

FILE . . . AND SNAP! EXPLORING THE LEGAL MERITS OF SNAP REMOVAL AS A TACTIC TO “PICK UP” YOUR CHOICE FORUM

ABSTRACT

28 U.S.C. § 1441(b)(2) affords fast-acting defendants the opportunity to have their case tried in federal court, even if the forum defendant rule would ordinarily bar removal. At least, that is what the statute’s plain language indicates. Circuits have split on the true meaning of § 1441 since Congress amended the statute in 1948. The plain language should prevail, and this Note addresses why. But it has no goal to convert those who believe the plain language of § 1441 leads to an “absurd result” into textualists. Instead, it aims to shed light on reasonable, non-absurd reasons Congress added the “properly joined and served” requirement, ultimately arguing for the propriety of snap removals.

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I. INTRODUCTION

“Congress has enacted a comprehensive statutory scheme for the removal of state court actions to federal court.”¹ Removal is the mechanism that enables defendants sued in state court to have their case tried in federal court instead.² Because federal courts are courts of limited jurisdiction, not all defendants sued in

1. *Breitweiser v. Chesapeake Energy Corp.*, No. 3:15–CV–2043–B, 2015 WL 6322625, at *2 (N.D. Tex. Oct. 20, 2015) (citing 28 U.S.C §§ 1441–1455).

2. 28 U.S.C. § 1441(a).

state court have the opportunity for removal.³ Removal is only permitted where the federal court would have “original jurisdiction” over the matter.⁴

Under this scheme, defendants may remove to federal court on the basis of diversity jurisdiction.⁵ For diversity jurisdiction to exist under 28 U.S.C. § 1332(a)(1), there must be complete diversity of citizenship between all plaintiffs and defendants.⁶ “[A]bsent complete diversity a case is not removable because the district court would lack original jurisdiction.”⁷

The “forum defendant rule” provides an exception to the general removal rule.⁸ Where an action may otherwise be removed based on diversity of citizenship, removal is nonetheless procedurally improper if any defendant is a citizen of the forum state.⁹ This additional restriction on the removal of diversity cases, imposed by § 1441(b)(2), effectively bars removal if two conditions are met: (1) the plaintiff sues the defendant in the defendant’s “home state” and (2) the plaintiff properly joins and serves the defendant.¹⁰ Under the statute, both things must be true for each defendant in order to activate the removal limitation.¹¹

A careful textualist reading of § 1441(b)(2) reveals an exception to the exception. Where a defendant would typically be unable to remove a diversity action to federal court (because of the forum defendant rule), the language of §

3. *See* *Gunn v. Minton*, 568 U.S. 251, 256 (2013) (“Federal courts are courts of limited jurisdiction, possessing only that power authorized by Constitution and statute.” (quoting *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994))).

4. 28 U.S.C. § 1441(a) (“[A]ny civil action brought in State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court . . .”).

5. *See id.* § 1441(b); *see also id.* § 1332(a) (requiring an amount in controversy greater than \$75,000 and citizens of different states).

6. *OnePoint Sols., LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007) (“Complete diversity of citizenship exists where no defendant holds citizenship in the same state where any plaintiff holds citizenship.”); *see also* *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996) (noting that complete diversity of citizenship is required in order for a federal court to exercise diversity jurisdiction).

7. *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 564 (2005).

8. *See* *Breitweiser v. Chesapeake Energy Corp.*, No. 3:15-CV-2043-B, 2015 WL 6322625, at *2 (N.D. Tex. Oct. 20, 2015).

9. 28 U.S.C. § 1441(b)(2).

10. *Id.* (“A civil action otherwise removable solely on the basis of [diversity] jurisdiction . . . 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.”).

11. *Id.*

1441(b)(2) allows removal by a forum defendant if it occurs *prior to service*.¹² This concept of pre-service removal has been termed “snap removal.”¹³

Snap removal is a strategic dance that has been increasingly embraced by defendants seeking to sidestep the forum defendant rule.¹⁴ The move has garnered both applause and criticism, resulting in a circuit split.¹⁵ Courts that endorse snap removals highlight the plain language of the forum defendant rule and decline to legislate from the bench.¹⁶ Courts that fall on the other side of the split reject snap removals either by employing judicially created exceptions to the “properly joined and served” language or by insisting the maneuver has an “absurd result” that Congress could not have intended.¹⁷

This Note aims to explore all sides of the snap removal split and ultimately advocate for the plain language construction of the forum defendant rule, permitting snap removal. Part II will consider the background and origins of snap removal, including how it has developed as a litigation tool. Part III will delve into the circuit split, consider the different “styles” of snap removals litigators have attempted, and examine the arguments circuits have made for and against snap removals. Part IV will discuss both textualism and purposivism and propose how the plain language of § 1441(b)(2) is consistent with the legislature’s intent. In Part V, this Note will consider the legality of snap removals in light of the forum shopping strategies used by both sides of the “v.” Finally, Part VI will conclude with a discussion on why allowing snap removals is the proper resolution of the circuit split.

12. See *Tex. Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482, 485 (5th Cir. 2020).

13. *Id.*

14. See, e.g., *id.* at 484–85.

15. Contrast *Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699, 702, 705 (2d Cir. 2019) (allowing snap removal), and *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 153–54 (3d Cir. 2018) (allowing snap removal), with *Woods v. Ross Dress for Less, Inc.*, 833 F. App’x 754, 759 (10th Cir. 2021) (rejecting snap removal).

16. See *Gibbons*, 919 F.3d at 705; *Encompass*, 902 F.3d at 152–54.

17. See *Woods*, 833 F. App’x at 759; *DeAngelo-Shuayto v. Organon USA Inc.*, No. 07–2923, 2007 WL 4365311, at *4 (D.N.J. Dec. 12, 2007) (“This Court acknowledges that the plain language of § 1441(b) does appear to imply that a forum defendant may remove an action as long as it does so before being served. However, such a bizarre result cannot possibly have been the intent of the legislature.”).

