No. 27-_____

In The

Supreme Court of the

United States

WILLIAM P. RAMEY, III,

Petitioner,

v.

VOLKSWAGEN GROUP OF AMERICA, INC.,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

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PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Petitioner is an attorney. A district court held him and his client jointly and severally liable for the opposing party's attorney's fees. Petitioner signed and timely filed two notices of appeal. Each designated that fee order and, in doing so, named petitioner in its body as a person the order held liable. The Federal Circuit, in a precedential opinion, held that petitioner had not appealed because the notices' introductory sentence identified his client as appellant and his name appeared "only ... within a list of orders." It treated the defect as jurisdictional and incurable under *Torres v. Oakland Scavenger Co.*, 487 U.S. 312 (1988), and dismissed his appeal without citing Rule 3(c)(7). The questions presented are:

1. Whether a timely notice of appeal that an attorney signs and files, and that names him in its body as a person held personally liable under the order it designates for appeal, "specif[ies]" him as a party taking the appeal under Rule 3(c)(1)(A), or at least makes his "intent to appeal ... otherwise clear from the notice" so that Rule 3(c)(7) forbids dismissal of his appeal, or whether, as the Federal Circuit held, his intent is unclear because the designated order also runs against his client.

2. Whether Rule 3(c)(1)(A)'s requirement that a notice of appeal name each appellant, which appears in a rule of court and not in 28 U.S.C. § 2107, is a jurisdictional requirement, as *Torres* stated before this Court's modern decisions distinguishing jurisdictional rules from claim-processing rules, or a mandatory claim-processing rule under *Hamer v. Neighborhood Housing Services of Chicago*, 583 U.S. 17 (2017).

PARTIES TO THE PROCEEDING

Petitioner William P. Ramey, III was counsel of record for plaintiff-appellant VDPP, LLC in the court of appeals, is the person against whom the sanctions order at issue runs, and is the party whose appeal from that order the court of appeals dismissed; he petitioned for rehearing in his own name. Respondent Volkswagen Group of America, Inc. was defendant-appellee. VDPP, LLC was plaintiff-appellant in the court of appeals and plaintiff in the district court; it is jointly and severally liable for the award at issue. The judgment against VDPP, LLC is not challenged in this petition and would not be affected by the relief petitioner seeks, and VDPP, LLC does not join the petition. Petitioner has notified the Clerk under Rule 12.6 of his belief that VDPP, LLC has no interest in the outcome of this petition. VDPP, LLC has no stock ticker symbol. Petitioner is not aware of a stock ticker symbol for Volkswagen Group of America, Inc.; its parent, Volkswagen AG, trades over the counter in the United States under the symbol VWAGY.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual. No corporate disclosure statement is required of him under this Court's Rule 29.6.

DIRECTLY RELATED PROCEEDINGS

VDPP, LLC v. Volkswagen Group of America, Inc., No. 4:23-cv-02961 (S.D. Tex.) (memorandum of decision and final judgment entered March 27, 2024; memorandum and order on fees and sanctions entered July 11, 2024; memorandum and order fixing fees entered August 13, 2024).

VDPP, LLC v. Volkswagen Group of America, Inc., No. 2024-2226 (Fed. Cir.) (opinion and judgment entered August 19, 2026; petitions for panel rehearing and rehearing en banc denied October 2, 2026).

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PETITION FOR A WRIT OF CERTIORARI

William P. Ramey, III respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit.

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1–17) is reported at *VDPP, LLC v. Volkswagen Grp. of Am., Inc.*, 186 F.4th 1372 (Fed. Cir. 2026). The order denying rehearing (Pet. App. 18–19) is unreported. The district court's memorandum and order fixing attorney's fees (Pet. App. 20–24), its memorandum and order on fees and sanctions (Pet. App. 25–34), its final judgment (Pet. App. 35), and its memorandum of decision on the motion to dismiss (Pet. App. 36–51) are unreported.

JURISDICTION

The court of appeals entered its judgment on August 19, 2026, and denied timely petitions for panel rehearing and rehearing en banc on October 2, 2026. Pet. App. 18–19. This petition is filed within 90 days of that denial. Sup. Ct. R. 13.1, 13.3. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RULES AND STATUTORY PROVISIONS INVOLVED

Federal Rule of Appellate Procedure 3(c) provides, in relevant part:

> (1) The notice of appeal must: (A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as

> "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X"; (B) designate the judgment—or the appealable order—from which the appeal is taken; and (C) name the court to which the appeal is taken.
>
> (2) A pro se notice of appeal is considered filed on behalf of the signer and the signer's spouse and minor children (if they are parties), unless the notice clearly indicates otherwise.
>
> (6) An appellant may designate only part of a judgment or appealable order by expressly stating that the notice of appeal is so limited. Without such an express statement, specific designations do not limit the scope of the notice of appeal.
>
> (7) An appeal must not be dismissed for informality of form or title of the notice of appeal, for failure to name a party whose intent to appeal is otherwise clear from the notice, or for failure to properly designate the judgment if the notice of appeal was filed after entry of the judgment and designates an order that merged into that judgment.

Federal Rule of Appellate Procedure 3(a)(2) and (b)(1), Rule 4(a)(1)(A) and (a)(5)(A), Rule 26(b)(1), and 28 U.S.C. §§ 1291, 1294(1), 1295(a)(1), and 2107, are reproduced at Pet. App. 65–70, 74–75, 81–86.

INTRODUCTION

This Court has returned to the notice-of-appeal rules again and again—in *Torres v. Oakland Scavenger Co.*, 487 U.S. 312 (1988), *Smith v. Barry*, 502 U.S. 244 (1992), *Becker v. Montgomery*, 532 U.S. 757

(2001), and, in 2025, *Parrish v. United States*, 605 U.S. 376 (2025)—because a litigant who loses an appeal on a point of form loses it entirely, and because the courts of appeals keep finding new points of form on which to do it. This case presents the next one.

