

SNAP REMOVAL AND THE ANTI-INJUNCTION ACT

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I. INTRODUCTION

“[F]rom the beginning we have had in this country two essentially separate legal systems. Each system proceeds independently of the other with ultimate review in this Court of the federal questions raised in either system. Understandably this dual court system was bound to lead to conflicts and frictions.”¹

Snap removal—“[t]he swift removal of a case before a forum defendant can be served”²—has caused conflict and friction between federal and state courts.³ Snap removal has also divided parties to civil cases.⁴

For those who represent defendants, snap removal is all the rage.⁵ For those who represent plaintiffs, snap removal is outrageous.⁶ Critics contend this practice constitutes gamesmanship,⁷ violates Supreme Court

1. Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng'rs, 398 U.S. 281, 286 (1970).

2. Lonny Hoffman & Erin Horan Mendez, *Wrongful Removals*, 71 FLA L. REV. F. 220, 222–23 (2020). See Serafini v. Sw. Airlines Co., 485 F. Supp. 3d 697, 698 (N.D. Tex. 2020) (explaining the basic concepts of snap removal); Ekeya v. Shriners Hosp. for Child., Portland, 258 F. Supp. 3d 1192, 1201 n.4 (D. Or. 2017) (referring to snap removal as a loophole for resident defendants).

3. See Pecherski v. Gen. Motors Corp., 636 F.2d 1156, 1161 n.6 (8th Cir. 1981).

4. See Goodwin v. Reynolds, 757 F.3d 1216, 1221 n.15 (11th Cir. 2014).

5. See Zach Hughes, *A New Argument Supporting Removal of Diversity Cases Prior to Service*, 79 DEF. COUNS. J. 205, 205 (2012); cf. Breitweiser v. Chesapeake Energy Corp., No. 3:15-CV-2043-B, 2015 WL 6322625, at *2 (N.D. Tex. Oct. 20, 2015) (explaining how a defendant can remove a state court action to federal court).

6. Little v. Wyndham Worldwide Operations, Inc., 251 F. Supp. 3d 1215, 1218, 1220 (M.D. Tenn. 2017); Regal Stone Ltd. v. Longs Drug Stores Cal., L.L.C., 881 F. Supp. 2d 1123, 1128 n.7 (N.D. Cal. 2012); Adam B. Sopko, *Swift Removal*, 13 FED. CTS. L. REV. 1, 75 (2021); Arthur D. Hellman, *The Fraudulent Joinder Prevention Act of 2016: A New Standard and a New Rationale for an Old Doctrine*, 17 FEDERALIST SOC'Y REV. 34, 44 n.98 (2016) [hereinafter Hellman, *New Standard*].

7. *Goodwin*, 757 F.3d at 1221 n.15; Delaughder v. Colonial Pipeline Co., 360 F. Supp. 3d 1372, 1380–81 (N.D. Ga. 2018); Medish v. Johns Hopkins Health Sys. Corp., 272 F. Supp. 3d 719, 727 (D. Md. 2017); Rizzi v. 178 Lowell St. Operating Co., LLC, 180 F. Supp. 3d 66, 69 (D. Mass. 2016); Dooley v. Medtronic, Inc., 39 F. Supp. 3d 973, 980 (W.D. Tenn. 2014); Ethington v. Gen. Elec. Co., 575 F. Supp. 2d 855, 861–62 (N.D. Ohio 2008). *But see* Saurabh Vishnubhakat, *Pre-Service Removal in the Forum Defendant's Arsenal*, 47 Gonz. L. Rev. 147, 161 (2011) (asserting that snap removal “is a legitimate litigation strategy”); Matthew Curry, Note, *Plaintiff's Motion to Remand Denied: Arguing for Pre-Service Removal Under the Plain Language of the Forum Defendant Rule*, 58 CLEV. ST. L. REV. 907, 932 (2010) (arguing that pre-service removal under the language of the forum-defendant rule is proper and a legitimate litigation strategy).

precedent,⁸ undermines Congressional intent,⁹ produces absurd results,¹⁰ nullifies the forum defendant rule,¹¹ breaks the mischief rule,¹²

8. See *Pullman Co. v. Jenkins*, 305 U.S. 534, 541 (1939); see also *Everett v. MTD Prods., Inc.*, 947 F. Supp. 441, 444 (N.D. Ala. 1996); *Beritich v. Metro. Life Ins. Co.*, 881 F. Supp. 557, 560 n.5 (S.D. Ala. 1995) (noting that the *Pullman* rule—which provides removal by the non-resident defendants where the resident defendant has not yet been served—does not justify removal). *But see Cucci v. Edwards*, 510 F. Supp. 2d 479, 484 (C.D. Cal. 2007) (explaining that served defendants may remove a case without the participation of non-joined defendants); *Republic W. Ins. Co. v. Int'l Ins. Co.*, 765 F. Supp. 628, 629 (N.D. Cal. 1991)) (explaining that a case can be removed without the defendant properly joining the notice of removal).

9. *U.S. Bank Nat'l Ass'n, as Tr. for Greenpoint Mortg. Funding Tr. Mortg. Passthrough Certificates, Series 2006-AR6 v. Fid. Nat'l Title Grp., Inc.*, 604 F. Supp. 3d 1038, 1044 (D. Nev. 2022); *Deutsche Bank Nat'l Trust Co. as Tr. for Am. Home Mortg. Inv. Trust 2007-1 v. Old Republic Tit. Ins. Grp., Inc.*, 532 F. Supp. 3d 1004, 1014 (D. Nev. 2021); *In re Testosterone Replacement Therapy Prods. Liab. Litig.*, 67 F. Supp. 3d 952, 961–62 (N.D. Ill. 2014); *Gentile v. Biogen Idec, Inc.*, 934 F. Supp. 2d 313, 319 (D. Mass. 2013); *Laugelle v. Bell Helicopter Textron, Inc.*, No. 10-1080 (GMS), 2012 WL 368220, at *3 (D. Del. Feb. 2, 2012); *Sullivan v. Novartis Pharms. Corp.*, 575 F. Supp. 2d 640, 646 (D.N.J. 2008); *Stan Winston Creatures, Inc. v. Toys “R” Us, Inc.*, 314 F. Supp. 2d 177, 181 (S.D.N.Y. 2003); Matt Elgin, Comment, *Technology & Textualism: A Case Study on the Challenges a Rapidly Evolving World Poses to the Ascendant Theory*, 52 GOLDEN GATE U. L. REV. 97, 125 (2022); Thomas O. Main et al., *The Elastics of Snap Removal: An Empirical Case Study of Textualism*, 69 CLEV. ST. L. REV. 289, 302 (2020) [hereinafter Main et al., *Elastics*]; Jeffrey W. Stempel, *Adding Context and Constraint to Corpus Linguistics*, 86 BROOK. L. REV. 389, 416 (2020) [hereinafter Stempel, *Adding Context*]. *But see Wragge v. Boeing Co.*, 532 F. Supp. 3d 616, 622 (N.D. Ill. 2021); *Knightsbridge Mgmt., Inc. v. Zurich Am. Ins. Co.*, 518 F. Supp. 3d 1248, 1254 (S.D. Ill. 2021). Some have implored Congress to act. See E. Farish Percy, *It's Time for Congress to Snap to it and Amend 28 U.S.C. § 1441(1)(b)(2) to Prohibit Snap Removals That Circumvent the Forum Defendant Rule*, 73 RUTGERS U. L. REV. 579, 640 (2021) [hereinafter Percy, *Snap To It!*]; Valerie M. Nannery, *Closing the Snap Removal Loophole*, 86 U. CIN. L. REV. 541, 574 (2018); Arthur Hellman, et al., *Neutralizing the Stratagem of “Snap Removal”*: *A Proposed Amendment to the Judicial Code*, 9 FED. CTS. L. REV. 103, 106 (2016) [hereinafter Hellman et al., *Neutralizing*]; Hellman, *New Standard*, *supra* note 6; Jordan Bailey, Comment, *Giving State Courts the Ol' Slip: Should a Defendant Be Allowed to Remove an Otherwise Irremovable Case to Federal Court Solely Because Removal Was Made Before Any Defendant Is Served?*, 42 TEX. TECH L. REV. 181, 213 (2009). Congressional action is unlikely. See Sopko, *supra* note 6, at 76.