II. THE EMERGENCE AND EVOLUTION OF SNAP REMOVALS

A. *The Plain Language of § 1441(b)(2)*

Stemming from the plain meaning construction of the forum defendant rule, snap removals rely on the fact that the forum defendant rule only applies to “properly joined and served” defendants.¹⁸ The statute states: “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.”¹⁹

Congress revised the removal statute to include the “properly joined and served” language in 1948.²⁰ The change left litigators asking the question: What happens when defendants in a diversity case are *not* properly joined and served? Attentive advocates soon realized that this addition afforded them an extra opportunity to have their cases tried in federal court—if they acted fast. The added language effectively bars a case founded on diversity jurisdiction from removal if any defendant properly joined and served is a citizen of the forum state.²¹ But, if removal occurs before a forum defendant is properly joined and served, the forum defendant rule no longer prevents the case from being removed to federal court.²² Thus, the tactic of removing in the narrow window between filing and service is time sensitive.²³

Invoking this language, fast-acting defendants across the country “have been increasingly able to remove cases from state to federal court when . . . served prior to their forum co-defendants[.]”²⁴ In some instances, even unserved *forum* defendants have successfully removed their cases prior to service.²⁵

18. 28 U.S.C. § 1441(b)(2).

19. *Id.* (emphasis added).

20. *Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1159–60 (8th Cir. 1981) (noting a previous rule no longer governed after Congress adopted the current statute in 1948 which includes the “properly joined and served” language).

21. *See* 28 U.S.C. § 1441(b)(2).

22. *See, e.g., Gibbons*, 919 F.3d at 705.

23. *See id.*

24. Thomas Tobin & Cheryl Lardieri, *Snap to It: “Snap Removal” and Federal Jurisdiction*, PERKINS COIE (Dec. 31, 2020), <https://perkinscoie.com/insights/article/snap-it-snap-removal-and-federal-jurisdiction> [<https://perma.cc/26YS-8NBZ>].

25. *Id.*

B. The First Cases

Prior to the 1948 amendment, courts rejected attempts at removal where a forum defendant was part of the litigation, regardless of the state of service.²⁶ *Pullman Co. v. Jenkins* is a 1939 case wherein the United States Supreme Court addressed the validity of removal for non-forum defendants in “non-separable” controversies with forum co-defendants.²⁷ The Supreme Court stated that “where a non-separable controversy involves a resident defendant . . . the fact that the resident defendant has not been served with process does not justify removal by the non-resident defendant.”²⁸ As we will later discuss, this ruling perpetuated the issue of fraudulent joinder by plaintiffs to avoid removal, perhaps compelling a legislative response nine years later.²⁹

The legal puzzle involving the forum defendant rule and the removability of diversity actions has since been difficult to master because courts have been inconsistent in their interpretation and application of the additional language of § 1441(b)(2).³⁰ Although *Pullman* occurred before 1948, some courts have used its language to bolster an anti-snap removal position.³¹ Other courts have articulated *Pullman*’s lack of authority over the issue of snap removal.³²

For example, snap removals made one of their first appearances in case law in the 1967 case, *Robertson v. Nye*.³³ *Robertson* involved an Oklahoma plaintiff who filed an action against an out-of-state insurance company, and several Oklahoma defendants, in Oklahoma state court.³⁴ Before any of the other defendants had been served, the out-of-state insurer removed the case.³⁵ Taking into account the change in language between the 1939 and 1948 versions of the statute, the court departed from *Pullman* and denied plaintiff’s motion to remand the case back to state court.³⁶ The court deemed removal proper under these

26. See, e.g., *Pullman Co. v. Jenkins*, 305 U.S. 534, 541 (1939) (holding that the presence of a forum defendant, whether served with the complaint or not, defeats removal jurisdiction).

27. See *id.*

28. *Id.*

29. See *infra* Part V.

30. See Tobin & Lardieri, *supra* note 24.

31. See, e.g., *Sullivan v. Novartis Pharms. Corp.*, 575 F. Supp. 2d 640, 646 (D.N.J. 2008), *abrogation recognized by*, *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019).

32. See, e.g., *Ott v. Consol. Freightways Corp.*, 213 F. Supp. 2d 662, 665 (S.D. Miss. 2002) (noting the *Pullman* rule applies to complete diversity determination, not removability).

33. See 275 F. Supp. 497, 497–98 (W.D. Okla. 1967).

34. *Id.* at 497.

35. *Id.*

36. *Id.* at 497 n.1, 498.

circumstances because the new statute “seems clear that there can be removal where the resident defendant has not been served.”³⁷ Snap removals were born.³⁸

Duff v. Aetna Casualty & Surety Co. is another early case interpreting the language of § 1441(b)(2) to allow removal by a non-forum defendant where the forum co-defendant has not yet been served, contrary to *Pullman*.³⁹ The *Duff* court noted that language from *Pullman* could “no longer be considered the law on the subject” considering the statutory amendments that had been made.⁴⁰

Other cases clung to *Pullman*, despite the legislature’s addition, and refused to allow removal by a non-forum defendant if a forum defendant was involved in the case, even if the forum defendant had yet to be properly served as the plain language requires.⁴¹ In *Wolsum v. J. W. Bateson Co.*, over 10 years after the amendment, the court deemed removal by a non-resident defendant improper because its co-defendants were citizens of the forum state.⁴² Under this court’s view, where service has yet to be perfected on several non-forum defendants, those served may remove before service on all defendants is complete.⁴³ Somehow, the option to remove becomes unavailable when the plaintiff joins a forum defendant, even though the statute makes no such distinction.⁴⁴ Interestingly, this distinction imposed by *Wolsum* and other courts has nothing to do with lack of diversity, for complete diversity existed among all parties in *Wolsum*.⁴⁵

Some courts abandoned a *Pullman* versus § 1441(b) mentality in favor of a finer distinction, focusing on the difference between diversity of citizenship and removability.⁴⁶ Under this view, “the *Pullman* rule applies in determining whether

37. *Id.* at 497 n.1 (citation omitted).

38. *See id.* at 498. Although, not yet bearing the name. The term “snap removal” was not introduced until much later. In 2015, an attorney coined the term in briefing *Breitweiser v. Chesapeake Energy Corp.*, and the Northern District of Texas subsequently adopted it as a helpful way to distinguish the procedural tool from typical removals. No. 3:15-CV-2043-B, 2015 WL 6322625, at *2 n.5 (N.D. Tex. Oct. 20, 2015).

39. *See* 287 F. Supp. 138, 138 (N.D. Okla. 1968).

40. *Id.* at 138–39.