Petitioner is a lawyer who did what Rule 3(c)(1)(A) says to do. The Rule requires a notice of appeal to "specify the party or parties taking the appeal by naming each one in the caption or body of the notice." He signed and timely filed two notices. Each designated the order that held "Plaintiff VDPP, LLC and Willaim P. Ramey, III of Ramey LLP jointly and severally liable" for the opposing party's attorney's fees, and each therefore named him in its body. Pet. App. 53, 55. Nothing in the Rule required that description of the order; a docket number would have done. The only work his name could do in that sentence was to identify him as a person appealing the order that held him liable.

The Federal Circuit nonetheless held that petitioner never appealed. In its view his name "serves only to identify a specific order that his client VDPP was appealing," and because that order ran against client and lawyer alike, "it was not clear that Mr. Ramey was also appealing the order on his own behalf." Pet. App. 13–14. The court treated that "lack of clarity" as fatal to a "jurisdictional requirement that cannot be waived," citing *Torres*, 487 U.S. at 316–17, and dismissed. Pet. App. 13–14, 16–17. It did not mention Rule 3(c)(7), the provision adopted in 1993 to curb satellite litigation under *Torres*, which directs that an appeal "must not be dismissed ... for failure to name a party whose intent to appeal is otherwise clear from the notice." It did not discuss *Smith* or *Becker*. It

denied rehearing after petitioner put the savings clause squarely before it. The result is that a $207,543.60 judgment against a lawyer personally will never be reviewed on the merits by any court.

The decision deepens a long-standing disorder in the courts of appeals over how Rule 3(c) applies to sanctioned attorneys. Those courts generally agree that an attorney's intent to appeal is "objectively clear" when the designated order sanctions the attorney alone, even if the attorney is nowhere named. They divide, and the Federal Circuit has now gone furthest, when the order also runs against the client. The Seventh Circuit treats joint and several liability as a reason to find jurisdiction over an attorney who neither signed nor was named. The Federal Circuit treated it as the reason to deny jurisdiction to an attorney who both signed and was named. Nothing in the Rule's text supports that line. And because the Federal Circuit applies its own law to the question in every patent appeal from every district court in the country, no development in the regional circuits can displace its precedential rule.

Review is warranted under Rule 10(a) and 10(c). The questions turn on two one-page documents whose text is undisputed; they were raised by motion before merits briefing, in petitioner's reply brief in answer to respondent's brief, at oral argument, and on rehearing; and they are dispositive, because the court below never reached the merits of petitioner's sanction and no alternative ground supports the judgment against him. The first question can be resolved by reading the Rule and its savings clause as written. The second asks whether the jurisdictional label *Torres* attached to a court-made content requirement survives this

Court's later decisions, a question the decision below shows to be consequential: a court that regards the defect as jurisdictional will not ask whether it was cured, whether anyone was misled, or whether the savings clause applies. The courts of appeals have said so themselves. The Eleventh Circuit has acknowledged that this Court's recent decisions "call into question" the precedents treating Rule 3(c)'s content requirements as jurisdictional, the Eighth Circuit has repeated the point, and both hold themselves "bound to follow *Torres* ... until the Supreme Court overrules them", and the Fourth Circuit has collected the decisions on both sides and left the question open. See Part III, *infra*. No court but this one can answer it.

STATEMENT OF THE CASE

A. Rule 3(c) and the 1993 and 2021 amendments

In *Torres*, a notice of appeal listed fifteen of sixteen plaintiffs by name and described the rest as "et al." This Court held that the omitted plaintiff had not appealed, because the then-current Rule 3(c) required the notice to "specify the party or parties taking the appeal" and the requirement was jurisdictional. 487 U.S. at 314–18. The Court nonetheless reaffirmed that a litigant complies with Rule 3 when "the litigant's action is the functional equivalent of what the rule requires." *Id.* at 316–17.

The Advisory Committee responded in 1993. The amendment, the Committee explained, was "intended to reduce the amount of satellite litigation spawned by" *Torres*. Fed. R. App. P. 3, advisory committee's note to 1993 amendment. The amended Rule required a notice to specify the appellants "by naming each one in the caption or body of the notice," stating what the

Committee called a "general rule that specifying the parties should be done by naming them"; it permitted collective designations by an attorney representing several parties; provided that a pro se notice is "filed on behalf of the signer"; and added a savings clause. The Committee described the savings clause in functional terms: "the rule makes it clear that dismissal of an appeal should not occur when it is otherwise clear from the notice that the party intended to appeal," because once intent is "objectively clear," "there are neither administrative concerns nor fairness concerns that should prevent the appeal from going forward." *Id.*

The 2021 amendments carried that provision forward, renumbered as Rule 3(c)(7), and expanded it. The Committee explained that a notice of appeal "is supposed to be a simple document that provides notice that a party is appealing," that designation of the final judgment is ordinarily enough, and that the amendments were meant to remove "a trap for the unwary." Fed. R. App. P. 3, advisory committee's note to 2021 amendment. New Rule 3(c)(6) provides that "specific designations do not limit the scope of the notice of appeal" unless the appellant expressly says so.

B. The district court proceedings

VDPP, LLC sued respondent in the Southern District of Texas for infringement of U.S. Patent No. 9,426,452. The district court had jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Petitioner was VDPP's counsel. The court dismissed the complaint with prejudice under Rule 12(b)(6), denied leave to amend as futile, and entered final judgment. Pet. App. 35–51. It then denied VDPP's motion to alter the judgment, awarded respondent attorney's fees under 35 U.S.C. §

285, sanctioned petitioner under 28 U.S.C. § 1927 and its inherent power, and held VDPP and petitioner "jointly and severally liable for the reasonable attorneys' fees that Volkswagen incurred in defending this case." Pet. App. 34 (July 11, 2024). On August 13, 2024, the court fixed the award at $207,543.60. Pet. App. 20–24.