10. *In re Roundup Prods. Liab. Litig.*, 358 F. Supp. 3d 956, 957 (N.D. Cal. 2019); *DHLNH, LLC v. Int'l Bhd. of Teamsters, Local 251*, 319 F. Supp. 3d 604, 606 (D.R.I. 2018); *Leech v. 3M Co.*, 278 F. Supp. 3d 933, 943 (E.D. La. 2017); *Reimold v. Gokaslan*, 110 F. Supp. 3d 641, 643 (D. Md. 2015); *Phillips Constr., LLC v. Daniels L. Firm, PLLC*, 93 F. Supp. 3d 544, 553 (S.D.W. Va. 2015); *Padgett v. Medtronic, Inc.*, 41 F. Supp. 3d 582, 587 n.6 (W.D. Ky. 2014); *Workman v. Nat'l Supafly Sys., Inc.*, 676 F. Supp. 690, 691 n.2 (D.S.C. 1987); *Worthy v. Schering Corp.*, 607 F. Supp. 653, 657 (E.D.N.Y. 1985); *Allied Programs Corp. v. Puritan Ins. Co.*, 592 F. Supp. 1274, 1276 (S.D.N.Y. 1984); *Sands v. Geller*, 321 F. Supp. 558, 562 (S.D.N.Y. 1971); Travis Temple, Note, *Absurd Overlap: Snap Removal and the Rule of Unanimity*, 63 WM. & MARY L. REV. 321, 323 (2021); cf. John F. Manning, *The Absurdity Doctrine*, 116 HARV. L. REV. 2387, 2485 (2003) (noting support of the absurdity doctrine when the result would otherwise be contrary to congressional intent). *But see Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699, 707 (2d Cir. 2019); *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 154 (3d Cir. 2018); *Tex. Brine Co. v. Am. Arb. Ass'n*, 955 F.3d 482, 487 (5th Cir. 2020); *Grandinetti v. Uber Techs., Inc.*, 476 F. Supp. 3d 747, 756 (N.D. Ill. 2020); *Watanabe v. Lankford*, 684 F. Supp. 2d 1210, 1219 (D. Haw. 2010); *Katz v. Costa Armatori, S.p.A.*, 718 F. Supp. 1508, 1509 (S.D. Fla. 1989) (showing courts adhering to a statute's express language).

11. *Hawkins v. Cottrell, Inc.*, 785 F. Supp. 2d 1361, 1373 (N.D. Ga. 2011).

12. Howard M. Wasserman, *The Forum-Defendant Rule, the Mischief Rule, and Snap Removal*, 62 WM. & MARY L. REV. ONLINE 51, 54 (2021); Samuel L. Bray, *The Mischief Rule*, 109 Geo. L.J. 967, 968 (2021).

encourages forum shopping,¹³ causes “needless jurisdictional problems,”¹⁴ and contravenes the Sherlock Holmes canon.¹⁵ But there is another problem with snap removal: it violates the Anti-Injunction Act,¹⁶ which provides that a federal court “may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.”¹⁷

When a defendant removes a case, the federal court enjoins the state court from taking any further action.¹⁸ This maneuver is routine; the state court stands down.¹⁹ But when a defendant snap removes a case, the validity of an injunction vanishes.²⁰

Consider the following case: A Florida citizen buys a OneWheel electric skateboard, a product manufactured by a company that is a citizen of California and Delaware.²¹ He purchases this product from another Florida citizen.²² The skateboard nosedives; he suffers extensive injuries.²³ He sues the manufacturer and the retailer and asserts strict liability and

13. *Perez v. Forest Labs., Inc.*, 902 F. Supp. 2d 1238, 1243 (E.D. Mo. 2012); *Vivas v. Boeing Co.*, 486 F. Supp. 2d 726, 734 (N.D. Ill. 2007).

14. *Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1161 n.6 (8th Cir. 1981).

15. Michael M. Gallagher, *Snap Removal and the Sherlock Holmes Canon*, 53 CUMB. L. REV. 259, 279–86 (2022–2023) [hereinafter Gallagher, *Snap Removal*]; Anita S. Krishnakumar, *The Sherlock Holmes Canon*, 84 GEO. WASH. L. REV. 1, 2 n.1 (2016). There are many troubling maneuvers in litigation. *See, e.g.*, Michael M. Gallagher, *Vetoing Class Actions*, 24 REV. LITIG. 527, 544–48 (2005) (contending that defendants can veto Rule 23(b)(1)(A) class actions) [hereinafter Gallagher, *Vetoing*]; Michael M. Gallagher, *Abolishing the Texas Jury Shuffle*, 35 ST. MARY’S L.J. 303, 304–05 (2004) (arguing that the Texas Legislature should abolish the jury shuffle) [hereinafter Gallagher, *Abolishing*]. Whatever one thinks about snap removal, there is no dispute that it has divided courts. *See Little v. Wyndham Worldwide Operations, Inc.*, 251 F. Supp. 3d 1215, 1220 (M.D. Tenn. 2017); Maggie Gardner, *District Court En Bancs*, 90 FORDHAM L. REV. 1541, 1584 & n.290 (2022); Danielle Gold & Rayna E. Kessler, *How to Avoid ‘Snap Removals’*, TRIAL 54, 56 (July 2019); E. Farish Percy, *The Fraudulent Joinder Prevention Act of 2016: Moving the Law in the Wrong Direction*, 62 VILL. L. REV. 213, 228 n.94 (2017) [hereinafter Percy, *Moving The Law*].