41. *See, e.g., Wolsum v. J. W. Bateson Co.*, 182 F. Supp. 879, 880–81 (W.D. Mo. 1960) (reemphasizing the *Pullman* rule applies when a forum defendant is involved).

42. *Id.* at 881.

43. *Id.*

44. *See id.*

45. *See id.* at 880–81.

46. *See, e.g., Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1160 (8th Cir. 1981); *Clarence E. Morris, Inc. v. Vitek*, 412 F.2d 1174, 1176 (9th Cir. 1969) (“Whenever federal jurisdiction in a removal case depends upon complete diversity, the existence of diversity is determined from the fact of citizenship of the parties named and not from the fact of service.”).

there is complete diversity,” but “§ 1441(b) . . . relates to *removability* rather than the broader issue of whether diversity exists”⁴⁷ Accordingly, § 1441(b) and *Pullman* work in tandem, but the former cannot be used to expand diversity jurisdiction.⁴⁸ Therefore, simply leaving a non-diverse defendant unserved does not preserve diversity.⁴⁹ But “the presence of an unserved resident defendant, who otherwise does *not* destroy diversity,” leaves the door open for removal.⁵⁰

Consider the *Pecherski* court.⁵¹ There, the district court recognized that under *Pullman*, the presence of a forum defendant would defeat removal whether served or not.⁵² But it reasoned that *Pullman* was pre-1948 and, since Congress had amended the removal statute, the citizenship of an unserved defendant was no longer a consideration for removability.⁵³ Therefore, the district court ruled removal was proper because the anonymous defendant, whose citizenship was in question, had not yet been served at the time of removal.⁵⁴ On appeal, the plaintiff argued that the 1948 amendment did not affect the requirements for removal.⁵⁵ The Eighth Circuit agreed with the plaintiff, stating: “Despite the ‘joined and served’ provision of section 1441(b), . . . the mere failure to serve a defendant who would defeat diversity jurisdiction does not permit a court to ignore that defendant in determining the propriety of removal.”⁵⁶

III. THE CIRCUIT SPLIT

A. Circuits Permitting Snap Removals

The majority of circuits confronted with the statutory interpretation of § 1441(b)(2) come out in favor of its plain language.⁵⁷ In 2018, the Third Circuit

47. Ott v. Consol. Freightways Corp., 213 F. Supp. 2d 662, 665 (S.D. Miss. 2002).

48. See *id.* at 666.

49. *Id.*

50. *Id.*

51. *Pecherski*, 636 F.2d at 1158–59.

52. *Id.*

53. *Id.* at 1159.

54. *Id.* Congress later amended § 1441 to clarify the citizenship of defendants sued under fictitious names is to be disregarded in decisions on removal. Judicial Improvements and Access to Justice Act, Pub. L. No. 100-702, § 1016(a), 102 Stat. 4642, 4669 (1988).

55. *Pecherski*, 636 F.2d at 1159.

56. *Id.* at 1160.

57. See *Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699, 702, 705 (2d Cir. 2019); *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 153–54 (3d Cir. 2018); *Tex. Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482, 485–87 (5th Cir. 2020); see also Ott v. Consol. Freightways Corp., 213 F. Supp. 2d 662, 665 (S.D. Miss. 2002) (“[C]ourts have held, virtually

took the issue head-on and ruled in favor of snap removal by a forum defendant prior to service.⁵⁸ The plaintiff in *Encompass Insurance Co. v. Stone Mansion Restaurant Inc.* was a citizen of Illinois and brought an action in Pennsylvania state court against a Pennsylvania defendant.⁵⁹ The forum defendant was the only defendant in the case and agreed to accept electronic service in lieu of formal service.⁶⁰ Upon receiving a copy of the complaint and a service acceptance form, the defendant removed the action to federal court before formally accepting.⁶¹ Plaintiff filed a motion to remand, which was unsuccessful.⁶² The Third Circuit affirmed the district court's ruling, holding the forum defendant rule's language of being "properly joined and served" unambiguously allows a forum defendant to remove the case before being served.⁶³ The court reasoned that the plain language of the statute indicates a defendant's forum-state citizenship precludes removal *only* when the defendant has been properly joined and served.⁶⁴ Because the defendant had not been fully joined and served, removal was proper.⁶⁵

In *Gibbons v. Bristol-Myers Squibb Co.*, the Second Circuit upheld snap removal where the forum defendant removed the case prior to service of any defendants.⁶⁶ The plaintiffs argued that, because the defendants were sued in their home state, the forum defendant rule barred removal.⁶⁷ Echoing the Third Circuit and embracing the statutory language, the Second Circuit held § 1441(b)(2) simply precludes removal once a forum defendant has been properly joined and served.⁶⁸ The court rejected the argument that snap removal by the forum defendant should be barred because it produces an "absurd result," instead concluding that abiding

uniformly, that where . . . diversity does exist between the parties, an unserved resident defendant may be ignored in determining removability under 28 U.S.C. § 1441(b).").

58. *Encompass*, 902 F.3d at 151–54. Although the Sixth Circuit was actually the first to hint at the fact that § 1441(b)(2) may allow snap removal. See *McCall v. Scott*, 239 F.3d 808, 813 n.2 (6th Cir. 2001) ("Where there is complete diversity of citizenship, as [the plaintiff] concedes there was, the inclusion of an *unserved* resident defendant in the action does not defeat removal under 28 U.S.C. § 1441(b)."). The Sixth Circuit has not been confronted with the issue since, but other courts have cited this footnote in snap removal cases. See, e.g., *Tex. Brine Co.*, 955 F.3d at 485.

59. *Encompass*, 902 F.3d at 149.

60. *Id.* at 150.

61. *Id.*

62. *Id.*

63. *Id.* at 152, 154.

64. *Id.* at 152.

65. See *id.* at 154.

66. 919 F.3d 699, 704–07 (2d Cir. 2019).

67. *Id.* at 704.