C. The notices of appeal

Petitioner signed and filed a notice of appeal on August 7, 2024, within thirty days of the July 11 order. Pet. App. 52–54. He signed and filed an amended notice on August 13, 2024, the day the court fixed the fee amount. Pet. App. 55–56. Their common text and differing final designations read as follows:

> Notice is hereby given that Plaintiff VDPP, LLC in the above-named case, hereby appeals to the United States Court of Appeals for the Federal Circuit from:
>
> - The Memorandum of Decision (Doc. No. 33) granting Defendant, Volkswagen Group of America, Inc.'s Motion to Dismiss (Docket No. 13).
> - Final Judgment (Doc. No. 34).
> - The Memorandum and Order (Doc. No. 47) granting Defendant Volkswagen Group of America, Inc.'s Motion for Attorneys' Fees (Doc. No. 35) finding Plaintiff VDPP, LLC and Willaim P. Ramey, III of Ramey LLP jointly and severally liable and denying Plaintiff's Motion to Amend the Judgment (Doc. No. 37).

- [August 7 notice:] Any subsequent order that fixes the attorneys' fees assessed. / [August 13 notice:] The Memorandum and Order (Doc. No. 52) granting fee award.

Pet. App. 52–56. Each notice closes with the signature block "RAMEY LLP / /s/ William P. Ramey, III / William P. Ramey, III." *Id.* Petitioner's given name is misspelled "Willaim" in the third designation of both notices.

D. The motion to correct the caption

The clerk of the court of appeals docketed the appeal with VDPP as the sole appellant, and petitioner's early filings—the docketing statement and his entry of appearance—carried that caption. Respondent, served with both notices in August, raised no question about petitioner's status for nearly three months. On November 4 and 5, 2024, VDPP and petitioner moved on an emergency basis to set bond and stay enforcement of the judgment, praying for relief in both names. In opposing that motion, respondent argued for the first time that petitioner was not a party to the appeal.

Petitioner responded within days. On November 18, 2024, he filed corrected notices of appeal in the district court adding his name to the caption, Pet. App. 57–59, together with a corrected docketing statement and entry of appearance in the court of appeals, and he moved the court of appeals to correct its caption to include him. The motion explained that petitioner's name was included in the body of the Notice of appeal, quoted the designation naming him, and invoked Rules 3(c)(1)(A) and 3(c)(7). Respondent opposed, contending that petitioner's name appeared "only within

nested descriptions of the orders VDPP is appealing" and that, under *Batiste v. Lewis*, 976 F.3d 493, 509 (5th Cir. 2020), an attorney's intent is unclear whenever the sanctions order also runs against the client. Petitioner replied. A motions panel denied the bond motion on December 10, 2024, and stated that the caption motion would be addressed "in due course." Pet. App. 61 n.6. Respondent renewed the objection in its merits brief, and petitioner's reply brief invoked Rule 3(c)(7) in answer. Volkswagen Br. 1; VDPP Reply Br. 1–2. The merits panel resolved the naming question in its opinion.

E. The decision of the court of appeals

The court of appeals affirmed the dismissal of VDPP's complaint and the fee award against VDPP, and dismissed "the portion of the appeal relating to Mr. Ramey's sanctions" for lack of jurisdiction. Pet. App. 17.

The panel began from the premise that Rule 3(c)(1)(A), "[a]lthough ... to be liberally construed, ... is a jurisdictional requirement that cannot be waived," citing *Torres*, 487 U.S. at 316–17, and stated that it reviews compliance "under Federal Circuit law." Pet. App. 13 (citing *Minnesota Mining & Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1308–09 (Fed. Cir. 2002)). It acknowledged that petitioner's name appears in the body of both notices. But in its view the notices "list only 'Plaintiff VDPP, LLC' as an appellant," and petitioner's "misspelled name only appears once within a list of orders from which VDPP appeals." Pet. App. 13. The court continued:

> The notices, therefore, give no indication that Mr. Ramey intended to be an appellant; rather,

> Mr. Ramey's name serves only to identify a specific order that his client VDPP was appealing. Because this order held both VDPP and Mr. Ramey jointly and severally liable for Volkswagen's attorney fees, it was not clear that Mr. Ramey was also appealing the order on his own behalf rather than merely representing his client. We conclude that this lack of clarity prevents Mr. Ramey from satisfying Rule 3's jurisdictional requirement that a notice of appeal "specify the party or parties taking the appeal."

Pet. App. 13–14. The panel found its analysis "consistent with the view of multiple sister circuits," citing *Batiste*; *Maerki v. Wilson*, 128 F.3d 1005, 1007–08 (6th Cir. 1997); *Agee v. Paramount Communications, Inc.*, 114 F.3d 395, 399–400 (2d Cir. 1997); and *CTC Imports & Exports v. Nigerian Petroleum Corp.*, 951 F.2d 573, 575–76 (3d Cir. 1991). It read *Garcia v. Wash*, 20 F.3d 608 (5th Cir. 1994), which found an attorney's intent clear from a notice naming only the client, as "expressly cabined" by *Batiste* to orders sanctioning the attorney alone. Pet. App. 14–15. In a footnote it held the November 18, 2024 corrected notices untimely under Rule 4(a)(1)(A) and 4(a)(5)(A). Pet. App. 14 n.2. The panel also held that VDPP lacked standing to contest petitioner's sanction. Pet. App. 15–16. It did not cite Rule 3(c)(7), *Smith*, or *Becker*.

F. Rehearing

Petitioner sought panel rehearing and rehearing en banc, arguing that Rule 3(c)(7) governs the question the panel decided and that the panel had not addressed it, that *Becker* and *Smith* require a functional

reading of the notices, that the Ninth and Tenth Circuits have found attorney intent clear on comparable notices, and that Rule 3(c)(1)(A)'s content requirement is a claim-processing rule rather than a jurisdictional one. The court denied rehearing on October 2, 2026, without opinion. Pet. App. 18–19.

REASONS FOR GRANTING THE PETITION

I. The decision below cannot be reconciled with the text of Rule 3(c) or with this Court's decisions.

A. Petitioner was named in the body of notices he signed, and the Rule asks nothing more.

Rule 3(c)(1)(A) is specific about how a notice of appeal identifies the appellants: "by naming each one in the caption or body of the notice." It does not require that the name appear in a particular sentence, that it be preceded by "appellant," or that an attorney add the words "in his own right." It requires a name in the caption or the body. Petitioner's name is in the body of both notices, and it is there as the name of a person the designated order holds liable, not as the name of counsel in a signature block. Pet. App. 53, 55.

