entitlement must be reduced to a sum certain before interest may accrue. *See id.*

Here, petitioner Thrower does not seek interest from a verdict, tentative ruling, or judgment later vacated. She seeks interest from the January 2023 judgment that approved the settlement and definitively established her mandatory statutory entitlement to reasonable fees. The May 2024 order measured the value of that existing entitlement; it did not create the obligation.

Section 1961's prescribed calculation confirms the soundness of that approach. Congress selected an objective rate tied to the weekly average one-year constant-maturity Treasury yield for the calendar week preceding judgment. It also directed that interest be computed daily through payment and compounded annually. 28 U.S.C. § 1961. Applying that standardized calculation to the amount awarded preserves the value of the judgment without altering the court's determination of a reasonable fee.

Post-judgment interest therefore is not an enhancement of attorneys' fees. It does not reward superior performance, enlarge the lodestar, or alter the amount the district court determines to be reasonable. It compensates for the interval during which the party entitled to the award is deprived of its use.

The difference between interest and a fee enhancement is especially important here. The fee amount answers what the legal services were worth under the applicable fee-shifting provision. Section 1961 answers who bears the economic cost when payment of an adjudicated monetary entitlement occurs later. Treating a discretionary adjustment to billing rates as a substitute for mandatory post-judgment interest conflates the value of legal services with the value lost through deferred payment.

That substitution would also create a gap in compensation. The district court in *Finkelstein v. Bergna* observed that compensating delay before a fee determination through current billing rates, and after quantification through interest, while denying compensation for the intervening period would produce an incongruous result. 804 F. Supp. 1235, 1240 (N.D. Cal. 1992). Starting the running of interest with the judgment establishing entitlement avoids that anomaly.

Nor does interest confer a windfall. In every case, the judgment debtor retains possession and use of the funds until payment. The Sixth Circuit therefore concluded that interest on attorneys' fees imposes no unfair burden because the debtor continues to use the money while the Treasury-based statutory rate compensates the creditor. *Drabik*, 250 F.3d at 485. Interest preserves the adjudicated award; it does not enhance it.

B. Delaying interest until quantification will further waste judicial resources and weaken private enforcement.

The party who owes a fee obligation receives an economic benefit for every month of interest-free delay. Once entitlement is fixed, postponing interest until quantification makes extensions, discovery disputes, supplemental submissions, and appeals financial windfalls for the judgment debtor. The successful party, meanwhile, bears the loss in the value of the eventual payment.

The Sixth Circuit identified that defect directly: if interest does not accrue when entitlement is established, "the losing party has every reason to delay quantification of the fees." *Drabik*, 250 F.3d at 494. The Eighth Circuit likewise recognized that denying interest effectively reduces an attorneys' fee award and creates an artificial incentive to appeal or otherwise delay payment. *Jenkins v. Missouri*, 931 F.2d 1273, 1277 (8th Cir. 1991).

Post-judgment interest corrects that imbalance without preventing legitimate litigation over the amount of fees. The judgment debtor remains free to challenge unreasonable rates, excessive hours, or unsupported expenses. Interest applies only to the amount the court ultimately determines was owed. But neither party receives a financial reward merely because the quantification proceeding takes time or is unnecessarily extended through litigation.

i. Delaying interest encourages prolonged fee litigation.

The proceedings in this case demonstrate the problem. Academy did not dispute Thrower's entitlement to reasonable fees, but it contested the amount through requests for extensions, discovery, and supplemental briefing. The district court found that Academy made choices that increased the time devoted to the fee petition, and the quantification process lasted 16 months.

Under the decision below, that delay worked solely to Academy's economic advantage. Academy retained the use of the funds during the fee proceeding, yet no post-judgment interest accrued on the obligation eventually quantified. The longer the process continued, the more the real value of Thrower's recovery declined.

The incentive exists even without intentional obstruction. Ordinary litigation choices change when one side retains the disputed funds interest free. Extensions save money. Additional discovery becomes more attractive. Compromise becomes easier to postpone. Disputes that might otherwise be narrowed or resolved can proceed through additional briefing and hearings because the judgment debtor bears no time-value cost.