68. *Id.* at 704–06.

by the language of the statute leads to a situation that “is neither absurd nor fundamentally unfair.”⁶⁹

The Fifth Circuit likewise upheld snap removal; this time, for a non-forum defendant who removed the case to federal court before the forum co-defendants were properly joined and served.⁷⁰ Differing slightly from the holdings of the Second and Third Circuits, the *Texas Brine Co. v. American Arbitration Ass’n* Court held that § 1441(b)(2) “is inapplicable until a home-state defendant has been served in accordance with state law; until then, a state court lawsuit is removable under § 1441(a) so long as a federal district court can assume jurisdiction over the action.”⁷¹ In so ruling, the court emphasized the statute’s unambiguous text that does not rise to the level of absurdity.⁷² In *Anaya v. Schlumberger Technology Corp.*, the Fifth Circuit reaffirmed its snap-removal position, bringing itself into alignment with its sister circuits by holding, “[T]he plain language of § 1441(b)(2), i.e., ‘properly joined and served,’ creates an exception allowing removal by even a forum defendant prior to being served with process.”⁷³

B. Uncertain Circuits

The Eleventh Circuit weighed in on snap removals in *Goodwin v. Reynolds*.⁷⁴ The plaintiff in *Goodwin* filed suit in state court against one forum defendant and two non-forum defendants.⁷⁵ The plaintiff paid for service of process on all defendants and sent courtesy copies of the complaint to them.⁷⁶ Upon receiving the courtesy copies, the two non-forum defendants removed the case before any defendants, including the forum defendant, were served.⁷⁷ Although the case was removed to federal district court, the district court granted the plaintiff’s motion to dismiss.⁷⁸ This allowed the plaintiff to refile the case in state court, precluding a subsequent removal.⁷⁹ On appeal, the Eleventh Circuit did not rule on the issue of snap removal directly, but observed, in dicta, that a district court’s decision to grant

69. *Id.* at 706–07.

70. *Tex. Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482, 485–87 (5th Cir. 2020).

71. *Id.* at 486 (quoting *Gibbons*, 919 F.3d at 705).

72. *Id.* (“[A] reasonable person could intend the results of the plain language.”).

73. No. 24-20170, 2024 WL 5003579, at *3 (5th Cir. Dec. 6, 2024) (per curiam).

74. 757 F.3d 1216, 1220–21 (11th Cir. 2014).

75. *Id.* at 1218.

76. *Id.*

77. *Id.*

78. *Id.* at 1219.

79. *See id.*

a plaintiff's motion to dismiss a case, thereby precluding snap removal, was proper.⁸⁰

The Tenth Circuit held that snap removal was impermissible for a *non-forum* defendant in *Woods v. Ross Dress for Less, Inc.*⁸¹ *Woods*'s holding centered more on the requirement of complete diversity than the propriety of snap removals.⁸² The plaintiff, a citizen of Oklahoma, sued a corporation and a store manager in Oklahoma state court after tripping outside one of their Oklahoma stores.⁸³ The store manager was a forum defendant but the corporation was not.⁸⁴ The defendant corporation removed the case to federal court *after* it was served but *before* the forum manager could be served.⁸⁵ The district court subsequently granted the defendant's summary judgment motion.⁸⁶ On appeal, the Tenth Circuit reversed based on the fact that no diversity jurisdiction originally existed because "[a] defendant's citizenship is part of the diversity analysis regardless of whether the defendant has been served."⁸⁷

The Eighth Circuit Court of Appeals has had two recent opportunities to address the issue of snap removals, but nothing new was decided.⁸⁸ Instead, similar to the Tenth Circuit, the Eighth Circuit used these cases to reaffirm *Pecherski* and clarify its position that snap removal does not constitute an exception to diversity jurisdiction.⁸⁹ Rather, it functions as an exception solely to the forum defendant rule.⁹⁰

In *M & B Oil, Inc. v. Federated Mutual Insurance Co.*, an insurance dispute led to a Missouri plaintiff suing their Minnesota insurer and the city of St. Louis in Missouri state court.⁹¹ The out-of-state insurer was quick to remove the case before the plaintiff could effectuate service on the city.⁹² The court held that snap removal does not eliminate the requirement of complete diversity, but left open the

80. *See id.* at 1220–21.

81. 833 F. App'x 754, 759 (10th Cir. 2021).

82. *See id.*

83. *Id.* at 756.

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.* at 757.

88. *See Cagle v. NHC Healthcare-Md. Heights, LLC*, 78 F.4th 1061, 1066 (8th Cir. 2023); *M & B Oil, Inc. v. Federated Mut. Ins. Co.*, 66 F.4th 1106, 1109–10 (8th Cir. 2023).

89. *See Cagle*, 78 F.4th at 1065; *M & B Oil*, 66 F.4th at 1109–10; *Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1160–61 (8th Cir. 1981).

90. *M & B Oil*, 66 F.4th at 1109.

91. *Id.* at 1107–08.

92. *Id.* at 1108.

question of its availability among diverse parties.⁹³ Similarly, in *Cagle v. NHC Healthcare-Maryland Heights, LLC*, the court wrote that the practice of snap removal “arguably allows a defendant to satisfy the additional requirement of § 1441(b)(2) that no ‘properly joined and served’ defendant is a citizen of the forum State. But snap removal does not cure a lack of complete diversity among the named parties.”⁹⁴ The availability of snap removal as a tactic for forum defendants in cases where complete diversity is preserved remains unanswered.

The Seventh Circuit accepted an uncontested snap removal without analyzing the issue in *Rao v. J.P. Morgan Chase Bank, N.A.*⁹⁵ Again, the real issue in *Rao* was a lack of diversity, not the act of snap removal itself.⁹⁶ The plaintiff sued two defendants.⁹⁷ One defendant snap-removed the case to federal court before either defendant was served.⁹⁸ The court noted, “In some jurisdictions, defendants may overcome the forum defendant rule by removing a case *before* in-forum defendants are properly joined and served.”⁹⁹ The court acquiesced to the snap removal.¹⁰⁰ It noted that, in snap-removing the case, the defendant “circumvented the forum defendant rule, since [the other defendant], not yet served, would be an in-forum defendant.”¹⁰¹ The discussion ended there, as the lack of complete diversity that followed the snap removal was the real problem.¹⁰²

Finally, the Ninth Circuit skirted the issue in *Casola v. Dexcom, Inc.*¹⁰³ There, a forum defendant attempted a “super snap removal” by filing a notice of removal before the official complaint had even been filed.¹⁰⁴ The complaint was filed the following day, and the defendant was properly served the day after.¹⁰⁵ The court deemed this improper but left the validity of ordinary snap removals for another day.¹⁰⁶ “While the final chapter on snap removals in the Ninth Circuit remains to be written, today we close the book on California defendants’ attempts

93. *See id.* at 1109–10.

