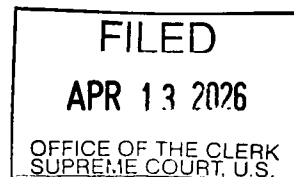


IN THE SUPREME COURT OF THE UNITED STATES

26-5715
No. _____



KIMBERLY JEAN BROWN,
Petitioner,

v.

MICHELLE MONTGOMERY,
JAMES D. MONTGOMERY & ASSOCIATES, LTD.,

ERIKA WILLIAMS,
JP MORGAN CHASE BANK, N.A,

LILA GOLDSTON,
Respondents.

ORIGINAL

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit: No. 25-1220

PETITION FOR A WRIT OF CERTIORARI

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April 12, 2026

I. QUESTIONS PRESENTED

1. Whether a federal district court may impose a dismissal with prejudice as a sanction for noncompliance with jurisdictional discovery before determining that it has subject-matter jurisdiction under 28 U.S.C. § 1332, consistent with the jurisdiction-first principle that federal courts must confirm their adjudicatory power before issuing a merits-preclusive termination. Steel Co. v. Citizens for a Better Environment, 523 U.S. 83 (1998)

2. Whether the collateral-sanctions doctrine recognized in Willy v. Coastal Corp., 503 U.S. 131 (1992) and Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990) extends to authorize a with-prejudice dismissal entered before the court determines its subject-matter jurisdiction, where the sanction operates as a litigation-ending, claim-preclusive judgment.

3. Whether a litigation-ending sanction for failure to comply with jurisdictional discovery must be (i) just and specifically related to the jurisdictional facts the discovery was designed to test, and, (ii) supported by findings commensurate with dismissal and a reasoned explanation why

lesser, compliance-securing measures would be ineffective. Insurance Corp. of Ireland Ltd.v. Compagnie des Bauxites de Guinee, 456 U.S. 694 (1982); Societe Internationale Pour Participations Industrielles et Commerciales, S.A. v. Rogers, 357 U.S. 197 (1958)

II. LIST OF PARTIES

Petitioner Kimberly Jean Brown was plaintiff in the district court and appellant in the court of appeals.

Respondents are Michelle Montgomery; James D. Montgomery & Associates, Ltd.; Erika Williams; JPMorgan Chase Bank, N.A.; and Lila Goldston.

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Statutes and Rules

- 28 U.S.C. § 1332
- 28 U.S.C. § 1653
- 28 U.S.C. § 1254(1)

VI. RELATED PROCEEDINGS

1. Brown v. Montgomery, et al., No. 1:20-cv-04893 (N.D. Ill.).
2. Brown v. Montgomery, et al., No. 24-2328 (7th Cir.)
3. Brown v. Montgomery, et al., No. 25-1220 (7th Cir.).

VII. JURISDICTION

The United States Court of Appeals for the Seventh Circuit entered judgment on December 18, 2025 (App. A, B), and denied rehearing and rehearing en banc on January 13, 2026 (App. C.) This Court has jurisdiction under 28 U.S.C. § 1254(1).

VIII. OPINIONS BELOW

The Seventh Circuit (24-2328)¹ returned the matter to the district court on limited remand (App. D.) to resolve subject matter jurisdiction (App. E) on September 9, 2024. On remand, the district court dismissed the case with prejudice as a jurisdictional discovery sanction in an unpublished decision on January 23, 2025. (App. F, G.)

¹ Following the district court's January 23, 2025 ruling, a new appeal case, No. 25-1220, was opened inadvertently and did not continue on existing appeal, No. 24-2328.

The Seventh Circuit (25-1220), affirmed the dismissal on December 18, 2025 in a nonprecedential ruling. (App. A, B.) Rehearing and rehearing en banc were denied on January 13, 2026 (App. C.).

IX. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves 28 U.S.C. § 1332 and 28 U.S.C. § 1653.

X. STATEMENT OF THE CASE

1. The case, the post-judgment jurisdiction dispute, and the limited remand

This action began as a state-law tort suit filed in federal court under 28 U.S.C. § 1332. The district court dismissed the operative complaint with prejudice on the pleadings.

While appeal No. 24-2328 was pending, Petitioner raised a subject-matter jurisdiction objection based on an intervening jurisdictional determination in an unrelated federal action involving Petitioner's citizenship.²

² The district court in an unrelated matter determined Petitioner was an Illinois citizen and the Seventh Circuit affirmed that decision. (7th Cir., Brown v. Gartner, 23-1780.) Petitioner filed the complaints for that matter and this matter in N.D.IL twelve days apart, both were based on diversity jurisdiction.