16. 28 U.S.C. § 2283.

17. *Id.* “[T]he Act is an absolute prohibition against any injunction of any state-court proceedings, unless the injunction falls within one of the three specifically defined exceptions in the Act.” *Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623, 630 (1977). *See Studebaker Corp. v. Gittlin*, 360 F.2d 692, 696 (2d Cir. 1966) (“[Section] 2283 forbids any federal injunction substantially interfering with the prosecution of a pending state proceeding unless an exception applies.” (citations omitted)).

18. *See* 28 U.S.C. § 1446(d) (“Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.”) (emphasis added); *see also Vendo Co.*, 433 U.S. at 640 (detailing how removal acts as a stay of the proceedings in state court).

19. *Id.*

20. *See M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1110 (8th Cir. 2023); *In re Levy*, 52 F.4th 244, 247 (5th Cir. 2022) (per curiam).

21. *Colpoys v. Future Motion, Inc.*, No: 8:23-cv-1528-KKM-AAS, 2023 WL 5917007, at *1–2 (M.D. Fla. Aug. 17, 2023).

22. *Id.* at *1.

23. *Id.*

negligence claims.²⁴ These claims are valid under Florida law;²⁵ there is no suggestion of improper joinder.²⁶ Complete diversity is lacking.²⁷ But the absence of jurisdiction does not deter the foreign defendant, who “snap removes”²⁸ the case before service on the Florida defendant occurs.²⁹ Even though federal jurisdiction is absent, the case is in federal court.³⁰ The plaintiff then files a motion to remand.³¹

The foreign defendant defends removal by emphasizing that the forum defendant had not been served.³² The plaintiff asserts that the lack of service is irrelevant because federal jurisdiction does not exist.³³ Ultimately, the district court deems removal improper because a Florida citizen is on both sides of the case.³⁴ The failure to serve the Florida defendant “does not matter for the diversity inquiry.”³⁵ Ultimately, the Court’s ruling was easy because snap removal violated the removal statutes.³⁶ Even so, it turns out that snap removal contravened another federal law: the Anti-Injunction Act.³⁷

Generally, “removal acts as a stay of the state-court proceedings.”³⁸ But in this specific case, a federal injunction violated the Anti-Injunction Act’s prohibition on enjoining state courts.³⁹ To be sure, this statute has three exceptions.⁴⁰ A federal court can issue an injunction “as expressly authorized

24. *Id.* The plaintiff’s claims neither arise under, nor concern, federal law. *Id.*

25. *Aubin v. Union Carbide Corp.*, 177 So. 3d 489, 494 (Fla. 2015); *ISK Biotech Corp. v. Doublerly*, 260 So. 2d 85, 89 (Fla. 1st DCA 1994); *Jones v. Heil Co.*, 566 So. 2d 565, 567 n.1 (Fla. 1st DCA 1990).

26. *Colpoys*, 2023 WL 5917007, at *1. *See Goodwin v. Reynolds*, 757 F.3d 1216, 1222 (11th Cir. 2014) (“In particular, there is no indication that Plaintiff fraudulently joined the forum defendant, Reynolds, for the sole purpose of triggering the forum-defendant rule.”). *Cf. Smallwood v. Ill. Cent. R.R. Co.*, 385 F.3d 568, 571 (5th Cir. 2004) (en banc) (“We hold that, when a nonresident defendant’s showing that there is no reasonable basis for predicting that state law would allow recovery against an in-state defendant equally disposes of all defendants, there is no improper joinder. . . .”).

27. *Colpoys*, 2023 WL 5917007, at *1 (“[D]iversity jurisdiction does not exist.” (citation omitted)).

28. *Serafini v. Sw. Airlines Co.*, 485 F. Supp. 3d 697, 698 (N.D. Tex. 2020) (“Before being served, Southwest removed to this Court—a litigation tactic commonly referred to as ‘snap removal.’”).

29. *Colpoys*, 2023 WL 5917007, at *1 (“Future Motion removed the case before Colpoys served Elite Water Sports. . . .”).

30. *Id.* (“Thus, both the plaintiff and one defendant are citizens of Florida. . . .”).

31. *Id.*

32. *Id.* (examining “Future Motion’s attempt to circumvent diversity jurisdiction. . . .”).

33. *Id.*

34. *See id.* (“Section 1441(b)(2), the forum defendant rule, prevents removal of ‘otherwise removable’ cases if one of the defendants is a citizen of the state in which the action is brought.”) (citing 28 U.S.C. § 1441(b)(2)).

35. *Id.*

36. *See id.*; *see also Sierminski v. Transouth Fin. Corp.*, 216 F.3d 945, 948 (11th Cir. 2000) (“[W]ith regard to whether the parties are diverse, removability should be determined ‘according to the plaintiff’s pleading at the time of the petition for removal.’”) (quotation omitted).

37. 28 U.S.C. § 2283.

38. *Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623, 640 (1977) (citation omitted). *See Amalgamated Clothing Workers of Am. v. Richman Bros.*, 348 U.S. 511, 525 (1955) (“The Removal Acts . . . provided that a case once removed passed beyond the jurisdiction of the state courts.”).

39. 28 U.S.C. § 2283 (“A court of the United States may not grant an injunction to stay proceedings in a State court. . . .”).

40. *Id.*

by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.”⁴¹ But courts construe these exceptions narrowly.⁴² Courts resolve “[a]ny doubts as to the propriety of a federal injunction . . . in favor of permitting the state courts to proceed”⁴³ And in a snap removed case where complete diversity does not exist, none of these exceptions apply.⁴⁴

First, federal law does not expressly authorize an injunction because the federal court lacks jurisdiction.⁴⁵ Second, federal courts cannot issue an injunction in aid of jurisdiction that is absent.⁴⁶ Third, there is no final judgment that would necessitate an injunction.⁴⁷ Snap removal violates not just the removal statutes, but also a federal statute that has been on the books

41. *Id.* See *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 142 (1988) (noting that the Anti-Injunction Act “generally bars federal courts from granting injunctions to stay proceedings in state courts.”).