94. *Cagle*, 78 F.4th at 1066.

95. 153 F.4th 541, 548–49 (7th Cir. 2025).

96. *See id.*

97. *Id.* at 548

98. *Id.*

99. *Id.*

100. *Id.* at 549.

101. *Id.*

102. *See id.*

103. *See* 98 F.4th 947, 964–65 (9th Cir. 2024).

104. *Id.* at 950.

105. *Id.* at 951.

106. *Id.* at 965.

at ever-snappier snap removals.”¹⁰⁷ Defendants in the Ninth Circuit must “at least” wait until the case “becomes a ‘pending’ ‘civil action,’ . . . before removing the matter to federal court.”¹⁰⁸

IV. TEXTUALISM, PURPOSIVISM, AND THE ABSURD RESULT ARGUMENT

A. Textualism

Despite purposivists’ best arguments, there is one thing—perhaps the most critical—their position fails to explain: the text of the statute itself. It is the most basic principle of statutory interpretation “that courts must presume that a legislature says in a statute what it means and means in a statute what it says there.”¹⁰⁹ As we have seen, the text of the statute is cited by courts as the strongest argument in favor of snap removals because the text itself is unambiguous.¹¹⁰ When confronted with the text, it becomes clear that § 1441 allows removal of a diversity action when a citizen of the forum state has been joined as a defendant but has not yet been served.¹¹¹ And when a statute is unambiguous, the “first canon is also the last: ‘judicial inquiry is complete.’”¹¹²

Snap removals have faced growing scrutiny in recent years, particularly with the advancement of electronic case monitoring that empowers defendants to gain insights into cases before formal service of process has been perfected.¹¹³ Opponents of snap removal have stated, “Congress could not possibly have anticipated the tremendous loophole that would one day manifest from technology enabling forum defendants to circumvent the forum defendant rule by . . . electronically monitoring state court dockets.”¹¹⁴ While these critics are right about legislators’ lack of psychic abilities, they overlook the fact that the legislature is—and has been since the advent of electronic docket monitoring—“well-suited to

107. *Id.*

108. *Id.* (quoting 28 U.S.C. § 1441(a)).

109. *Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253–54 (1992).

110. *See supra* Part III.A.

111. *See* 28 U.S.C. § 1441(b)(2).

112. *Conn. Nat’l Bank*, 503 U.S. at 254 (quoting *Rubin v. United States*, 449 U.S. 424, 430 (1981)).

113. *See Zach Hughes, A New Argument Supporting Removal of Diversity Cases Prior to Service*, 79 DEF. COUNS. J. 205, 205 (2012).

114. *Perez v. Forest Lab’ys, Inc.*, 902 F. Supp. 2d 1238, 1243 (E.D. Mo. 2012) (quoting *Sullivan v. Novartis Pharms. Corp.*, 575 F. Supp. 2d 640, 645 (D.N.J. 2008), *abrogation recognized by*, *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019)); *see also* *Travers v. Five Below, Inc.*, No. 4:17-CV-1274, 2017 WL 2813320, at *3 (E.D. Mo. June 29, 2017) (coining the term “docket hawking”).

address the issue.”¹¹⁵ It has declined to do so.¹¹⁶ Regardless of the original rationale behind the modification in 1948, and despite Congress making multiple amendments to different sections of the removal statute, the language “properly joined and served” has endured without alteration now for over 70 years.¹¹⁷ The two most recent opportunities for amendments occurred in 2011 and 2020.¹¹⁸ In 2011, well after e-filing and electronic docket monitoring came onto the scene,¹¹⁹ Congress made several other changes to clarify the Act.¹²⁰ Notably, Congress took this opportunity to resolve various splits in authority that had emerged in modern removal jurisprudence, yet the wording “properly joined and served” in § 1441(b) was retained without alteration.¹²¹ More recently, in 2020, Congress again revisited the statute and considered potential remedial steps to address snap removals.¹²² Yet, nothing was ever amended.¹²³

115. See *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 153 n.4 (3d Cir. 2018).

116. See *id.* at 154; see also *Travers*, 2017 WL 2813320, at *3 n.3 (“[I]t is the prerogative of Congress to clarify its intent and to correct any internal inconsistencies in light of modern technological developments.”); *Higgins v. Novartis Pharms. Corp.*, No. 25-247, 2025 WL 1397045, at *2 (D. Del. May 14, 2025) (finding snap removal proper and stating, “[i]t is for Congress, not this Court, to revise the statute.”).

117. See *Pecherski v. Gen. Motors Corp.*, 636 F.2d 1156, 1159 (8th Cir. 1981); Foreign Sovereign Immunities Act of 1976, Pub. L. No. 94-583, § 6, 90 Stat. 2891, 2898; Judicial Improvements Act of 1985, Pub. L. No. 99-336, § 3(a), 100 Stat. 633, 637 (1986); Judicial Improvements and Access to Justice Act, Pub. L. No. 100-702, § 1016(a), 102 Stat. 4642, 4669 (1988); Judicial Improvements Act of 1990, Pub. L. No. 101-650, § 312, 104 Stat. 5089, 5114; Act of Dec. 9, 1991, Pub. L. No. 102-198, § 4, 105 Stat. 1623, 1623; 21st Century Department of Justice Appropriations Authorization Act, Pub. L. No. 107-273, § 11020(b)(3), 116 Stat. 1758, 1827 (2002); Federal Courts Jurisdiction and Venue Clarification Act of 2011, Pub. L. No. 112-63, § 103(a), 125 Stat. 758, 759.

118. See Federal Courts Jurisdiction and Venue Clarification Act of 2011, Pub. L. No. 112-63, 125 Stat. 758; Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. (2020).

119. See *25 Years Later, PACER, Electronic Filing Continue to Change Courts*, U.S. CTS. (Dec. 9, 2013), <https://www.uscourts.gov/data-news/judiciary-news/2013/12/09/25-years-later-pacer-electronic-filing-continue-change-courts> [<https://perma.cc/WP2P-KR9E>].

