No. 04-1544

In the Supreme Court of the United States

VICKIE LYNN MARSHALL,
Petitioner,

v.

E. PIERCE MARSHALL,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

BRIEF OF TEXAS, ALABAMA, COLORADO, LOUISIANA, MARYLAND, MISSISSIPPI, MISSOURI, AND OREGON AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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QUESTION PRESENTED

Whether, on the facts of this case, the "probate exception" bars the exercise of bankruptcy jurisdiction over a cause of action that, under applicable Texas probate law, Petitioner was required to assert, and actually did assert unsuccessfully, in a Texas probate proceeding that Petitioner herself initiated prior to commencing her bankruptcy case.

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INTEREST OF *AMICI CURIAE*

The State *amici curiae*, through their Attorneys General, respectfully submit this brief in support of Respondent. The Court has recognized that "the settlement and distribution of decedents' estates and the right to succeed to the ownership of realty and personalty are peculiarly matters of state law." *Harris v. Zion Sav. Bank & Trust Co.*, 317 U.S. 447, 450 (1943). The States have exercised their broad authority in this area by crafting differing substantive laws and procedures to regulate the disposition of their citizens' estates.

These state probate systems have developed against an important background principle of federalism that has been established in the Court's jurisprudence for almost two centuries: the "probate exception" to federal courts' subject-matter jurisdiction. This doctrine prescribes that federal courts may not exercise jurisdiction over actions that would interfere with state probate proceedings.

One significant element of the probate exception is that whether a particular exercise of federal jurisdiction will "interfere" with state probate proceedings requires reference to state probate law. In this manner, the probate exception respects the States' policy determinations that certain claims are integral to probate proceedings and should be resolved in a specific state court. Thus, States have long understood that their choices in classifying probate-related matters as ancillary to or independent of probate will bear on whether those matters can be pursued outside of their probate systems in a federal forum.

Petitioner now urges the Court to adopt a overly narrow view of the extent to which state probate law defines the scope of the probate exception. Her position not only contravenes the Court's established precedents on this issue, but also threatens to upset the States' settled expectations regarding the line between federal- and state-court jurisdiction in probate-related matters. The *amici* States submit this brief to rebut this aspect of Petitioner's argument.

SUMMARY OF THE ARGUMENT

Petitioner challenges the court of appeals's application of the probate exception in this case in part because she believes the court improperly allowed state probate law to dictate the scope of the lower courts' subject-matter jurisdiction. Pet'r Br. 42-49. In fact, the court of appeals's approach is well-grounded in the Court's probate-exception jurisprudence. Federal courts may not exercise jurisdiction over claims that would "interfere with the probate proceedings," *Markham v. Allen*, 326 U.S. 490, 494 (1946), and what constitutes "interference" necessarily depends on considerations of state probate practice. Thus, in applying the probate exception, the Court has consistently examined state probate law to establish whether federal subject-matter jurisdiction exists. *See infra* Part I.

This incorporation of state law as a reference point does not offend the principle that state statutes cannot limit federal jurisdiction. The probate exception—like its cognate doctrine, the domestic-relations exception—exists as a presumption against jurisdiction, which, over time, has become integrated into federal jurisdictional statutes via congressional acquiescence. As such, the States have not usurped federal jurisdiction through their probate legislation; rather, Congress has exercised its authority to define lower federal courts' jurisdiction by adopting a limitation that is fixed in part by reference to state law. *See infra* Part II.

As with the domestic-relations exception, sound policy reasons also support the deference to state law embodied in the probate exception. This doctrine respects the integrity of state probate systems, which are unique and frequently administered by specialized courts and judges. Moreover, resolution of probate-related matters in a single state forum promotes judicial economy and provides the certainty and finality that are critical to effective estate planning. *See infra* Part III.

ARGUMENT

I. THE STATES' PROBATE LAWS INFORM THE SCOPE OF THE PROBATE EXCEPTION TO FEDERAL COURTS' SUBJECT-MATTER JURISDICTION.

The probate exception to federal courts' subject matter jurisdiction evolved through a series of over thirty decisions from the Court, from the doctrine's origin in *Armstrong v. Lear*, 25 U.S. (12 Wheat.) 169 (1827), to its most recent description in *Markham*. In the latter decision, the Court distilled these precedents into various metes and bounds demarcating the matters reserved to the state courts under the probate exception. First, "a federal court has no jurisdiction to probate a will or administer an estate." *Markham*, 326 U.S., at 494. Second, a federal court sitting in equity has jurisdiction over suits to establish claims against a decedent's estate "so long as the federal court does not interfere with the probate proceedings or assume general jurisdiction of the probate or control of the property in the custody of the state court." *Id.* Finally, a federal court has jurisdiction to adjudicate rights to property in the custody of a state probate court provided its judgment "does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated." *Id.*