42. *Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 287 (1970) (“Moreover since the statutory prohibition . . . in part rests on the fundamental constitutional independence of the States and their courts, the exceptions should not be enlarged by loose statutory construction.”). See *Chick Kam Choo*, 486 U.S. at 146 (“[T]he exceptions are narrow”); *Vendo Co.*, 433 U.S. at 631 (noting that federal courts should take a “cautious approach” to interpreting section 2283); *Amalgamated Clothing Workers of Am.*, 348 U.S. at 514 (“Congress made clear beyond cavil that the prohibition is not to be whittled away by judicial improvisation.”); *Corley v. Entergy Corp.*, 297 F. Supp. 2d 915, 918 (E.D. Tex. 2003) (“Section 2283 mandates a significant reluctance to enjoin state courts.”) (citing *T. Smith & Son, Inc. v. Williams*, 275 F.2d 397, 405–06 (5th Cir. 1960)). See *Int’l Ass’n of Machinists & Aerospace Workers v. Nix*, 512 F.2d 125, 129 (5th Cir. 1975) (“[T]he sensitive nature of federal interference with state court proceedings requires that the statute be strictly construed.” (citations omitted)).

43. *Atl. Coast Line R.R. Co.*, 398 U.S. at 297 (“The explicit working of § 2283 itself implies as much, and the fundamental principle of a dual system of courts leads inevitably to that conclusion.”).

44. See *M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1110 (8th Cir. 2023); *In re Levy*, 52 F.4th 244, 247 (5th Cir. 2022) (per curiam). See also 28 U.S.C. §§ 1332 (a)(1), 1441(b)(2), 1446(b)(2)(A), 2283.

45. See *M & B Oil, Inc.*, 66 F.4th at 1110 (“[S]nap removal cannot cure a lack of complete diversity.”); *In re Levy*, 52 F.4th at 247. See 28 U.S.C. §§ 1332 (a)(1) (“*The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—(1) citizens of different States.*”) (emphasis added), 1441(b)(2) (“*A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.*”) (emphasis added), 1446(b)(2)(A) (“*When a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action.*”) (emphasis added). In *M & B Oil, Inc.*, the Eighth Circuit vacated the district court’s order denying remand and precluded “North Dakota’s defense bar” from using snap removal to cure a lack of complete diversity. 66 F.4th at 1110; Benjamin Lorentz, Note, *Snap Removal in the Eighth Circuit*, 99 N.D. L. REV. 463, 481 (2024).

46. See 28 U.S.C. §§ 1332(a)(1), 2283.

47. See *Chick Kam Choo*, 486 U.S. at 147 (“The relitigation exception was designed to permit a federal court to prevent state litigation of an issue that previously was presented to and decided by the federal court.”); see also *Tex. Emps.’ Ins. Ass’n v. Jackson*, 862 F.2d 491, 499 (5th Cir. 1988) (en banc) (“The ‘except . . . to protect or effectuate its judgments’ language of section 2283 has been referred to as the ‘relitigation exception.’”); *United States v. Ford Motor Co.*, 522 F.2d 962, 966–67 (6th Cir. 1975) (“To conclude that a federal court has injunctive power to enjoin a state court proceeding whenever the state suit is tangentially related to the prior federal judgment would unduly expand the Congressional exceptions to the anti-injunction statute.”); *Com. Oil Refin. Corp. v. Miner*, 303 F.2d 125, 128 (1st Cir. 1962) (“Effectuation must relate to final judgments.”).

for centuries.⁴⁸ Federal courts thus improperly enjoin state courts after improper removal.⁴⁹ Federal courts oversee cases despite the absence of jurisdiction; state courts cannot act despite the existence of jurisdiction.⁵⁰ This is another reason why snap removal is improper.⁵¹

Part II examines the text, structure, and history of the Anti-Injunction Act.⁵² Part III examines the interaction between the removal statutes and the Anti-Injunction Act, discusses the two pertinent exceptions in the Anti-Injunction Act, and argues against snap removal.⁵³ Part IV addresses counterarguments by snap removal supporters.⁵⁴ This article ends with a call for the Court to enforce the Anti-Injunction Act and nullify snap removal.

II. THE ANTI-INJUNCTION ACT

Soon after Congress created federal courts, Congress passed “a law providing that no ‘writ of injunction be granted [by any federal court] to stay proceedings in any court of a state . . .’”⁵⁵ The origin of this law is “shrouded in obscurity.”⁵⁶ Even so, the Anti-Injunction Act initially prohibited all federal injunctions of state court cases.⁵⁷

The Anti-Injunction Act “remained unchanged until 1874, when it was amended to permit a federal court to stay state court proceedings that

48. *Mitchum v. Foster*, 407 U.S. 225, 231 (1972) (“The anti-injunction statute goes back almost to the beginnings of our history as a Nation.”).

49. *See M & B Oil, Inc.*, 66 F.4th at 1110; *In re Levy*, 52 F.4th at 247. *Cf. Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623, 630 (1977) (“The Act’s purpose is to forestall the inevitable friction between the state and federal courts that ensues from the injunction of state judicial proceedings by a federal court.”) (citing *Okla. Packing Co. v. Okla. Gas & Elec. Co.*, 309 U.S. 4, 9 (1940)).

50. *See M & B Oil, Inc.*, 66 F.4th at 1110; *Levy*, 52 F.4th at 247.

51. *See M & B Oil, Inc.*, 66 F.4th at 1110; *Levy*, 52 F.4th at 247.

52. *See discussion infra* Part II (discussing the Anti-Injunction Act).

53. *See discussion infra* Part III (arguing against snap removal).

54. *See discussion infra* Part IV (discussing arguments in support of snap removal).

55. *Mitchum v. Foster*, 407 U.S. 225, 231–32 (1972).

56. *Id.* (footnote omitted). *See Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 285 (1970) (“[A]ll the reasons that led Congress to adopt this restriction on federal courts are not wholly clear” (footnote omitted)); Martin H. Redish, *The Anti-Injunction Statute Reconsidered*, 44 U. CHI. L. REV. 717, 719–27 (1977) (discussing the history of the Anti-Injunction Act). Interpreting a federal law that authorizes injunctions can be a slog. *See id.* at 760 (“It is generally recognized that the anti-injunction statute is rife with inadequacies and ambiguities.”). *Cf. Seven-Sky v. Holder*, 666 F.3d 1, 23 (D.C. Cir. 2011) (Kavanaugh, J., dissenting) (examining the Tax Anti-Injunction Act and remarking that “[t]he Tax Code is never a walk in the park.”), *abrogated by Nat’l Fed’n Indep. Bus. v. Sebelius*, 567 U.S. 519, 546 (2012).