120. See Federal Courts Jurisdiction and Venue Clarification Act of 2011, Pub. L. No. 112-63, 125 Stat. 758.

121. See *id.*

122. See Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. (2020).

123. See *id.*; KEVIN M. LEWIS, CONG. RSCH. SERV., LSB10380, MAKE IT SNAPPY? CONGRESS DEBATES “SNAP” REMOVALS OF LAWSUITS TO FEDERAL COURT 4 (2020). See generally *Examining the Use of “Snap” Removals to Circumvent the Forum Defendant Rule: Hearing Before the Subcomm. on Cts., Intell. Prop., & the Internet of the H. Comm. on the*

The text of § 1441(b) makes no distinction regarding which party may effect removal.¹²⁴ Since its inception, attorneys have attempted to use snap removal in different ways (with varying levels of success¹²⁵), and despite § 1441(b)'s silence on any distinction, a key factor for courts in analyzing the statute seems to be the identity of the removing party.¹²⁶ If the removing party is the non-forum defendant, courts are more apt to allow snap removal.¹²⁷ If the removing party is the unserved forum defendant, disapproving courts resort to the purposivism and absurd result analysis.¹²⁸

B. Purposivism and the Absurd Result Argument

The plain text is decisive on the question of snap removals. Yet many district courts cast the text and purpose of § 1441(b)(2) as conflicting.¹²⁹ While the text says one thing, the courts argue, its plain meaning cannot possibly be what

Judiciary, 116th Cong. (2019) (discussing concerns about “snap removals” and proposals for legislative change to the forum-defendant rule).

124. See 28 U.S.C. § 1441(b).

125. See, e.g., *Breitweiser v. Chesapeake Energy Corp.*, No. 3:15-CV-2043-B, 2015 WL 6322625, at *6 (N.D. Tex. Oct. 20, 2015) (asserting that where forum defendants attempt snap removal, “courts must look past section 1441(b)(2)’s plain language to the purpose of the removal statute and, accordingly, remand a forum defendant’s snap removal.”). But see *Armstrong v. Sw. Airlines Co.*, No. 3:20-cv-3610-BT, 2021 WL 4219706, at *2 (N.D. Tex. Sep. 15, 2021) (upholding the propriety of snap removals for all unserved defendants, even those who are citizens of the forum state, since *Texas Brine*); *Bernstein v. State Farm Fire & Cas. Co.*, 711 F. Supp. 3d 1282, 1286 (W.D. Okla. 2024) (“[E]ven if a foreign defendant can ‘snap’ remove before his forum co-defendants are served, does it follow that a foreign defendant can remove before *he himself* is served?”).

126. E.g., *Breitweiser*, 2015 WL 6322625, at *6.

127. E.g., *id.* (“[A]llowing a nonforum defendant’s snap removal reaches neither an absurd nor unreasonable result.”).

128. E.g., *id.* (holding that the plain language approach allows snap removal by non-forum defendants but allowing removal by a forum defendant who had not yet been served would be “absurd” and “untenable”). But see *Munchel v. Wyeth LLC*, No. 12–906, 2012 WL 4050072, at *4 (D. Del. Sep. 11, 2012) (“[N]othing . . . turn[s] on whether the removing party was a forum defendant or non-forum defendant.”).

129. See, e.g., *DeAngelo-Shuayto v. Organon USA Inc.*, No. 07–2923, 2007 WL 4365311, at *4 (D.N.J. Dec. 12, 2007); *Carazo Reyes v. Harbor Freight Tools USA, Inc.*, No. 2:25-cv-00257-AB-JPR, 2025 WL 1683163, at *3 (C.D. Cal. June 16, 2025); *Rising Phoenix Holding Corp. v. Ross*, No. 22-62147-CV-WILLIAMS, 2023 WL 3032095, at *2 (S.D. Fla. Apr. 21, 2023); *Kirst ex rel. Novavax, Inc. v. Erck*, 616 F. Supp. 3d 471, 476–77 (D. Md. 2022); *In re Abbott Lab’sys, Preterm Infant Nutrition Prods. Liab. Litig.*, No. 22 C 71, 2022 WL 2257182, at *5 (N.D. Ill. June 23, 2022); *In re Lipitor (Atorvastatin Calcium) Mktg., Sales Prac. & Prods. Liab. Litig.*, No. 2:14-mn-02502, 2016 WL 7338594, at *2 (D.S.C. Nov. 21, 2016).

Congress intended because the result would be “absurd.”¹³⁰ While it is also a “basic tenet of statutory construction . . . that courts should interpret a law to avoid absurd or bizarre results,” absurdity is a high bar.¹³¹ Only an “extraordinary showing” that the plain language of a statute runs contrary to its purpose warrants deviating from the text.¹³² Section 1441(b)(2) passes the “absurd results” test with flying colors.¹³³ It is not only textually explicit, but it has a sensible result.¹³⁴

Diversity jurisdiction generally serves the purpose of mitigating any potential bias that a state court might display against an out-of-state party.¹³⁵ It comes down to fairness.¹³⁶ The forum defendant rule operates on the presumption that the bias rationale is eliminated absent complete diversity because the plaintiff is choosing to give the defendant the “home field advantage.”¹³⁷ Admittedly, the purpose of the “properly joined and served” language in the forum defendant rule is not obvious, and a look into the legislative history does little to help decipher Congress’s exact goal behind the change.¹³⁸ However, in light of the legal landscape covered thus far and the legislature’s proven concern for fairness and impartiality in litigation, courts suggest that there are two related issues the statute was aimed at combatting.

First, harkening back to the fairness rationale, a prevalent critique of the forum defendant rule is that co-defendants who are not residents of the state where the action is initiated, but are nevertheless subject to the rule, may still encounter

130. See, e.g., sources cited *supra* note 129.

131. *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 152 (3d Cir. 2018) (quoting *In re Kaiser Aluminum Corp.*, 456 F.3d 328, 338 (3d Cir. 2006)); see also *Sturges v. Crowninshield*, 17 U.S. (4 Wheat.) 122, 202–03 (1819) (“[I]f . . . the plain meaning of a provision . . . is to be disregarded, because we believe the framers of that instrument could not intend what they say, it must be one in which the absurdity and injustice of applying the provision to the case, would be *so monstrous, that all mankind would, without hesitation, unite in rejecting the application.*” (emphasis added)).

132. *Encompass*, 902 F.3d at 152 (quoting *McMaster v. E. Armored Servs., Inc.*, 780 F.3d 167, 170 (3d Cir. 2015)).