The question whether a federal court's exercise of jurisdiction will "interfere" with probate proceedings, probate jurisdiction, or the probate court's custody of estate property necessarily requires some consideration of state probate practice. In several decisions leading to *Markham*, the Court examined and refined the extent to which a State's peculiar probate law bears on the "interference" boundary of federal jurisdiction. This line of cases establishes that (1) federal courts have jurisdiction over probate-related claims that are independent actions *inter partes*, but not those that are ancillary to state probate proceedings; (2) the categorization of these claims

is a matter of state law; and (3) the relevant considerations under state law are the substance of the claim and the court to which it is assigned.

A careful review of the formation and growth of the probate exception in this Court's jurisprudence sheds considerable light on the question before the Court in the case at bar.

A. *In re Broderick's Will.*

The Court's first extensive review of state probate law as a factor bearing on federal jurisdiction occurred in *In re Broderick's Will*, 88 U.S. (21 Wall.) 503 (1874).[1]

Several alleged heirs brought a suit in equity in federal court to set aside the probate of a will and to recover the decedent's estate. *Id.*, at 504. The defendants sought dismissal in part on the ground that the federal court lacked subject-matter jurisdiction over the suit. *Id.*, at 508. Affirming that dismissal, the Court relied upon the general rule that "a court of equity will not entertain jurisdiction of a bill to set aside a will or the probate thereof." *Id.*, at 509. One of the principal reasons undergirding this rule, the Court explained, was that "the probate courts themselves have all the powers and machinery necessary to give full and adequate relief." *Id.*, at 510. Testing that rationale in the instant case, the Court exhaustively reviewed California's probate laws and procedures, *id.*, at 514-17, and pronounced that "it is difficult to conceive of a more complete and effective probate jurisdiction," *id.*, at 517. That assessment was dispositive of the jurisdictional question:

> "On the establishment or non-establishment of the will depended the entire right of the parties; and that was a

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1. The probate exception itself traces its roots even further back in the Court's case law, all the way to the 1827 decision in *Armstrong v. Lear*, 25 U.S. (12 Wheat.) 169 (1827).

> question entirely and exclusively within the jurisdiction of the Probate Court. In such a case a court of equity will not interfere, for it has no jurisdiction to do so. The Probate Court was fully competent to afford adequate relief." *Id.*

Having decided to affirm the dismissal, the Court referred in *dictum* to another way in which state probate law might bear on federal subject-matter jurisdiction. The alleged heirs had relied in part on a California statute that purportedly afforded an equitable remedy, available in courts of general jurisdiction, to set aside wills obtained by fraud, undue influence, and similar means. *Id.*, at 519. The Court agreed that federal courts "probably" could exercise concurrent jurisdiction over such state-law remedies respecting estates that sounded in equity rather than probate, but noted that any action by the heirs under this provision was barred by the statute of limitations. *Id.*, at 520.

B. *Gaines v. Fuentes.*

The following Term, the Court relied upon the *Broderick's Will dictum* to find federal removal jurisdiction over an action seeking to annul a probated will in *Gaines v. Fuentes*, 92 U.S. 10 (1875).

After distribution of the decedent's estate pursuant to the completed probate, the decedent's daughter (and heir) filed several suits in federal court to recover certain real estate, using the probated will as evidence of her title. *Id.*, at 11. The defendants in these suits—persons with competing interests in the properties—filed their own action in the state probate court, seeking to set aside the probate. *Id.* The daughter sought to remove this action to federal court, but this request was denied on the ground that federal courts lack subject-matter jurisdiction over probate matters. *Id.*, at 11-12. The probate court annulled the will and the Supreme Court of Louisiana affirmed. *Id.*, at 12.

On writ of error, the Court revisited the issue of removal jurisdiction. The Court expressly approved the holding of *Broderick's Will*, *id.*, at 21, but relied on that decision's *dictum* regarding available state-law equitable actions in general-jurisdiction courts as conclusive of the jurisdictional question. In doing so, however, the Court did not engage in the careful analysis of state law it had previously prescribed. Rather, the Court simply decreed that the action to annul the will was "in all essential particulars, a suit for equitable relief"—notwithstanding its acknowledgment that Louisiana law did not characterize the claim as sounding in equity. *Id.*, at 20. Moreover, the Court further departed from *Broderick's Will* by suggesting that it was sufficient that the claim could be brought in *any* state court, "whatever designation that court may bear." *Id.* Satisfied that the will-annulment action was essentially a claim in equity that may be prosecuted in a state court, the Court held that federal courts could exercise concurrent jurisdiction and removal was proper. *Id.*, at 22.