The panel did not dispute that. It held that the name did not count because of where in the body it appeared—"within a list of orders"—and because, in the panel's view, it "serves only to identify a specific order." Pet. App. 13. The Rule's structure refutes that reading. Rule 3(c)(1)(B) requires a notice to "designate" the order appealed from. To designate the fee order, the notices needed only to identify it, as they identified every other order, by docket number: "The Memorandum and Order (Doc. No. 47)." No provision

of the Rule called for a description of the order's contents, and since 2021 a description could not have limited the appeal in any event, because "specific designations do not limit the scope of the notice of appeal" unless the appellant expressly says so. Fed. R. App. P. 3(c)(6). The words "finding Plaintiff VDPP, LLC and Willaim P. Ramey, III of Ramey LLP jointly and severally liable" therefore did no work as a designation. The one thing they could do was identify petitioner as a person taking the appeal from the order that held him liable. A reading under which those words "serve only to identify a specific order" treats as surplusage the single feature that distinguishes these notices from notices VDPP would have filed alone.

Two other features of the Rule confirm that the panel asked the wrong question. Rule 3(c)(2) provides that a pro se notice "is considered filed on behalf of the signer"; the rulemakers understood a signature as a signal of who is appealing, and petitioner signed both notices. And Rule 3(c)(1)(A) itself permits an attorney representing several parties to describe them as "all plaintiffs" or "the defendants" without naming any of them. The Rule's concern is identification, not form. A notice that identifies the appellant by his full name, over his own signature, as the person the designated order holds liable, identifies him more precisely than "all plaintiffs" identifies anyone. Rule 3(b)(1), which permits parties whose "interests make joinder practicable" to file a joint notice, confirms the point: a client and its counsel who are jointly and severally liable for one award are the paradigm of such parties, and nothing in the Rule treats their shared obligation as a reason to doubt that both have appealed.

B. Rule 3(c)(7) forbids the dismissal the panel ordered.

If the panel were right that the notices "fail[ed] to name" petitioner as an appellant, the inquiry would not end. Rule 3(c)(7) directs that an appeal "must not be dismissed ... for failure to name a party whose intent to appeal is otherwise clear from the notice." The Advisory Committee explained that once "it is objectively clear that a party intended to appeal, there are neither administrative concerns nor fairness concerns that should prevent the appeal from going forward." Fed. R. App. P. 3, advisory committee's note to 1993 amendment.

The panel never asked that question. It identified a "lack of clarity" and treated it as the end of the matter. Pet. App. 14. But doubt about whether a named person is appealing is precisely the circumstance in which Rule 3(c)(7) tells a court what to do: look to the notice as a whole and ask whether the person's intent is otherwise clear. Here it was. The notices designated the order holding petitioner personally liable; they named him as the person so held; he signed and filed them; the August 7 notice designated in advance "[a]ny subsequent order that fixes the attorneys' fees assessed," and the August 13 notice designated that order the day it was entered. Pet. App. 53, 55–56. A lawyer who is personally liable for a fee award, who signs a notice of appeal, and who writes his own name into the notice's description of the order imposing that liability has made his intent clear by any objective measure. Respondent evidently understood as much: it litigated for three months without suggesting otherwise. The misspelling of petitioner's first name is "informality of

form," which the same Rule forbids a court to treat as grounds for dismissal.

Respondent may answer that the panel applied the savings clause in substance when it found a "lack of clarity." It did not. The clause asks whether a party's intent to appeal is objectively clear from the notice. The panel asked whether petitioner was "appealing the order on his own behalf rather than merely representing his client," Pet. App. 14, and answered by reference to the character of the order rather than the contents of the notice: because the order ran against both, intent was unclear. That is a rule of law, not a finding about these documents. Under it, joint liability settles the question before the notice is read, which is why the panel said nothing about petitioner's signature, the August 7 notice's forward designation, or the fact that his name appears in the designation and nowhere else. A court that begins from a "jurisdictional requirement that cannot be waived," Pet. App. 13, and stops at a "lack of clarity" has not applied a provision whose whole office is to forbid dismissal once intent is "otherwise clear."

The rule petitioner asks the Court to confirm is narrow and administrable. When a timely notice, signed by an attorney, names him in its body as a person held liable under an order it designates for appeal, Rule 3(c)(1)(A) is satisfied, and at a minimum Rule 3(c)(7) forbids dismissal. That rule does not make every attorney who signs a notice an appellant, and it does not reach a notice that mentions counsel only in a signature block. It reaches the notice that says, in its own words, that the person signing it has been held liable by the order it appeals. The panel's contrary rule is the one that lacks a limiting principle: under it, no

description of an order, however specific, can identify an appellant unless the notice's opening sentence also recites that he "appeals." That is a requirement of magic words, and the 1993 and 2021 amendments were adopted to eliminate such requirements.

C. The decision cannot be reconciled with *Torres*, *Smith*, *Becker*, or *Parrish*.

This Court's decisions on the content and timing of a notice of appeal share one method: read the rule as written, and ask what notice the document actually gave. *Torres* itself reaffirmed "the important principle for which *Foman* stands—that the requirements of the rules of procedure should be liberally construed and that 'mere technicalities' should not stand in the way of consideration of a case on its merits." 487 U.S. at 316 (citing *Foman v. Davis*, 371 U.S. 178, 181 (1962)). Each of the Court's decisions cuts against the decision below.