57. *Mitchum*, 407 U.S. at 231–32; *cf. Andrew S. Weinstein, Avoiding the Race to Res Judicata: Federal Antisuit Injunctions of Competing State Class Actions*, 75 N.Y.U.L. REV. 1085, 1100 (2000) (“Thus, regardless of its uncertain origins, the statute was firmly established as a bar on federal injunctive power.”); Steven M. Larimore, *Exploring the Interface Between Rule 23 Class Actions and the Anti-Injunction Act*, 18 GA. L. REV. 259, 268 (1984) (“Regardless of the true impetus behind the passage of this first broad injunctive prohibition, the statute remained virtually unchanged for over 150 years.” (footnote omitted)). For a full discussion of the history of the Anti-Injunction Act, *see Toucey v. N.Y. Life Ins. Co.*, 314 U.S. 118, 129–31 (1941); Redish, *supra* note 56.

interfered with the administration of a federal bankruptcy proceeding.”⁵⁸ After this amendment, the Court recognized more situations where “federal courts were empowered to enjoin state court proceedings.”⁵⁹ In 1941, in *Toucey v. New York Life Insurance Co.*,⁶⁰ the Court cast “considerable doubt upon the approach to the anti-injunction statute reflected in its previous decisions.”⁶¹ Congress responded to *Toucey* by amending the Anti-Injunction Act.⁶²

The 1948 amendments to the Anti-Injunction Act negated *Toucey* and restored federal law to its pre-*Toucey* state.⁶³ “By its terms, the revision established three exceptions to the statutory ban on federal injunctions against state suits: injunctions could issue (1) where expressly authorized by an act of Congress; (2) where issued in aid of the federal court’s jurisdiction; and (3) where necessary to protect or effectuate the federal court’s judgments.”⁶⁴

The Anti-Injunction Act is a forty-one-word statute that is susceptible to two different interpretations.⁶⁵ Courts construe the prohibition on injunctions broadly.⁶⁶ Courts cannot weaken this prohibition “by judicial improvisation.”⁶⁷ Conversely, courts construe the exceptions narrowly.⁶⁸ Courts cannot enlarge these exceptions “by loose statutory construction.”⁶⁹

III. SNAP REMOVAL AND THE ANTI-INJUNCTION ACT

Two exceptions potentially authorize an injunction after snap removal of a non-diverse case.⁷⁰

58. *Mitchum*, 407 U.S. at 233 (footnote omitted).

59. *Id.* at 234–35.

60. *Toucey*, 314 U.S. at 118.

61. *Mitchum*, 407 U.S. at 236.

62. *Id.*

63. *Id.*; see also Redish, *supra* note 56, at 721 (“It was primarily in response to *Toucey* that Congress enacted the 1948 revision of the anti-injunction statute.”).

64. Redish, *supra* note 56, at 721.

65. 28 U.S.C. § 2283.

66. *Amalgamated Clothing Workers of Am. v. Richman Bros.*, 348 U.S. 511, 514 (1955).

67. *Id.*

68. See *id.*; see also *Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 296 (1970) (“[W]hatever doubts we may have are strongly affected by the general prohibition of § 2283.”).

69. *Atl. Coast Line R.R. Co.*, 398 U.S. at 287. “Proceedings in state courts should normally be allowed to continue unimpaired by intervention of the lower federal courts, with relief from error, if any, through the state appellate courts and ultimately this Court.” *Id.*

70. See discussion *infra* Sections III.A–B (discussing potential exceptions that would authorize an injunction after snap removal). The relitigation exception does not apply. See discussion *supra* note 47 (discussing the relitigation exception).

A. Expressly Authorized

Before and after revisions to the Anti-Injunction Act, courts held that the removal statutes expressly authorize an injunction.⁷¹ None of these cases, though, involved snap removal of a case involving a plaintiff and at least one defendant from the same state.⁷² And the text of the removal statutes proves that § 1446 cannot validate snap removal.⁷³

Section 1446—titled “Procedure for removal of civil actions”⁷⁴—provides no grounds for removal.⁷⁵ Rather, it refers to cases “removed solely under section 1441(a).”⁷⁶ Like § 1446, § 1441 is not jurisdictional.⁷⁷ Section 1441 allows removal of “any civil action . . . of which the district courts of the United States have original jurisdiction”⁷⁸ One source of jurisdiction is § 1332, which allows federal courts to adjudicate “all civil actions . . . between—(1) citizens of different States[.]”⁷⁹

In a snap removed case involving citizens from the same state, however, jurisdiction does not exist.⁸⁰ The Anti-Injunction Act thus prevents federal courts from enjoining state courts in non-diverse cases that defendants snap

71. See *Toucey v. N.Y. Life Ins. Co.*, 314 U.S. 118, 133 (1941) (“[T]he Removal Acts qualify pro tanto the Act of 1793.”); *Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623, 640 (1977); *Mitchum v. Foster*, 407 U.S. 225, 234–37 (1972); *Amalgamated Clothing Workers of Am.*, 348 U.S. at 525 (Douglas, J., dissenting); *Dietzsch v. Huidekoper*, 103 U.S. 494, 495–97 (1880); *French v. Hay*, 89 U.S. (22 Wall.) 250, 250–52 (1874); *Ackerman v. ExxonMobil Corp.*, 734 F.3d 237, 249–50 (4th Cir. 2013); *Maseda v. Honda Motor Co.*, 861 F.2d 1248, 1254 (11th Cir. 1988); *Hyde Park Partners, L.P. v. Connolly*, 839 F.2d 837, 842 (1st Cir. 1988); *Frith v. Blazon-Flexible Flyer, Inc.*, 512 F.2d 899, 901 (5th Cir. 1975); *Lowe v. Jacobs*, 243 F.2d 432, 432–33 (5th Cir. 1957) (per curiam); *Allstate Ins. Co. v. Preston*, 842 F. Supp. 1441, 1445 (S.D. Fla. 1992); Diane P. Wood, *Fine-Tuning Judicial Federalism: A Proposal for Reform of the Anti-Injunction Act*, 1990 BYU L. REV. 289, 299–300; Redish, *supra* note 56, at 743–44 (“[T]o constitute an ‘express’ authorization a congressional act need not specifically mention section 2283.”).

72. *Toucey*, 314 U.S. at 133; *Vendo Co.*, 433 U.S. at 640; *Mitchum*, 407 U.S. at 234–37; *Amalgamated Clothing Workers of Am.*, 348 U.S. at 525 (Douglas, J., dissenting); *Dietzsch*, 103 U.S. at 495–97; *French*, 89 U.S. at 250–52; *Ackerman*, 734 F.3d at 249–50; *Maseda*, 861 F.2d at 1254; *Connolly*, 839 F.2d at 842; *Frith*, 512 F.2d at 901; *Lowe*, 243 F.2d at 432–33; *Preston*, 842 F. Supp. at 1445.

73. See 28 U.S.C. §§ 1332(a)(1), 1441(b)(2), 1446(b)(2)(A), 2283.

74. *Id.* § 1446.