133. See *Tex. Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482, 486–87 (5th Cir. 2020).

134. See *id.*

135. THE FEDERALIST NO. 80, at 477–78 (Alexander Hamilton) (Clinton Rossiter ed., 1961) (explaining that “[w]hatever practices may have a tendency to disturb the harmony between the States are proper objects of federal superintendence and control” and the authority of federal courts “to decide finally all differences among the members” of the States would help ensure domestic peace).

136. See *id.*

137. See *Tex. Brine Co.*, 955 F.3d at 487 (“Diversity jurisdiction and removal exist to protect out-of-state defendants from in-state prejudices.”).

138. *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 153 (3d Cir. 2018).

the type of discrimination that the statute aimed to prevent.¹³⁹ Snap removals address this concern by giving non-forum defendants an opportunity to remove before service is perfected on their forum co-defendant(s).¹⁴⁰

Secondly, some commentators suggest Congress enacted the rule “to prevent a plaintiff from blocking removal by joining as a defendant a resident party against whom it does not intend to proceed, and whom it does not even serve.”¹⁴¹ Courts allowing removal by forum defendants perceive the 1948 amendment as an added procedural element to the forum defendant rule, previously solely a jurisdictional issue, to discourage fraudulent joinder.¹⁴² And preventing plaintiffs from blocking removal through various strategic joinder tactics is far from absurd, especially because “[t]he frequency of fraudulent [or improper] joinder litigation has increased significantly since the Supreme Court’s [decision in *Pullman*].”¹⁴³ Courts that allow snap removals by forum defendants acknowledge that, even though the *Pullman* Court left it “open to the non-resident defendant to show that the resident defendant has not been joined in good faith,”¹⁴⁴ improper joinder is difficult to prove.¹⁴⁵ The separate but related issue of fraudulent misjoinder is also worth mentioning. Misjoinder “occurs when a plaintiff sues a diverse defendant in state court and joins a viable claim involving a nondiverse party, or a resident defendant, even though the plaintiff has no reasonable procedural basis to join

139. See *Tex. Brine Co.*, 955 F.3d at 487 (“Of some importance, the removing party is not a forum defendant. Diversity jurisdiction and removal exist to protect out-of-state defendants from in-state prejudices.”).

140. See Adam B. Sopko, *Swift Removal*, 13 FED. CTS. L. REV. 1, 3–4 (2021).

141. Arthur Hellman et al., *Neutralizing the Strategem of “Snap Removal”: A Proposed Amendment to the Judicial Code*, 9 FED. CTS. L. REV. 103, 108 (2016) (quoting *Sullivan v. Novartis Pharms. Corp.*, 575 F. Supp. 2d 640, 645 (D.N.J. 2008), *abrogation recognized by*, *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019)).

142. See *Tex. Brine Co.*, 955 F.3d at 485 (“[T]he forum-defendant rule is a procedural rule and not a jurisdictional one.”); *Holbein v. TAW Enters., Inc.*, 983 F.3d 1049, 1059 (8th Cir. 2020) (en banc) (“[O]ver ‘a century’s worth of precedent and practice in American courts,’ . . . supports the nonjurisdictional view of the forum-defendant rule. . . . Accordingly, we hold that violating the forum-defendant rule results in a nonjurisdictional defect in removal, and we overrule [prior cases] to the extent they held to the contrary.” (internal citation omitted)).

143. Walter Simons, Comment, *Choice of Law in Fraudulent Joinder Litigation*, 163 U. PA. L. REV. 603, 612 (2015).

144. *Pullman Co. v. Jenkins*, 305 U.S. 534, 541 (1939).

145. *LeBlanc v. DISA Glob. Sols., Inc.*, No. 17-76-SDD, 2017 WL 5147660, at *5 (M.D. La. Oct. 5, 2017) (“The party seeking removal based on improper joinder of a non-diverse defendant bears a ‘heavy’ burden of proving that the joinder was improper.” (quoting *Travis v. Irby*, 326 F.3d 644, 649 (5th Cir. 2003))).

them in one action because the claims bear no relation to each other.”¹⁴⁶ Perhaps, the purpose of the language is to arm defendants with a line of defense against such maneuvers. Since *Pullman* handed plaintiffs a tool to stop removal, Congress handed defendants a tool to fight back. This is reasonable considering Congress’s proven concern for leveling the playing field between parties in litigation.

With these potential purposes in mind, snap removals are not “absurd” after all, and the textualist position of snap removal is not as “extreme” as some suggest.¹⁴⁷ In fact, snap removals may well produce the exact effect the legislature intended.

V. FORUM SHOPPING AND LITIGATION STRATEGY

The choice of the litigation forum has traditionally been a battleground in legal disputes, with plaintiffs favoring state courts and defendants pursuing federal jurisdiction.¹⁴⁸ Snap removal skeptics are unrelenting in their position that allowing snap removals supports “gamesmanship” and “forum manipulation,” but forum shopping is a strategy both sides use to advocate for the most favorable forum for their client.¹⁴⁹ Indeed, advocating for a favorable forum is an important duty of lawyers, and both plaintiff and defense counsel may employ various strategies to improve their field of play.¹⁵⁰ Attorneys know “the outcome of a lawsuit may depend on whether an action is brought in state or federal court,” so they are willing to spend significant resources fighting about removal.¹⁵¹ Using lawful tactics to advocate for a party’s choice forum has been an important part of advocacy since *Pennoyer v. Neff*.¹⁵²

Tactics used to secure a favorable forum—including snap removals—do not automatically amount to “gamesmanship” in the negative sense of the word.¹⁵³ While “cheating—dishonest, unethical, illegal, or unauthorized action—certainly can and does happen in litigation, as in other games . . . forum shopping, as a general concept, is not an example of such cheating.”¹⁵⁴ In situations of complete

146. Ronald A. Parsons, Jr., *Should the Eighth Circuit Recognize Procedural Misjoinder?*, 53 S.D. L. REV. 52, 57 (2008).

147. See Thomas O. Main, Jeffrey W. Stempel & David McClure, *The Elastics of Snap Removal: An Empirical Case Study of Textualism*, 69 CLEV. ST. L. REV. 289, 291 (2021).