Torres turned on a party who was not named at all. The notice listed fifteen plaintiffs and said "et al." 487 U.S. at 313, 317–18. The Court held that "et al." did not specify anyone, but it also reaffirmed that papers "technically at variance with the letter of" Rule 3 suffice when "the litigant's action is the functional equivalent of what the rule requires." *Id.* at 316–17. The Court later explained *Torres* by observing that "a party's failure to be named in a notice of appeal gives absolutely no 'notice of [his or her] appeal.'" *Gonzalez v. Thaler*, 565 U.S. 134, 148 (2012). *Gonzalez* also identified what *Torres* guarded against: an unnamed party leaves the appellee and the court "unable to determine with certitude whether [that party] should be bound by an adverse judgment or held liable for costs or sanctions," and "could sit on the fence, await the outcome,

and opt to participate only if it was favorable." *Id.* at 147–48 (first quotation from *Torres*, 487 U.S. at 318). That rationale does not reach a notice that names the party, over his signature, as the person held liable by the designated order; there was no fence for petitioner to sit on. Whatever else may be said of these notices, they gave notice.

Smith v. Barry holds that a document's sufficiency as a notice of appeal depends on "the notice afforded by [the] document, not the litigant's motivation in filing it," and that "[i]f a document filed within the time specified by Rule 4 gives the notice required by Rule 3, it is effective as a notice of appeal." 502 U.S. at 248–49. The panel reasoned from the opposite direction. It began with what VDPP's counsel was presumably doing—"merely representing his client"—and used that supposition to discount the words on the page. Pet. App. 14. *Smith* forbids that inversion. The question is what the document conveyed, and these documents conveyed that the person signing them had been held personally liable by an order they appealed.

Becker v. Montgomery is closest. There the court of appeals dismissed a timely notice because the pro se appellant typed rather than signed his name. This Court reversed. It held that Rule 3(c)(1) lists the contents a notice must have, that the signature requirement is not among them, and that the omission was curable after the Rule 4 period had run. 532 U.S. at 763–68. It described former Rule 3(c)(4), now Rule 3(c)(7), as "a related ameliorative rule," and it stated the governing principle: "[I]mperfections in noticing an appeal should not be fatal where no genuine doubt exists about who is appealing, from what judgment, to which appellate court." *Id.* at 767. The panel did not

apply that standard. It found no doubt about the judgment or the court, and it found petitioner's name in the body of the notice; it dismissed because the introductory sentence could have been drafted more carefully. If a missing signature is not fatal, a sentence that names the client as appellant before a designation that names the lawyer cannot be.

Parrish v. United States, decided in 2025, confirms that the Court's attention to these rules has not lapsed. The Court held that an otherwise adequate notice filed before a valid reopening of the appeal period related forward, rejecting the court of appeals' insistence on a second, duplicative notice, and it reiterated that "a single filing can serve multiple purposes." 605 U.S. at 383–84, 387. *Parrish* also restated the principle that governs here: "The purpose of a notice of appeal (as its moniker suggests) is to provide opposing parties and the court with notice of one's intent to appeal," and "[s]o long as 'no genuine doubt exists about who is appealing, from what judgment, to which appellate court,' ... there is little value and significant harm in dismissing appeals on the basis of prematurity alone." *Id.* at 385 (quoting *Becker*, 532 U.S. at 767–68). The same is true of dismissing them on the basis of which sentence of the notice carries the appellant's name. *Parrish* concerned timing rather than identification, but its method is the one the panel abandoned: a court asks what the filing accomplished, not whether the appellant recited a formula. Here the same sentence designated the challenged order and identified a person seeking relief from it. The panel's conclusion that it could do only the first is the formalism *Parrish*, *Becker*, and *Smith* reject.

D. Papers filed after the notices cannot subtract jurisdiction the notices conferred.

Respondent argued below, and the panel noted, that petitioner's docketing statement and entry of appearance identified only VDPP, and that petitioner later filed corrected notices. Neither fact bears on the questions presented. *Smith* fixes the inquiry on the notice itself and on the time Rule 4 allows, 502 U.S. at 248–49; a timely notice that satisfies Rule 3(c) "is effective as a notice of appeal" without regard to what the litigant files afterward. *Id.* at 249. The Rule says the same thing in terms: "An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal ...." Fed. R. App. P. 3(a)(2). A docketing statement that repeats the clerk's caption cannot retroactively un-name a party the notice named. Petitioner's motion to correct the caption described the omission from the docketing statement as inadvertent and that is what it was: a clerical repetition of the clerk's caption, corrected within days of the first suggestion that his status was in doubt. Prompt correction of that kind confirms the intent the notices expressed. *Cf. Becker*, 532 U.S. at 764–66. The November 2024 notices are not the basis of the first question presented; petitioner relies on them only as corrections to the docket and, under the second question, as a cure of the kind *Becker* allowed.

II. The courts of appeals are divided over whether a sanctioned attorney's intent to appeal may be found from the notice as a whole, and the line they have drawn has no basis in the Rule.

The courts of appeals have addressed, repeatedly and inconsistently, whether a sanctioned attorney has appealed when the notice's caption names only the client. The decisions sort into two lines that cannot be reconciled with each other or with the Rule's text, and the criterion the courts use to reconcile them—whether the order sanctioned the attorney alone—appears nowhere in Rule 3(c).

In the first line, courts find jurisdiction over the attorney's appeal although the attorney is not named in the notice as an appellant, and in several cases is not named at all. The Fifth Circuit in *Garcia* held that references in the notice to the plaintiffs' "attorney, Erik Moebius" were "sufficiently clear to show Moebius' intent to appeal the sanction order." 20 F.3d at 609–10. The Ninth Circuit in *Retail Flooring* held that counsel's intent was "clear from the face of the notice of appeal" because the notice challenged the sanction against him, "his name appears on the notice as the attorney for Retail Flooring and he signed and filed the notice of appeal." 339 F.3d at 1149. The Tenth Circuit in *Laurino* reached the same result where the notice "specifically purport[ed] to appeal, among other things, from an order ... that only concern[ed] the sanctions entered against" counsel, because "[d]esignation of this order provides sufficient evidence, by implication, of [counsel's] intention to take an appeal from the order of sanctions." 220 F.3d at 1218. The Seventh Circuit in *Foreman* found jurisdiction where