75. See *id.* § 1446(d) (“Promptly after the filing of such notice of removal”); see also *Miller v. Lambeth*, 443 F.3d 757, 760 (10th Cir. 2006) (“We disregard the reference to § 1446, because that section defines the procedures for removal but does not provide any grounds for removal.”).

76. 28 U.S.C. § 1446(b)(2)(A).

77. See *id.* §§ 1441(a)–(f).

78. *Id.* §§ 1441(a), 1441(b)(1) (“removable on the basis of the jurisdiction under section 1332(a) of this title”); 1441(b)(2) (“otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title”).

79. 28 U.S.C. § 1332(a)(1).

80. See *M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1109 (8th Cir. 2023); *In re Levy*, 52 F.4th 244, 247 (5th Cir. 2022) (per curiam); see also *Sierminski v. Transouth Fin. Corp.*, 216 F.3d 945, 948 (11th Cir. 2000) (holding removability is based on the plaintiff’s pleading); *Colpoys v. Future Motion, Inc.*, No. 8:23-CV-1528-KKM-AAS, 2023 WL 5917007, at *1–2 (M.D. Fla. Aug. 17, 2023) (holding that a case can be removed if the federal court would have had original jurisdiction).

remove.⁸¹ The first exception to the Anti-Injunction Act does not allow for snap removal.⁸² Nor does the second one.⁸³

B. *In Aid of Jurisdiction*

Some might say that a post-removal injunction is needed to protect federal jurisdiction. But any such jurisdiction cannot spring from the Anti-Injunction Act.⁸⁴ That statute concerns but does not create jurisdiction.⁸⁵ Nor can jurisdiction be found elsewhere.⁸⁶

The “in aid of its jurisdiction” exception presumes the existence of jurisdiction.⁸⁷ A district court overseeing a snap removed case with non-diverse parties, however, never has jurisdiction.⁸⁸ The forum defendant rule does not “confer jurisdiction where jurisdiction does not exist.”⁸⁹ So, a snap removed case involving non-diverse parties does not fall within the second exception.⁹⁰ The “absence of complete diversity makes a federal forum unavailable.”⁹¹

The power conferred by the removal statutes does not justify snap removal.⁹² “A case does not fall within the statutory exception merely

81. See 28 U.S.C. §§ 1332 (a)(1), 1441(b)(2), 1446(b)(2)(A), 2283; see also *Sierminski*, 216 F.3d at 948 (explaining that removability depends on the facts of each case); *Colpoys*, 2023 WL 5917007, at *1–2.

82. Redish, *supra* note 56, at 721.

83. *Id.*

84. See *In re Mooney Aircraft, Inc.*, 730 F.2d 367, 372 (5th Cir. 1984). This exception is “[b]y far the most enigmatic of the three exceptions.” Redish, *supra* note 56, at 743.

85. *In re Mooney Aircraft, Inc.*, 730 F.3d at 372 (“The Anti-Injunction Act is not a jurisdictional statute, but goes only to the granting of a particular form of equitable relief.”) (citations omitted). See *Boerschig v. Trans-Pecos Pipeline, L.L.C.*, 872 F.3d 701, 705 (5th Cir. 2017) (“[T]he Anti-Injunction Act does not present a question of subject matter jurisdiction that we must answer before proceeding to other issues.”) (citation and footnote omitted); cf. Wood, *supra* note 71, at 294 (noting that many courts describe the Anti-Injunction Act “as essentially equitable”).

86. See *M & B Oil, Inc.*, 66 F.4th at 1110 (concluding that “snap removal cannot cure a lack of complete diversity”).

87. See *Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 295 (1970) (“Second, if the District Court does have jurisdiction, it is not enough that the requested injunction is related to that jurisdiction, but it must be ‘necessary in aid of’ that jurisdiction.”); *Texas v. United States*, 837 F.2d 184, 186 (5th Cir. 1988) (“It is difficult to see why an injunction is necessary to preserve our jurisdiction over the case.”); see also Redish, *supra* note 56, at 744 (stating the intent of the “in aid of jurisdiction” exception); Wood, *supra* note 71 (discussing the difficulty in using the exceptions and its similarities with other proceedings).

88. See 28 U.S.C. §§ 1332 (a)(1) (“The district courts shall have original jurisdiction of all civil actions . . . between—(1) citizens of different States”), 1441(b)(2) (“A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed”), 1446(b)(2)(A) (“When a civil action is removed solely under section 1441(a) . . .”).

89. *In re Levy*, 52 F.4th 244, 247 (5th Cir. 2022) (per curiam).

90. See 28 U.S.C. §§ 1332 (a)(1), 1441(b)(2), 1446(b)(2)(A), 2283.

91. *M & B Oil, Inc.*, 66 F.4th at 1110 (citing 28 U.S.C. §§ 1441(a), 1447(c)). See *In re Levy*, 52 F.4th at 248 (discussing complete diversity); *Lukens v. Bison, Inc.*, No. 5:23-cv-03882-JDA, 2024 WL 1109156, at *3 (D.S.C. Mar. 13, 2024) (delineating interaction between snap removal and complete diversity).

92. *Lukens*, 2024 WL 1109156, at *3.

because another federal statute permits injunctive relief in general terms.”⁹³ Specificity is required because federal courts must construe this exception strictly.⁹⁴ Caution is essential because federal courts must avoid “infringing on the legitimate exercise of state judicial power.”⁹⁵ Indeed, federal courts enjoin state courts reluctantly.⁹⁶ Federal courts, in turn, cannot enjoin state courts if federal jurisdiction does not exist.⁹⁷ In sum, cases that defendants snap remove in violation of federal law do not fall within this exception.⁹⁸

IV. COUNTERARGUMENTS

A. Federal Law Expressly Allows Snap Removal

Snap removal defenders will note that once the removing party notifies the state court of removal, the state court cannot act “unless and until the case is remanded.”⁹⁹ Thus, the argument goes, an injunction is proper although removal is improper.¹⁰⁰ The title and the text of § 1446(d), however, show that this statute concerns procedure, not substance.¹⁰¹ Although § 1446 delineates the procedure for an injunction,¹⁰² an injunction only issues if a

93. *Studebaker Corp. v. Gittlin*, 360 F.2d 692, 697 (2d Cir. 1966) (citations omitted).

94. *Amalgamated Clothing Workers of Am. v. Richman Bros.*, 348 U.S. 511, 514 (1955). *See Redish*, *supra* note 56, at 729 (“[T]here is simply no rational construction of the ‘expressly authorized’ language of section 2283 which permits impliedly authorized exceptions . . .” (footnote omitted)).

95. *Texas v. United States*, 837 F.2d 184, 186 (5th Cir. 1988) (citing *Younger v. Harris*, 401 U.S. 37, 44–45 (1971)).