The district court indicated that, if the Seventh Circuit remanded, the district court would be inclined to vacate the merits judgment and dismiss for lack of subject-matter jurisdiction. (App. E.) The Seventh Circuit remanded the case so the district court could address the jurisdictional issue. (App. D.)

2. Jurisdictional discovery was ordered, but jurisdiction was never adjudicated

On remand, during a court conference on October 16, 2024, the district court ordered jurisdictional discovery to determine Petitioner's citizenship on the date the suit was filed. (App. H, I.) At a November 26, 2024 status conference, the district court vacated the initial jurisdictional discovery schedule and reissued a revised schedule requiring Petitioner to serve jurisdictional interrogatory responses as January 10, 2025. (App. J, K.)

Petitioner sought to retain an attorney due to the breadth of the interrogatories³ and she did not serve the interrogatory responses by the January 10, 2025 deadline. Petitioner requested an extension of the

³ Petitioner, a transactional attorney, was unclear how to respond to expansive interrogatories which sought multiple years of information.

deadline from Respondents. Respondents did not agree to the extension and filed a “second” ⁴ motion to compel and for sanctions.

3. The district court imposed a litigation-ending sanction without adjudicating jurisdiction or making findings commensurate with dismissal

On January 23, 2025, during the motion to compel hearing, the district court dismissed the action with prejudice as a sanction. (App. F, G; transcript, App. L) The district court’s order provided, “[t]he Court hereby dismisses this case with prejudice as a sanction for Plaintiff Kimberly Jean Brown's failure to abide by the Court-ordered deadlines.” ⁵ (App. F.)

In its dismissal order, the district court (i) did not make an express finding of willfulness or bad faith; (ii) did not set forth why intermediate sanctions were unavailable; and, (iii) did not determine whether it possessed subject-matter jurisdiction.

4. The Seventh Circuit affirmed a merits-preclusive sanction without a jurisdiction ruling

The Seventh Circuit affirmed, holding that a district court may order jurisdictional discovery and impose sanctions for noncompliance even if

⁴ The first motion to compel was directed at the vacated Oct. 16, 2024 discovery schedule. (App. I.)

⁵ The order did not set forth which deadline was missed in addition to Jan. 10, 2025.

the court later determines it lacks subject-matter jurisdiction. (App. A at 3.) The Seventh Circuit affirmed dismissal with prejudice under an abuse-of-discretion standard, emphasizing that Petitioner missed “two discovery deadlines” that incomplete responses can be treated as no response, and that fault suffices. (App. A at 4–5.)

The Seventh Circuit also determined that lesser sanctions were not practical because the district court could not deem jurisdiction established through adverse inference and other sanctions would prolong proceedings. (App. A at 5.)

Finally, the Seventh Circuit declined to reach the underlying merits dismissal because neither it nor the district court could assess subject-matter jurisdiction without Petitioner’s discovery. (App. A at 5.)

XI. REASONS FOR GRANTING THE PETITION

1. This case cleanly presents whether a federal court may impose a merits-preclusive termination before determining subject-matter jurisdiction

This Petition presents a recurring and dispositive sequencing question: whether a federal court, before it confirms subject-matter

jurisdiction, may enter the most severe litigation sanction—dismissal with prejudice—based on noncompliance with jurisdictional discovery.

This case is an unusually clean vehicle:

- The court of appeals remanded for the express purpose of addressing jurisdiction.
- The district court did not decide jurisdiction.
- The district court instead terminated the case with prejudice as a sanction.
- The court of appeals affirmed while declining to reach both jurisdiction and merits.

The sanction in this matter did not merely regulate litigation conduct; it operated as a merits-preclusive termination without a jurisdictional determination. That is not consistent with Steel Co. which holds that federal courts must confirm jurisdiction before issuing a merits-preclusive termination. Steel Co. v. Citizens for a Better Environment, 523 U.S. 83 (1998).

Review is warranted to clarify under what circumstances a federal court can issue a merits-preclusive termination as a sanction without first making a jurisdictional determination.

2. The Seventh Circuit's approach extends collateral-sanctions doctrine beyond the rationale of this Court's decisions

This Court has recognized that certain sanctions may be imposed even if a court later lacks subject-matter jurisdiction because those sanctions are collateral to the merits and are directed to litigation conduct. See Willy v. Coastal Corp., 503 U.S. 131 (1992); Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990).