the attorney was "not named as a party in either the caption or the body of the notice of appeal" but the body referred to the order censuring him. 844 F.3d at 625–26. The Eleventh Circuit in *Lacayo* found an attorney's intent "objectively clear" from a notice designating the sanctions order. 842 F. App'x at 380–82. And in *Cooper* the Seventh Circuit went further still: it exercised jurisdiction over the appeal of an attorney who was named nowhere in the notice and who "did not file or sign" it, reasoning that the "joint and several liability imposed by the district court's order resolves this complication," because reversing as to his co-sanctioned colleagues alone "might have little point." 42 F.4th at 694. The Seventh Circuit has since generalized the point: Rule 3(c)(7) "offers a backstop," which that court construes "liberally to protect the appeal rights of persons who have an interest in the orders being appealed," so that attorneys not listed as appellants in the notice were "proper appellants" because they had "an interest in" the designated sanctions orders. *Vega v. Chicago Board of Education*, 109 F.4th 948, 953–54 (7th Cir. 2024).

In the second line, courts dismiss. The Third Circuit in *Collier* held, before the 1993 amendment, that a notice in the client's name alone could not bring up a sanction imposed only on the attorney. 977 F.2d at 94–95. In *CTC*, the same court dismissed an attorney's appeal although the notice named him as counsel and designated the order denying reconsideration of his sanction. 951 F.2d at 575–77. In *Agee*, the Second Circuit held that where the client "is listed as the sole appellant in the caption" and the attorney's "name is listed as the appellant's attorney," the attorney's "intent to participate as a party rather than as a party's attorney is not clear on the face of the notice," even

though the notice identified the judgment imposing joint and several sanctions. 114 F.3d at 399. *Maerki* (6th Cir.), *Reed* (7th Cir.), *Bogle* (11th Cir.), and *Batiste* (5th Cir.) dismissed appeals by sanctioned attorneys who were not named as appellants in the notice; in all but *Bogle*, the client had been sanctioned as well. 128 F.3d at 1007–08; 330 F.3d at 933; 162 F.3d at 660–61; 976 F.3d at 509.

The courts most often reconcile these lines by one criterion: whether the designated order sanctioned the attorney alone. *Batiste*, 976 F.3d at 509 (distinguishing *Garcia* because there "the judgment at issue ordered sanctions solely against the attorney"); *Maerki*, 128 F.3d at 1007; Pet. App. 14–15. That criterion is not in the Rule, and it produces results the Rule's text cannot explain. Under it, an attorney who is unnamed has appealed (*Cooper*, *Foreman*, *Laurino*), while an attorney who is named and did sign has not (this case). Joint liability is the reason to find jurisdiction in the Seventh Circuit and the reason to deny it in the Federal Circuit. That *Cooper*'s joint obligation ran among co-counsel rather than between counsel and client makes no difference to the point: the Rule does not ask who shares the obligation, and the Seventh Circuit's reasoning—that a shared obligation makes the omitted obligor's intent to appeal clear rather than doubtful—applies with the same force here. And the criterion operates as an irrebuttable presumption. The panel below did not ask whether anything in these notices, beyond the fact of joint liability, made petitioner's intent clear. It treated the character of the order as dispositive.

The decision below also extends the second line beyond its own cases. *Batiste* involved a notice that

"doesn't mention Hayes in the caption or body." 976 F.3d at 509. *Reed*, *Bogle*, and *Payne* likewise involved unnamed attorneys, as did *Mullen v. Butler*, 91 F.4th 1243, 1253 (7th Cir. 2024) (counsel's intent "not so much as hinted at" in the notice (quoting *Reed*, 330 F.3d at 933)). Only *Agee*, *Maerki*, and the pre-amendment decision in *CTC* involved an attorney whose name appeared in the notice, and in *Agee* and *Maerki* it appeared only in the attorney signature block. 114 F.3d at 399; 128 F.3d at 1006. No court before the Federal Circuit had held under the amended Rule that a notice naming the attorney in its body, in the designation of the order holding him personally liable, fails to specify him. The panel's statement that its holding is "consistent with" the sister circuits understates what it did.

The Fourth Circuit's decisions since the 2021 amendments confirm the point from the other direction. In *Lokhova v. Halper*, 30 F.4th 349, 353 (4th Cir. 2022), a Rule 11 sanction ran jointly and severally against client and counsel, the captions named only the client, and the court held that the bodies of the notices, which named counsel, "satisf[y] Federal Rule of Appellate Procedure 3," because "[t]he rule's use of the disjunctive confirms the efficacy of naming the parties in either the notice's caption or its body." In *Harvey v. Cable News Network, Inc.*, 48 F.4th 257, 277 n.11 (4th Cir. 2022), the court added that when the body of a notice names counsel, "[n]o further compliance with Rule 3(c)(1)(A) is required," and that the "objectively clear" inquiry under Rule 3(c)(7) arises "only when an appellant has 'fail[ed] to name a party.'" The notices in those cases named counsel in the operative sentence rather than in a designation, and respondent will say so. But the Fourth Circuit's

rule attaches to what the Rule's text requires—a name in the body—not to the sentence in which the name appears, and the panel below did not suggest that a name in the body could ever suffice unless the opening sentence also recited that counsel "appeals." On the Fourth Circuit's reading of Rule 3(c)(1)(A), petitioner complied; on the Seventh Circuit's reading of Rule 3(c)(7), his intent was clear; on the Federal Circuit's, he never appealed at all.

The distinction has not held even within the circuits that drew it. The Fifth Circuit applied *Garcia* in *Johnson ex rel. Wilson v. Dowd*, 345 F. App'x 26, 29–30 (5th Cir. 2009), and limited it in *Payne* and *Batiste*. The Eleventh Circuit dismissed in *Bogle* and found jurisdiction in *Lacayo*. The Seventh Circuit dismissed in *Reed* and *Halim* and found jurisdiction in *Foreman* and *Cooper*. The California Supreme Court, confronting the same problem under a parallel rule of liberal construction, held that a notice naming only the client suffices to bring the sanctioned attorney's appeal when the record makes the attorney's intent clear and the respondent was not misled. *K.J. v. Los Angeles Unified Sch. Dist.*, 8 Cal. 5th 875, 882–84 (2020). The federal courts need the same clarity, and because the Federal Circuit applies its own law to this question, see Part IV, *infra*, further percolation in the regional circuits cannot supply it.