C. *Ellis v. Davis.*

Eight years later, in *Ellis v. Davis*, 109 U.S. 485 (1883), the Court again had occasion to address a Louisiana probate case. This time, the Court did analyze Louisiana probate law in detail. As a result of that analysis, the Court not only held that there was no federal jurisdiction over the probate-related claim at issue, but also was compelled to cabin in its earlier anomalous decision in *Gaines*.

In *Ellis*, the decedent's will named as sole legatee of her estate one Jefferson Davis, former president of the Confederacy, who had the will probated in Louisiana probate court. *Ellis*, 109 U.S., at 487-88. Several alleged heirs of the decedent filed a suit in equity in federal court, seeking to set aside the probate and annul the will, to annul an *inter vivos* conveyance of certain property to Davis, to order an accounting of estate property, and to establish title to the

estate property in themselves. *Id.*, at 491-92. The lower court dismissed the case, and this Court affirmed. *Id.*, at 493, 504.

The Court cited the "settled" rule of *Broderick's Will* that federal courts did not have equity jurisdiction to annul a probate judgment or to declare a will invalid. *Id.*, at 494. The rationale for this rule, the Court explained, was that, "from a time anterior to the adoption of the constitution... all probate and testamentary matters hav[e] been confided either to separate courts of probate, under different denominations, or a special jurisdiction over them ha[s] been vested in courts having jurisdiction also over other subjects." *Id.*, at 495.

Although the Court described this general rule regarding purely probate matters in universal terms, it then explained how distinctions in state probate law could affect federal jurisdiction. First, the Court noted that, unlike in English practice, the States' probate jurisdiction extended both to wills of land and personal property, "but with varying effect in different [S]tates." *Id.* In some States, the probating of a will bound all persons for all purposes until set aside, whereas in others, probate was conclusive only as to personalty and only for administrative purposes—and thus could not serve as evidence of title to devises. *Id.*, at 495-96. In States in the former category, the Court observed, challenges to the validity of a will or the legality of probate "are generally regarded as the exercise of probate jurisdiction, even if administered in courts other than that of original probate." *Id.*, at 496. By contrast, in States of the latter sort, the validity of a will "may become a question to be tried whenever and wherever a litigation arises concerning real property." *Id.* In these latter States, the Court explained, because their "courts of general civil jurisdiction" may resolve issues concerning the validity of wills as part of a suit involving title to real estate, federal courts likewise have concurrent jurisdiction over such suits (provided, of course, that other prerequisites to federal jurisdiction are present). *Id.*

Similarly, if a State provided for an action *inter partes* to challenge collaterally the probate of a will, federal courts also would have jurisdiction over such actions. *Id.*

Having set out these governing principles, the Court described its jurisdictional inquiry as turning on "whether the complainants are entitled, under the laws of Louisiana, to draw in question, in this mode and with a view to the decree sought, the validity of the will of [the decedent] and the integrity of its probate." *Id.*, at 499. To that end, the Court surveyed Louisiana law and derived the following rules: (1) if the probate proceeding is pending, then claimants to estate property must file their actions in probate court; (2) if, however, the probate proceeding has concluded, and a claimant to real property seeks to establish title as against a person asserting title by virtue of the probated will, the claimant must bring an "action of revendication" in the courts of general jurisdiction. *Id.*, at 499-502. Consistent with its general description of state law earlier in the opinion, the Court noted that federal courts could exercise jurisdiction only over the latter type of claim. *Id.*, at 502.

Applying these rules to the instant case, the Court concluded that the alleged heirs' claim was in substance a revendication action. *Id.*, at 503. Because such an action was an adequate and available *legal* remedy under Louisiana law, however, the Court could not exercise the equity jurisdiction invoked by the alleged heirs and dismissed the suit. *Id.*

This conclusion ostensibly conflicted with the Court's holding in *Gaines* that a very similar action was "essentially" a claim in equity that fell within the federal courts' equitable jurisdiction. The Court resolved this apparent inconsistency by noting that it simply "assumed" in *Gaines* that such equitable relief was available in Louisiana courts and that "*if* it were" it could be removed to federal court. *Id.* at 498-99 (emphasis added); *see also id.*, at 503 (explaining that "the point decided in [*Gaines*] was not that [the

action] would lie, according to the law of Louisiana, but that if it would lie in the state court it was removable"). Notwithstanding this reconciliation of the two cases, the plain import of *Ellis* was that an accurate appraisal of state probate law is essential to deciding whether federal jurisdiction exists.