The entitlement rule places the economic incentive where it belongs. Once the right to reasonable fees has been adjudicated, delay no longer reduces the obligation's value. The parties can litigate genuine disagreements about the amount, but the judgment debtor does not receive an interest-free loan to do so.

That approach encourages voluntary resolution. After entitlement is established, parties commonly attempt to agree on the amount before seeking further judicial intervention. When interest runs during those negotiations, the debtor has reason to evaluate the request promptly, identify legitimate objections, and resolve the uncontested portion quickly. When interest begins only after quantification, the debtor benefits by withholding agreement until the successful party obtains another order.

The minority rule thus threatens to turn a collateral-fee proceeding into a second major litigation. Additional discovery and briefing generate more compensable work, which can create supplemental fee requests and further disputes. Delay generates more work, the additional work enlarges the controversy, and the enlarged controversy produces more delay.

Section 1961 provides a straightforward corrective. Interest is computed daily until payment and compounded annually. 28 U.S.C. § 1961. That automatic calculation does not prevent a debtor from opposing an excessive request. It simply ensures that the successful party does not finance the period needed to determine the amount properly owed.

The Ninth Circuit suggested that delay between entitlement and quantification could instead be addressed through current billing rates or an adjustment to historical rates. *See Thrower*, 172 F.4th at 702. But that solution would invite additional litigation over whether an adjustment is available, which period it covers, and how it should be calculated. Section 1961 already provides a standardized rate and method of computation.

The proposed lodestar substitute also depends on judicial discretion, while § 1961(a) states that interest "shall be allowed." 28 U.S.C. § 1961(a). A discretionary fee adjustment cannot reliably replace the uniform statutory mechanism Congress selected for compensating delayed payment of judgments.

ii. Delaying interest disserves parties who enforce federal law.

Congress has repeatedly relied on private parties to enforce federal law. The FCA exemplifies that approach by requiring an award of reasonable expenses, attorneys' fees, and costs to a person who brings or settles a qualifying claim. That mandatory fee provision enables relators and their counsel to pursue matters that recover funds for the public fisc.

Civil rights fee shifting rests on the same practical foundation. *Amici* and similarly situated public-interest organizations frequently represent clients without charge. Fee recoveries stretch limited donor resources and allow those organizations to defend the rights of more Americans. An award from one successful case can replenish resources needed to investigate, file, and litigate the next.

Delayed payment impairs that system even when the nominal amount remains unchanged. A public-interest organization cannot use an unpaid award to retain experts, conduct discovery, or support other pending cases. The judgment debtor, by contrast, continues to possess and use those funds until payment.

The Eighth Circuit has recognized the connection between interest and access to counsel. It explained that delaying interest until fees are quantified may leave attorneys less than fully compensated and make them reluctant to undertake complex and expensive litigation. *Jenkins*, 931 F.2d at 1277. The concern is not that counsel should recover more than a reasonable fee; it's that the reasonable fee ultimately awarded should retain its value until paid.

That concern is particularly acute because public-interest counsel may work for years without compensation while opposing counsel are paid as litigation proceeds. Counsel representing citizens often toil for years without payment, while private attorneys representing government defendants ordinarily receive regular compensation. A fee award partially corrects that imbalance after the claimant succeeds. The Ninth Circuit's rule permits the imbalance to continue after entitlement has been established.

The burden is not limited to large awards. Smaller organizations are especially sensitive to delayed payment. Losses in the time-value of money, repeated across cases, reduce the resources available for future representation. A rule withholding interest until quantification therefore affects not only counsel in the completed case, but also prospective clients whose claims depend on the continued availability of public-interest representation. Interest from the entitlement judgment recognizes that economic reality without changing the reasonable fee. It allows the district court to scrutinize the application and determine the proper amount while preserving the value of whatever amount is ultimately approved.

iii. A system of private enforcement requires incentives for efficient resolution.

Fee-shifting provisions influence conduct on both sides of litigation. A successful party has reason to submit a supportable fee request that can withstand judicial review. A judgment debtor that knows the established obligation will bear interest has reason to assess that request promptly, identify genuine disputes, and resolve the remainder.