III. *Torres*'s jurisdictional characterization of Rule 3(c)(1)(A) should be reconsidered in light of this Court's claim-processing decisions.

The first question does not require the Court to revisit *Torres*: a notice that satisfies Rule 3(c), including its savings clause, is effective whether or not the requirement is jurisdictional. But the panel's premise

that Rule 3(c)(1)(A) is "a jurisdictional requirement that cannot be waived," Pet. App. 13, shaped everything that followed. Because the panel regarded the question as jurisdictional, it did not consider whether the corrected notices, the corrected docketing statement, and the motion to correct the caption—all filed within days of the first objection—cured any ambiguity, as *Becker* permitted a litigant to cure a missing signature. 532 U.S. at 764–68. It did not consider whether respondent, which raised no objection for three months and has never claimed to have been misled, could show the uncertainty about who was appealing that *Torres*'s rationale presupposes. And it did not consider its own authority under Rule 2 to suspend a rule "for other good cause"—authority *Torres* placed beyond reach principally because it deemed the requirement jurisdictional. 487 U.S. at 314–17. Petitioner does not ask for an extension of time of the kind Rule 26(b)(1) forbids and *Nutraceutical Corp. v. Lambert*, 586 U.S. 188, 193 (2019), held unavailable even for a nonjurisdictional rule; his notices were timely. What the label decides is whether a defect of form in a timely notice may be corrected or excused, as *Becker* held a missing signature could be, 532 U.S. at 764–66. If the second question is answered as petitioner urges, those considerations are available on remand. If it is not, a defect of form in a timely notice is forever beyond a court's power to excuse.

Torres supplied the jurisdictional label in 1988, before this Court undertook "to 'bring some discipline' to the use of the term 'jurisdictional.'" *Gonzalez*, 565 U.S. at 141 (quoting *Henderson v. Shinseki*, 562 U.S. 428, 435 (2011)). Since *Arbaugh v. Y & H Corp.*, 546 U.S. 500 (2006), the Court has asked whether Congress clearly stated that a requirement is jurisdictional, has

treated the rest as claim-processing rules, and has declined to give precedential weight to "drive-by jurisdictional rulings" that attached the label without analysis. *Id.* at 511. *Bowles v. Russell*, 551 U.S. 205, 208–13 (2007), held the statutory time to appeal in 28 U.S.C. § 2107 jurisdictional because Congress enacted it. *Hamer* then drew the line that governs here: "If a time prescription governing the transfer of adjudicatory authority from one Article III court to another appears in a statute, the limitation is jurisdictional; otherwise, the time specification fits within the claim-processing category." 583 U.S. at 25 (citations omitted). The Court has applied that discipline consistently since. *Wilkins v. United States*, 598 U.S. 152 (2023); *Santos-Zacaria v. Garland*, 598 U.S. 411 (2023). And it has reserved the question for a criminal defendant's notice of appeal from an amended judgment, declining to decide whether the requirement of a timely notice from such a judgment is jurisdictional because that requirement "is at least a mandatory claim-processing rule." *Manrique v. United States*, 581 U.S. 116, 121 (2017).

Torres's reasoning does not survive that discipline. The Court found "support for [its] view in the Advisory Committee Note following Rule 3," which stated that "the timely filing of a notice of appeal is 'mandatory and jurisdictional,'" quoting *United States v. Robinson*, 361 U.S. 220, 224 (1960), and it read the Note to treat Rules 3 and 4 "as a single jurisdictional threshold." 487 U.S. at 315. *Hamer* has since explained that the "mandatory and jurisdictional" formulation "took flight from a case in which we mistakenly suggested that a claim-processing rule was 'mandatory and jurisdictional'"—*Robinson*. 583 U.S. at 27 n.11. And in *Nutraceutical* the Court invoked *Torres*'s Rule 26(b)

reasoning while holding the rule before it nonjurisdictional, cautioning that the Court's earlier "mandatory and jurisdictional" statements "did not necessarily signify that the rules at issue were formally 'jurisdictional' as we use that term today." 586 U.S. at 192 n.3, 195. The foundation *Torres* built on is gone; only the label remains.

Section 2107 requires that a "notice of appeal" be filed within thirty days. It does not prescribe how a notice must identify the appellants. That requirement exists only in Rule 3(c)(1)(A), a rule promulgated by this Court under the Rules Enabling Act. Petitioner does not contend that a timely paper conveying no intent to appeal can invoke appellate jurisdiction because it was filed on time; a document that is not a notice of anyone's appeal is not a "notice of appeal" under § 2107. The question is narrower: whether an asserted defect in how a timely notice specifies a person it names is itself jurisdictional, so that it can never be cured, forfeited, or excused, or is instead a mandatory claim-processing rule that must be enforced when properly invoked but carries the ordinary incidents of such rules. *Hamer*'s logic answers that question. A content requirement that appears only in a court rule is a claim-processing rule.

Petitioner does not minimize the statements that point the other way. In *Becker* the Court described Rules 3 and 4 as "linked jurisdictional provisions" and the requirements of Rule 3(c)(1) as the truly jurisdictional ones. 532 U.S. at 765–66. In *Gonzalez* the Court declined to extend *Torres* without disturbing it, describing it as involving "an unrelated Federal Rule featuring a different textual, contextual, and historical backdrop." 565 U.S. at 148 n.8. But *Becker*

preceded *Arbaugh*, *Bowles*, and *Hamer*, and neither *Becker* nor *Gonzalez* examined whether the naming requirement derives from § 2107 or only from the Rule. The question is open in this Court, it is recurring, and the decision below shows why it matters. Resolving it would not disturb *Bowles* or enlarge any statutory deadline: the timely notices here were filed within the period § 2107 prescribes, and Rule 26(b)(1) is not implicated. It would decide only whether a court of appeals must treat a defect of form in a timely notice as beyond its power to excuse.