96. *Red Rock Cola Co. v. Red Rock Bottlers*, 195 F.2d 406, 409 (5th Cir. 1952) (per curiam). *See Wood*, *supra* note 71, at 292 (“Even without the Anti-Injunction Act, federal courts would not ordinarily enjoin on-going proceedings in state courts.”).

97. *See* FED. R. CIV. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *United States v. Corrick*, 298 U.S. 435, 440 (1936) (“But the lack of jurisdiction of a federal court touching the subject-matter of the litigation cannot be waived by the parties . . .”); *Ret. Sys. of Ala. v. J.P. Morgan Chase & Co.*, 386 F.3d 419, 430–31 (2d Cir. 2004); *Texas*, 837 F.2d at 186; *Truck Drivers Loc. Union No. 807, Int’l Bhd. of Teamsters v. Bohack Corp.*, 541 F.2d 312, 317–18 (2d Cir. 1976); *T. Smith & Son, Inc. v. Williams*, 275 F.2d 397, 407 (5th Cir. 1960); *N.Y. State Nurses Ass’n v. Montefiore Med. Ctr.*, 457 F. Supp. 3d 430, 432–33 (S.D.N.Y. 2020); *Tait v. Powell*, 241 F. Supp. 3d 372, 376 (E.D.N.Y. 2017); *Sierra v. City of New York*, 528 F. Supp. 2d 465, 468 (S.D.N.Y. 2008); *Fed. Sav. & Loan Ins. Corp. v. PSL Realty Co.*, 482 F. Supp. 74, 77 (S.D. Ill. 1979).

98. *See* *M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1110 (8th Cir. 2023); *In re Levy*, 52 F.4th 244, 247 (5th Cir. 2022) (per curiam); *D’Ovidio v. Royal Caribbean Cruises, Ltd.*, 640 F. Supp. 3d 1280, 1280–85 (S.D. Fla. 2022); *see also* 28 U.S.C. §§ 1332 (a)(1), 1441(b)(2), 1446(b)(2)(A), 2283 (discussing jurisdiction, removal, and procedure for civil actions).

99. 28 U.S.C. § 1446(d).

100. *See id.*; *see also* *Allstate Ins. Co. v. Preston*, 842 F. Supp. 1441, 1445 (S.D. Fla. 1992) (stating an injunction is proper despite removal not being immediately proper).

101. 28 U.S.C. § 1446(d). *See* *Miller v. Lambeth*, 443 F.3d 757, 760 (10th Cir. 2006) (disregarding reference to § 1446 because it defines procedures, not grounds, for removal).

102. 28 U.S.C. §§ 1446(a)–(g). *See* *Lou v. Belzberg*, 834 F.2d 730, 740 (9th Cir. 1987) (“[A] federal court may enjoin the continued prosecution of the same case in state court after its removal.”).

federal court has jurisdiction.¹⁰³ And because jurisdiction in a snap removed case is nowhere to be found,¹⁰⁴ an injunction is improper.¹⁰⁵

B. The 1949 Amendments to § 1446 Authorize Snap Removal

In 1949, Congress amended § 1446 to provide that “[a] defendant or defendants desiring to remove any civil action . . . shall file . . . a notice of removal”¹⁰⁶ Before then, § 1446 contained the phrase “entitled to remove.”¹⁰⁷ Snap removal fans may argue that “the filing of a removal petition terminates the state court’s jurisdiction until the case is remanded, even in a case improperly removed.”¹⁰⁸ Not so.

There is no evidence that when Congress altered § 1446, Congress meant to allow snap removal of cases that do not involve citizens of different states.¹⁰⁹ And none of the courts that have interpreted this amendment have held that snap removal is proper even though the defendant has not established diversity jurisdiction.¹¹⁰ This assertion is unavailing.

C. Remand Can Occur After Snap Removal

Snap removal proponents will argue that little delay will occur because the plaintiff can file, and the district court can rule on, a motion to remand.¹¹¹ But this argument misses the mark because it ignores the prejudice the plaintiff suffers by filing a motion in a court that lacks jurisdiction.¹¹² What’s more, this assertion glosses over the Anti-Injunction Act’s role in maintaining the boundary between federal and state courts.¹¹³

The Anti-Injunction Act “is not [just] a statute conveying a broad general policy for appropriate *ad hoc* application. Legislative policy is here expressed in a clear-cut prohibition qualified only by specifically defined

103. *N.Y. State Nurses Ass’n v. Montefiore Med. Ctr.*, 457 F. Supp. 3d 430, 432–33 (S.D.N.Y. 2020); *Tait v. Powell*, 241 F. Supp. 3d 372, 376 (E.D.N.Y. 2017); *Sierra v. City of New York*, 528 F. Supp. 2d 465, 468 (S.D.N.Y. 2008).

104. *See M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1109 (8th Cir. 2023).

105. *See* 28 U.S.C. §§ 1332 (a)(1), 1441(b)(2), 1446(b)(2)(A), 2283; *see also M & B Oil, Inc.*, 66 F.4th at 1110 (explaining snap removal cannot cure the complete diversity requirement).

106. 28 U.S.C. § 1446(a).

107. *See Lowe v. Jacobs*, 243 F.2d 432, 433 (5th Cir. 1957) (per curiam).

108. *Maseda v. Honda Motor Co.*, 861 F.2d 1248, 1254 n.11 (11th Cir. 1988) (citing *Lowe*, 243 F.2d at 433).

109. *See Gallagher, Snap Removal, supra* note 15, at 270–71.

110. *See, e.g., Maseda*, 861 F.2d at 1254 n.11 (giving an example of jurisdiction ending after removal).

111. *See Windholz v. Everett*, 74 F.2d 834, 835–36 (4th Cir. 1935); *see also Swope v. St. Mary Par. Sch. Bd.*, 241 So. 2d 238, 241–42 (La. 1970) (outlining the appellate process).

112. *Cf. M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1110 (8th Cir. 2023) (adding limitations to parties); *In re Levy*, 52 F.4th 244, 247 (5th Cir. 2022) (per curiam) (stating forum defendant rule is a removal limitation).