But a dismissal with prejudice is not a collateral sanction. It is the functional equivalent of a final adjudication with claim-preclusive effect. Collateral-sanctions doctrine covers sanctions that police litigation misconduct without converting the jurisdictional inquiry into a mechanism for extinguishing the underlying claim.

A with-prejudice dismissal does the opposite and therefore raises a materially different constitutional and systemic concern than the sanctions approved in Willy and Cooter & Gell.

The decision below therefore calls for clarification of the boundary between:

- collateral sanctions that regulate litigation conduct, and
- merits-preclusive terminations that require the court first to confirm jurisdiction.

3. The decision below conflicts with the limits this Court imposed on jurisdiction-related discovery sanctions

This Court has approved jurisdiction-related discovery sanctions in the jurisdictional context, but it has articulated a limiting principle: the sanction must be just and specifically related to the jurisdictional facts the discovery was designed to test. Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694 (1982).

The decision below is difficult to reconcile with that limitation in two respects.

First, the jurisdictional discovery and resulting sanction were not meaningfully cabined to what was reasonably necessary to determine Petitioner's citizenship at the time this action commenced. A separate federal action filed within days of this matter involved the same plaintiff and generated an overlapping factual record concerning citizenship. That separate action's treatment of Petitioner's citizenship underscored the need to tailor the jurisdictional inquiry in this case to what was reasonably necessary to decide citizenship at filing. Allowing a broad, multi-year inquiry into Petitioner, and then using noncompliance with that expansive discovery as the predicate for a with-prejudice termination, risks untethering the sanction from the jurisdictional facts the discovery was designed to test.

Second, the Seventh Circuit's rationale makes the inability to "tailor" a jurisdictional sanction a reason to impose the harshest, non-tailored sanction. The Seventh Circuit reasoned that lesser sanctions were impractical because a district court cannot deem subject-matter jurisdiction established through adverse inferences or other sanction-based shortcuts. But that premise does not support converting jurisdictional discovery into a mechanism for a merits-preclusive disposition entered before jurisdiction is decided.

To the contrary, where jurisdiction remains unresolved and discovery noncompliance obstructs the jurisdictional determination, the governing limitation in Insurance Corp. points toward measures that remain tethered to the jurisdictional inquiry and to compliance, rather than a sanction that terminates the litigation with claim-preclusive effect. Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694 (1982).

Review is warranted to clarify how the "just" and "specifically related" limitations apply when the sanction selected is a with-prejudice dismissal imposed before the court has determined whether it possesses subject-matter jurisdiction.

4. This Court's jurisprudence requires calibrated findings and proportionality before imposing dismissal with prejudice

Dismissal with prejudice is the harshest sanction. This Court has recognized that such sanctions may be appropriate in egregious circumstances. National Hockey League v. Metropolitan Hockey Club, Inc., 427 U.S. 639 (1976) (per curiam).

At the same time, this Court has emphasized that severe sanctions implicate due process and require careful exercise supported by appropriate findings. Roadway Express, Inc. v. Piper, 447 U.S. 752 (1980); Chambers v. NASCO, Inc., 501 U.S. 32 (1991). And, terminating sanctions are not appropriate where noncompliance is due to inability rather than willfulness, bad faith, or fault. Societe Internationale Pour Participations Industrielles et Commerciales, S.A. v. Rogers, 357 U.S. 197 (1958).

The Court should grant review to clarify whether dismissal with prejudice can be "just" without:

- express findings and reasoning commensurate with a merits-preclusive dismissal;
- a reasoned explanation as to why lesser, compliance-securing measures would be ineffective; or
- a jurisdiction determination.

5. The decision below has systemic consequences for diversity cases and for litigants attempting to cure defective jurisdictional allegations

This case asks whether federal courts may use jurisdictional discovery as a gateway to a claim-preclusive, merits-ending sanction, rather than as a tool to determine jurisdiction. Diversity jurisdiction turns on citizenship at filing. When jurisdiction is genuinely uncertain, parties and courts may appropriately use jurisdictional discovery to resolve it. Congress permits amendment of defective jurisdictional allegations. 28 U.S.C. § 1653.

But if noncompliance in that limited inquiry permits the court to enter a with-prejudice dismissal before it decides whether it has the power to adjudicate the dispute at all, the jurisdictional inquiry becomes a device for merits-preclusive disposition. That dynamic risks chilling efforts to correct jurisdictional defects and undermines the integrity of jurisdictional limits.

XII. CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
/s/ Kimberly Jean Brown



Kimberly Jean Brown, J.D.
Petitioner, pro se