The courts of appeals have recognized as much and have said that only this Court can act. The Eleventh Circuit has "acknowledge[d] that recent decisions of the Supreme Court call into question [this Court's] earlier decisions ... that the content requirements for notices of appeal are jurisdictional," because those requirements "appear only in a court rule, not a statute," while holding itself "bound to follow *Torres* and later precedents on this issue until the Supreme Court overrules them." *Automotive Alignment & Body Service, Inc. v. State Farm Mutual Automobile Insurance Co.*, 953 F.3d 707, 722–23 (11th Cir. 2020). The Eighth Circuit has quoted and applied that reasoning, *Kohlbeck v. Wyndham Vacation Resorts, Inc.*, 7 F.4th 729, 734 (8th Cir. 2021), and has since described whether noncompliance with Rule 3(c)'s designation requirement is a "drive-by jurisdictional ruling" as "an untested question of considerable complexity," *Woodward v. Credit Service International Corp.*, 132 F.4th 1047, 1054 (8th Cir. 2025). The Fourth Circuit has collected the decisions on both sides and expressly declined to resolve the question. *The Wall Guy, Inc. v. FDIC*, 95 F.4th 862, 871 n.4 (4th Cir. 2024). Those courts are right that they cannot resolve it. This Court

can, and this case presents the question cleanly: the panel's treatment of the defect as jurisdictional is the stated reason it never asked whether the defect was cured, harmless, or excusable.

IV. The question is important and recurring, and this case is an ideal vehicle.

Fee-shifting and sanctions awards that run jointly against a party and its counsel are commonplace. Section 1927 and the inherent power reach counsel; § 285, the Copyright Act, Rule 11, and Rule 37 reach parties; courts routinely impose liability under several of these provisions at once, as the district court did here. In every such case the lawyer must decide how to notice an appeal, and in every such case the lawyer who follows Rule 3(c)(1)(A)'s text—name each appellant in the caption or body—now risks the result below in the Federal Circuit and in the Second, Third, Fifth, and Sixth Circuits. The 2021 Committee Note described the purpose of the amendments as removing "a trap for the unwary." The decision below sets one, and the consequence of stepping in it is not a correctable caption but the loss of appellate review.

The Federal Circuit's decision carries particular weight. Section 1295(a)(1) gives that court exclusive jurisdiction over appeals from final decisions in civil actions arising under the patent laws, wherever the district court sits, while ordinary civil appeals from the same district courts go to the regional circuit. 28 U.S.C. §§ 1291, 1294(1), 1295(a)(1). And for Rule 3 compliance the panel expressly applied Federal Circuit law rather than regional circuit law. Pet. App. 13 (citing *Minnesota Mining*, 303 F.3d at 1308–09). The same lawyer, filing the same notice in the same district court, is therefore governed by *Retail Flooring* in

a California case that goes to the Ninth Circuit and by the decision below in a California case that goes to the Federal Circuit; by *Laurino* in one Colorado appeal and by the decision below in another; by *Garcia* and *Johnson* in a Texas appeal to the Fifth Circuit and by the decision below in this one. Rehearing en banc was denied without opinion, so that rule will govern the Federal Circuit's nationwide docket until this Court addresses it, and no development in the regional circuits can displace it.

This Court has mentioned the savings clause only in passing, see *Becker*, 532 U.S. at 767, and has never construed its reach. The rulemakers adopted it in 1993 to curb the satellite litigation *Torres* had produced and expanded it in 2021 because courts had continued to dismiss appeals, or narrow them, on points of form in the designation of the judgment. Fed. R. App. P. 3, advisory committee's notes to 1993 and 2021 amendments. A precedential decision that declines even to cite the clause, in a case that falls within its terms, warrants the Court's attention for that reason alone. Nor can the rulemaking process supply what is missing. The Advisory Committee can rewrite Rule 3(c), as it did in 1993 and 2021, but it cannot decide whether a requirement it writes is jurisdictional; under *Hamer* that depends on what Congress enacted in § 2107, and whether *Torres*'s label survives *Hamer* is a question only this Court can answer.

This case is a clean vehicle. The questions are ones of law, decided on the face of two one-page documents whose contents are undisputed; no fact about petitioner's subjective intent is in play, because *Smith* makes the document, not the motivation, the measure. Nor does the first question ask the Court to review a fact-

bound assessment of these notices. The panel announced a rule—that an order running against both lawyer and client makes the lawyer's intent unclear—and applied it without examining the signature, the designations, or the placement of the name. What the Court would review is that rule. The questions were raised in the court of appeals by motion before merits briefing, in petitioner's reply brief in answer to respondent's brief, at oral argument, and on rehearing, and the court decided them. They are outcome-determinative: the court of appeals did not reach the merits of the § 1927 and inherent-power sanction, so no alternative ground supports the judgment as to petitioner, and a decision for petitioner would send a $207,543.60 personal liability back for the appellate review it has never received.

Nothing about the record complicates review. The August 13 notice was filed the day the fee amount was fixed and designated that order by docket number, so the first question does not depend on treating the August 7 notice as an appeal from a future order, and neither question depends on the timeliness of the November 2024 corrections. Because the court below treated both questions as going to its jurisdiction and decided them, no forfeiture objection stands in the way of review. And the relief is modest: vacatur of the judgment insofar as it dismisses petitioner's appeal, and a remand for the court of appeals to decide that appeal on the merits, leaving the judgment against VDPP untouched.

Petitioner does not minimize the district court's criticism of how the underlying case was litigated, or the panel's. Those matters go to the merits of a sanction that petitioner has never been permitted to

contest on appeal, and they will be for the court of appeals on remand. The question here is antecedent and procedural: whether a lawyer who did what the Rule says has lost his appeal because a court read into the Rule more than its text contains and read out of it the clause that forbids the dismissal. That question deserves an answer from this Court.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court should vacate the judgment insofar as it dismisses petitioner's appeal and remand for further proceedings.

Respectfully submitted,

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