113. *See Amalgamated Clothing Workers of Am. v. Richman Bros.*, 348 U.S. 511, 516 (1955).

exceptions.”¹¹⁴ Filing a motion to remand just leads to that motion being decided by a court that never had jurisdiction.¹¹⁵ To avoid this situation, federal courts should summarily remand snap removed cases.¹¹⁶

D. Courts Have Not Relied on the Anti-Injunction Act to Nullify Snap Removal

Snap removal advocates will contend that courts have not held that a snap removed case involving non-diverse parties violates the Anti-Injunction Act.¹¹⁷ This contention is true and irrelevant. Only recently did defendants start removing cases in violation of federal law.¹¹⁸ This new tactic has caused new problems.¹¹⁹ But the dearth of precedent does not establish the validity of snap removal.¹²⁰

V. CONCLUSION

“The fundamental precept underlying traditional notions of judicial federalism in the United States is that the state and federal courts should be independent of one another.”¹²¹ By generally barring federal injunctions, the Anti-Injunction Act functions as a “pillar of federalism”¹²² and preserves this separation.¹²³ But snap removal threatens this separation by depriving

114. *Id.*

115. *See M & B Oil, Inc.*, 66 F.4th at 1110; *In re Levy*, 52 F.4th at 247. Worse yet, after snap removal, a federal court could make an incorrect *Erie* guess. *See, e.g., Nolan v. Transocean Air Lines*, 276 F.2d 280, 281 (2d Cir. 1960) (“Our principal task, in this diversity of citizenship case, is to determine what the New York courts would think the California courts would think on an issue about which neither [have] thought.”), *vacated and remanded*, 365 U.S. 293, 296 (1961) (per curiam), *and adhered to*, 290 F.2d 904, 908 (2d Cir. 1961); Henry J. Friendly, *FEDERAL JURISDICTION: A GENERAL VIEW* 143 (1973) (“Furthermore, the very availability of litigation in a federal court postpones an authoritative decision by the state courts that otherwise would be inevitable.”) (footnote omitted).

116. *Cf. Dick v. Disc. Auto Parts, LLC*, No. 4:23-CV-00494-SEP, 2024 WL 358305, at *1 (E.D. Mo. Jan. 31, 2024) (“This matter is before the court on its own motion. For the reasons set forth below, this case is remanded to the 21st Judicial Circuit Court, St. Louis County, Missouri.”) (footnote omitted).

117. *See M & B Oil*, 66 F.4th at 1110.

118. *Breitweiser v. Chesapeake Energy Corp.*, No. 3:15-CV-2043-B, 2015 WL 6322625, at *2 (N.D. Tex. Oct. 20, 2015) (“Snap removal appears to be an emerging litigation tactic . . .”); Hughes, *supra* note 5 (“[E]lectronic case monitoring has enhanced defendants’ abilities to learn about cases before they have been formally served . . .”).

119. *See Breitweiser*, 2015 WL 6322625, at *2; *cf. Serafini v. Southwest Airlines Co.*, 485 F. Supp. 3d 697, 699 (N.D. Tex. 2020) (noting that snap removal is a recent litigation tactic).

120. *See M & B Oil, Inc.*, 66 F.4th at 1110.

121. Redish, *supra* note 56, at 717. *See James E. Pfander & Nassim Nazemi, The Anti-Injunction Act and the Problem of Federal-State Jurisdictional Overlap*, 92 TEX. L. REV. 1, 2 (2013) (“Since the adoption of the nation’s first judiciary act in 1789, the lower federal courts and the state courts have exercised concurrent jurisdiction over a wide range of matters.”) (footnote omitted).

122. *T. Smith & Son, Inc. v. Williams*, 275 F.2d 397, 407 (5th Cir. 1960).

123. *See Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 146 (1988) (stating that the Anti-Injunction Act “is a necessary concomitant of the Framers’ decision to authorize, and Congress[s] decision to implement, a dual system of federal and state courts”); *see also S. Cal. Petroleum Corp. v. Harper*, 273

plaintiffs of the right to pursue their cases in a proper forum.¹²⁴ The solution to this problem is the use of a statute that reflects “the historical reluctance of federal courts to interfere with state judicial proceedings.”¹²⁵ The Court should enforce the Anti-Injunction Act,¹²⁶ honor “the fundamental constitutional independence of the States and their courts,”¹²⁷ and prohibit snap removal.¹²⁸

F.2d 715, 718 (5th Cir. 1960) (“Section 2283 is essentially a rule of comity . . .”).

124. See *Cincinnati Ins. Co. v. Omega Elec. & Sign Co., Inc.*, 652 F. Supp. 3d 879, 881 (E.D. Mich. 2023) (“Through snap removals, numerous defendants have jiggered jurisdiction.”); see also *Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1161 n.6 (8th Cir. 1981); *Rizzi v. 178 Lowell St. Operating Co., LLC*, 180 F.3d 66, 69 (D. Mass. 2016); *In re Avandia Mtg., Sales Pracs. & Prods. Liab. Litig.*, 624 F. Supp. 2d 396, 411 (E.D. Pa. 2009); *Sands v. Geller*, 321 F. Supp. 558, 562 (S.D.N.Y. 1971). Cf. Zachary D. Clopton, *Catch and Kill Jurisdiction*, 121 MICH. L. REV. 171, 196 (2022); Jeffrey W. Stempel et al., *Snap Removal: Concept; Cause; Cacophony; and Cure*, 72 BAYLOR L. REV. 423, 506 (2020) (“Too many judges have permitted use of this problematic procedural loophole.”) [hereinafter Stempel et al., *Snap Removal*].

125. *Harper*, 273 F.2d at 718. See Redish, *supra* note 56, at 760.

126. *Smith v. Bayer Corp.*, 564 U.S. 299, 318 (2011) (“Under this approach, close cases have easy answers . . .”); *Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 297 (1970) (“Any doubts as to [the] propriety of a federal injunction against state court proceedings should be resolved in favor of permitting state courts to proceed in an orderly fashion to finally determine the controversy.”).

127. *Atl. Coast Line R.R. Co.*, 398 U.S. at 287. See *Smith*, 564 U.S. at 306 (“And the Act’s core message is one of respect for state courts.”); *Chick Kam Choo*, 486 U.S. at 146; cf. *Corley v. Entergy Corp.*, 297 F. Supp. 2d 915, 919 (E.D. Tex. 2003) (“The powers given to district courts under the All Writs Act are extraordinary and thus must be exercised only in extraordinary circumstances.” (citing *ITT Cmty. Dev. Corp. v. Barton*, 569 F.2d 1351, 1358–59 (5th Cir. 1978))). Cf. William Hupp, *Multidistrict Litigation and Atlantic Coast Line at 50: How Multidistrict Courts Have Misapplied the Anti-Injunction Act’s Aid-of-Jurisdiction Exception*, 40 REV. LITIG. 61, 87 (2020) (“Multidistrict courts should adopt the narrow interpretation of the aid-of-jurisdiction exception . . .”).

128. See *Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623, 630 (1977); see also *Okla. Packing Co. v. Okla. Gas & Elec. Co.*, 309 U.S. 4, 9 (1940); cf. Gallagher, *Snap Removal*, *supra* note 15, at 289; Stempel et al., *Snap Removal*, *supra* note 124.