D. *O'Callaghan v. O'Brien.*

The Court exhaustively reviewed the foregoing three decisions in *O'Callaghan v. O'Brien*, 199 U.S. 89 (1905), and derived a clearer set of principles governing the extent to which state probate law informs the boundaries of federal subject-matter jurisdiction.

In *O'Callaghan*, two alleged heirs of the decedent filed an action to set aside an oral will that had been probated in a Washington state court. *Id.*, at 90-91. The district court entered a decree in favor of the alleged heirs setting aside the oral will, holding that the state court lacked jurisdiction over the probate, and declaring that the alleged heirs were entitled to shares in the estate. *Id.*, at 93. The court of appeals reversed the judgment in part for lack of subject-matter jurisdiction. *Id.*

In addressing the jurisdictional question, the Court reviewed its earlier decisions in *Broderick's Will*, *Gaines*, and *Ellis*, 199 U.S., at 102-10, and then undertook to "deduce the principles established by the foregoing authorities as to the power of a court of the United States over the probate or revocation of the probate of a will," *id.*, at 110. The Court found that two main precepts were "clearly established." *Id.* First, "matters of pure probate" are not within federal courts' subject-matter jurisdiction. *Id.* Second, "where a state law, statutory or customary, gives to the citizens of the state, in an action or suit *inter partes*, the right to question at law the probate of a will or to assail probate in a suit in equity," federal courts have subject-matter jurisdiction over such suits, provided other jurisdictional prerequisites are met. *Id.*

The Court acknowledged, however, that there may be disagreement regarding what constitutes an "action or suit *inter partes*" within the second proposition. *Id.* Again relying on its precedents, the Court explained that the meaning of this phrase turns on the classification of the claim under state law:

> "[T]he words referred to must relate only to independent controversies *inter partes*, and not to mere controversies which may arise on an application to probate a will because the state law provides for notice, or to disputes concerning the setting aside of a probate, when the remedy to set aside afforded by the state law is a mere continuation of the probate proceeding; that is to say, merely a method of procedure ancillary to the original probate, allowed by the state law for the purpose of giving to the probate its ultimate and final effect." *Id.*

Thus, the nature of the remedy afforded by state law—whether independent of, or ancillary to, a state probate proceeding—controls whether a given action is within the jurisdiction of the federal courts. *See id.*

The Court specifically noted that this limit on the scope of actions *inter partes* cognizable in the federal courts was necessary to the effective functioning of probate. *See id.*, at 110-11. Otherwise, a State could not permit interested persons to raise questions regarding the propriety of the probate "without depriving itself of its concededly exclusive authority over the probate of wills." *Id.*, at 111.

Applying this principle to the instant case, the Court explained that federal jurisdiction over the suit to annul the probate turned on Washington probate law:

> "[I]n order to test the question of the jurisdiction of the circuit court over the relief prayed for in the bill . . . requires

> us to determine whether, by custom or by the statute law of the state of Washington, the courts of that state had the power of administering the relief prayed for on that subject in the bill by an independent suit, as distinguished from the exercise of probate jurisdiction originally or merely ancillary." *Id.*

The Court then conducted a detailed review of Washington statutes regarding probate procedure and challenges to wills, *id.*, at 112-14, and concluded that the alleged heirs' suit was necessarily a probate matter and not an action *inter partes*:

> "[T]he sections in question authorize a proceeding for contest only before the court which has admitted the will to probate or rejected the application made for probate, and that the authority thus conferred concerning the contest is an essential part of the probate procedure created by the laws of Washington, and does not, therefore, cause a contest, when filed, to become an ordinary suit between parties." *Id.*, at 114.

For this reason, the Court affirmed the court of appeals's decision dismissing the suit for lack of subject-matter jurisdiction. *Id.*, at 116.

The Court also made clear that the substance of the action, rather than the form in which it was pleaded, was the relevant inquiry. The alleged heirs contended that references in Washington case law to will contests as "suits" or "actions" indicated that such claims were actions *inter partes*. *Id.*, at 115. The Court rejected this argument on the ground that "the substantive nature of a will contest" under Washington law was a probate matter. *See id.*, at 115-16. Similarly, the Court held that the alleged heirs' due-process challenges were subordinate to claims that properly could have been asserted under Washington probate law, and thus did not provide a basis for federal jurisdiction. *See id.*, at 116-19.