The opposite rule produces the opposite incentive. When the judgment debtor retains the funds without interest, delay reduces the obligation's real value. The debtor may continue litigating without bearing the economic cost of deferred payment, while the successful party must absorb that cost.

The entitlement rule does not punish legitimate objections. Post-judgment interest compensates for delay regardless of its cause. No interest is imposed on amounts the district court rejects, and the judgment debtor retains every substantive objection to the fee request. The rule merely applies the statutory rate to the amount ultimately determined to have been owed from the date the right to payment was conclusively established.

That result is not punitive. The debtor has use of the funds until payment, while the creditor is deprived of that use. The Sixth Circuit therefore rejected the characterization of interest on fees as a windfall and emphasized that accrual removes the losing party's incentive to delay payment. *Drabik*, 250 F.3d at 485.

In contrast, the Ninth Circuit's rule assigns the entire economic consequence of delay to the successful party. Even when the court ultimately confirms that fees were reasonably incurred, the debtor pays nothing for retaining those funds between the judgment establishing entitlement and the later order quantifying the award. That asymmetry is inconsistent with § 1961(a)'s direction that interest on a money judgment be calculated from entry of judgment. 28 U.S.C. § 1961(a).

The consequences extend to the judiciary. If delay is economically valuable to the party retaining the money, fee disputes are less likely to settle and more likely to require discovery, briefing, hearings, and appeal. The majority rule removes that artificial incentive and allows courts to focus on genuine disputes about reasonableness.

Congress's chosen system works only if the compensation authorized by law retains its value. When a successful relator or civil rights plaintiff conclusively establishes a right to reasonable fees, post-judgment interest ensures that the passage of time does not erode that right. The entitlement rule therefore supports private enforcement, encourages efficient resolution, and conserves judicial resources without increasing the fee itself.

II. The acknowledged circuit conflict warrants this Court's review.

The courts of appeals are openly and deeply divided over the question presented. The Fifth, Sixth, Eighth, Eleventh, and Federal Circuits begin interest when a judgment establishes the right to attorneys' fees. The Third, Seventh, Tenth, and now Ninth Circuits wait until the amount is quantified. Nine circuits have addressed the issue, and the competing approaches are firmly established.

The conflict is outcome-determinative. Thrower would have received hundreds of thousands of dollars more in interest had her action arisen in a circuit applying the entitlement rule. The value of a federal fee entitlement thus depends on geography even though § 1961 establishes a federal rule governing interest on federal judgments.

The disagreement also affects recurring litigation under numerous fee-shifting statutes. District courts frequently establish entitlement to fees before quantifying the award, both to permit orderly adjudication and to allow the parties an opportunity to resolve the amount voluntarily. Every interval between those two decisions presents the same question: whether the successful party or the judgment debtor receives the time value of the fee obligation.

Further percolation is unlikely to help. The majority and minority positions are fully developed. The Sixth Circuit has held that a judgment unconditionally entitling a party to reasonable fees is a money judgment even if quantification follows later. *Drabik*, 250 F.3d at 495. The Third Circuit follows the contrary

view that post-judgment interest does not begin until the court fixes the amount owed. *Eaves v. Cnty. of Cape May*, 239 F.3d 527, 532 (3d Cir. 2001). The Ninth Circuit considered those competing approaches and expressly adopted the latter. *Thrower*, 172 F.4th at 702.

This case presents the issue cleanly. The parties do not dispute that the FCA entitled Thrower to reasonable attorneys' fees upon settlement. The district court entered judgment approving that settlement, and only the amount remained to be determined. The question is therefore limited to whether interest began with the judgment establishing entitlement or the later order quantifying the award.

The consequences are concrete as well. The quantification proceeding lasted 16 months, and the selection of the accrual date materially affected Thrower's recovery. The case thus presents both the statutory question and the practical incentives created by the competing rules.

The Court should grant review and adopt the entitlement rule. That rule follows § 1961(a)'s text, preserves rather than enhances the fee awarded, removes incentives for wasteful delay, and protects the private-enforcement system Congress chose to sustain.

CONCLUSION

For these reasons, the Court should grant the petition for certiorari.

Respectfully submitted,

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