148. Hughes, *supra* note 113, at 205.

149. See *id.*

150. Debra Lyn Bassett, *The Forum Game*, 84 N.C. L. REV. 333, 344 (2006).

151. Friedrich K. Juenger, *Forum Shopping, Domestic and International*, 63 TUL. L. REV. 553, 556 (1989).

152. See *id.* at 554.

153. See Bassett, *supra* note 150, at 335.

154. *Id.*

diversity, a tactic employed by plaintiffs aiming to avoid federal jurisdiction is to initiate the action outside their home state.¹⁵⁵ This is typically done in a state court perceived as favorable, especially when one of the defendants is a citizen of that state.¹⁵⁶ The objective is to activate the forum defendant rule of 28 U.S.C. § 1441(b).¹⁵⁷ This strategic pleading by plaintiffs can act as a hurdle to the removal of cases that otherwise fulfill all the prerequisites for federal diversity jurisdiction per 28 U.S.C. § 1332.¹⁵⁸ If done in good faith, it is entirely lawful.¹⁵⁹ This goes to show that not all choice of forum strategy amounts to manipulation. Sometimes, it is simply good lawyering.

Contrast this with what occurred in *Travers v. Five Below, Inc.*¹⁶⁰ There, the district court upheld snap removal by a non-forum defendant where the plaintiff had yet to serve the forum defendant.¹⁶¹ Its finding was based on the plain language of § 1441(b).¹⁶² Still, the court noted how the plaintiff made no effort to serve the forum defendant and was likely “engaging in procedural gamesmanship to keep the case in state court.”¹⁶³

In that same vein, courts and scholars have noticed a technique called the “removal trap.”¹⁶⁴ Plaintiff’s attorneys set this trap by strategically serving an unsophisticated defendant, who is less inclined to remove the case to federal court, and refraining from serving the more sophisticated defendants (who are more prone to seek removal) until after the 30-day expiration period.¹⁶⁵ At that point, removal is time barred.¹⁶⁶ In this way, plaintiffs “manipulate the service of process” and strip non-forum opponents of their statutory right of removal.¹⁶⁷ This

155. Hughes, *supra* note 113, at 205.

156. *Id.*

157. *Id.*

158. *Id.*

159. See *supra* Part IV.B (discussing fraudulent joinder).

160. See No. 4:17-CV-1274, 2017 WL 2813320, at *3 (E.D. Mo. June 29, 2017).

161. *Id.*

162. *Id.*

163. *Id.*

164. E.g., White v. White, 32 F. Supp. 2d 890, 893 (W.D. La. 1998) (citing Derek S. Hollingsworth, Comment, *Section 1446: Remediating the Fifth Circuit’s Removal Trap*, 49 BAYLOR L. REV. 157 (1997)).

165. *Id.*

166. *Id.* (permitting removal past the 30-day limitations period of § 1446, stating, “[t]here is no explanation in this record, other than forum manipulation, for the curious course of events.”).

167. Hollingsworth, *supra* note 164, at 165.

gamesmanship is precisely what Congress sought to avoid.¹⁶⁸ In “exceptional circumstances” like this, when litigation strategy sniffs of bad faith, courts will step in.¹⁶⁹ But snap removal is a strategic choice, not an illegal manipulation.¹⁷⁰

The point is: plaintiffs are armed with plenty of tactics to snag their choice of forum, too. Forum is important, and lawyers *will* fight about it.¹⁷¹ Before snap removals, the forum selection fight heavily favored plaintiffs, leaving improperly served defendants with limited options.¹⁷² The “properly joined and served” amendment squarely addresses this issue.¹⁷³ In a world where jurisdiction is such an integral part of litigation, lawyers must be allowed to use all lawful tactics at their disposal to advocate for their client.

VI. CONCLUSION

The tactic of “snap removal” has become a point of debate amongst litigators and courts, sparking a split.¹⁷⁴ The issue raises questions about statutory interpretation, legislative intent, and the dynamics of forum shopping. While some circuits have endorsed snap removals, emphasizing a strict textualist reading of § 1441(b)(2),¹⁷⁵ others have concerns about potential abuse and perceived loopholes.¹⁷⁶

Textualism as a guiding principle in statutory interpretation, our analysis could end with the plain language of § 1441(b)(2). While some courts allow the statute’s clarity to be the beginning and end of their analysis, still others insist on diving into its purpose.¹⁷⁷ But the legislative history shows that the “properly joined and served” language has persisted, unaltered, for over 70 years with

168. Hughes, *supra* note 113, at 208.

169. *E.g.*, White, 32 F. Supp. 2d at 893.

170. See Travers v. Five Below, Inc., No. 4:17-CV-1274, 2017 WL 2813320, at *3 (E.D. Mo. June 29, 2017) (“[A]lthough . . . the plain text is decisive . . . it is notable that policy purposes underlying the ‘joined and served’ language (to prevent procedural gamesmanship by plaintiffs) are also well-served . . .”).

171. See *supra* Part II.

172. See *supra* Part II.A.

173. Encompass Ins. Co. v. Stone Mansion Rest. Inc., 902 F.3d 147, 153 (3d Cir. 2018) (quoting Hellman et al., *supra* note 141, at 108) (“[C]ourts and commentators have determined that Congress enacted the rule ‘to prevent a plaintiff from blocking removal by joining as a defendant a resident party against whom it does not intend to proceed, and whom it does not even serve.’”).

174. See cases cited *supra* note 15 (demonstrating circuit split).

175. See cases cited *supra* note 57.

176. See cases cited *supra* note 114.

177. See cases cited *supra* note 129.

deliberate intent.¹⁷⁸ The onus is on opponents to demonstrate that Congress did not mean what it explicitly stated. This is difficult to show because Congress has not intervened to modify this language.¹⁷⁹ It has never been the court's place to change, modify, or create judicial exceptions to clear statutory language.¹⁸⁰

Beyond the plain language, a plausible, non-absurd reason for snap removals exists. It considers equity for non-forum defendants in multiple defendant suits, combats fraudulent moves by plaintiffs, and encourages fair play.¹⁸¹

When considering the broader context of forum shopping and litigation strategy, snap removals emerge as a lawful and strategic response to the tactics employed by both sides in securing a favorable forum. Far from constituting "gamesmanship" or manipulation, snap removals empower defendants to lawfully remove their case.

*Chloe Dinardo**

178. *See supra* Part IV.

179. *See supra* note 117 (detailing legislative history).

180. *See supra* note 116.

181. *See supra* Part V.

* B.A., Lincoln Christian University, 2022; J.D., Drake University Law School, 2025.