E. *Sutton v. English.*

In *Sutton v. English*, 246 U.S. 199 (1918), the Court reaffirmed that, in evaluating whether a particular suit is an independent action *inter partes* or a claim ancillary to probate, it is necessary to consider both the substance of the claim under state law and the court to which state law assigns resolution of the claim.

Several heirs of a Texas decedent brought a suit in equity in federal court seeking to set aside various instruments and judgments that purported to dispose of the community property acquired by the decedent during her marriage. *Id.*, at 203-04. First, they raised various arguments to set aside a probated joint will by the decedent and her husband that established a charitable trust in the community property following the husband's death. *Id.*, at 202, 203-04. Second, they sought to set aside a state-court judgment obtained by the trustees establishing the trustees' title to the trust property. *Id.*, at 202-03, 204. Third, they requested that one provision of the decedent's individual will be annulled to the extent it purported to bequeath the residue of the community property to a single heir. *Id.* Finally, having established through the previous claims that the decedent's community property remained in her estate, the heirs sought a decree declaring that this property passed to them as her heirs at law. *Id.*, at 203, 204. The district court dismissed the suit for lack of subject matter jurisdiction, holding that the claims must be brought in Texas probate court. *Id.*, at 200.

In reviewing the dismissal for want of jurisdiction, the Court first restated the principles established by its earlier probate-exception cases: (1) federal courts lack jurisdiction over purely probate matters; (2) federal courts do have jurisdiction over "independent" suits *inter partes* involving wills and probate, but not suits "incidental or ancillary to the probate"; and (3) claims "relating to the interests of heirs, devisees, or legatees, or trusts affecting such interests, *which may be determined without*

interfering with probate or assuming general administration" are within federal courts' subject matter jurisdiction. *Id.*, at 205 (emphasis added).

The heirs claimed that the district court had jurisdiction over their suit because Texas courts of general jurisdiction would have had jurisdiction over a similar suit. *Id.* The Court noted that "to test this, we must consider the nature and extent of the jurisdiction of the courts referred to, as established by the Constitution of Texas and statutes passed in pursuance thereof." *Id.*, at 205-06.

After reviewing the relevant statutes, the Court concluded that a Texas court of general jurisdiction might have power to adjudicate the equitable claims to construe the joint will establishing the trust, to set aside the judgment in favor of the trustees, and to partition the estate among the heirs at law. *Id.*, at 206-07. That said, the Court observed that, even if the heirs prevailed on these three claims, they would recover nothing unless they also obtained relief on their remaining claim to annul the portion of the decedent's individual will that bequeathed the estate's community property to a single heir. *Id.*, at 207. Under Texas law, such a claim was part of the probate process and thus was within the exclusive jurisdiction of the probate court. *Id.*, at 207-08. Accordingly, the Court concluded that there was no federal jurisdiction over the suit in its entirety:

> "The present suit being, in an essential feature, a suit to annul the will of [the decedent], and a proceeding of this character being by the laws of Texas merely supplemental to the proceedings for probate of the will and cognizable only by the probate court, it follows from what we have said that the controversy is not within the jurisdiction of the courts of the United States." *Id.*, at 208.

In sum, this line of decisions concluding with *Sutton* establishes that particulars of state probate law—such as how a probate-related action is substantively classified and which state court may exercise

jurisdiction over the action—significantly inform the scope of the probate exception to federal courts' subject-matter jurisdiction.

II. INCORPORATING CONSIDERATIONS OF STATE PROBATE LAW INTO THE PROBATE EXCEPTION DOES NOT VIOLATE THE PRINCIPLE THAT STATE LAW CANNOT OUST FEDERAL COURTS OF SUBJECT-MATTER JURISDICTION.

Petitioner nevertheless contends that considerations of state law cannot shape the federal courts' jurisdiction over probate-related matters, citing the Court's precedents in various probate-related cases as well as the Supremacy Clause. Pet'r Br. at 44-46. In both respects, however, Petitioner's reliance on these authorities is misplaced.

A. The Court Has Not Rejected the Principle That Federal Subject-Matter Jurisdiction Over Probate-Related Issues Is Defined in Part by State Law.

Petitioner quotes the following passage from *Waterman v. Canal-Louisiana Bank & Trust Co.*, 215 U.S. 33 (1909), to support her claim that the Court has rejected any notion that state probate law can affect the extent of federal courts' jurisdiction:

> "[I]nasmuch as the jurisdiction of the courts of the United States is derived from the Federal Constitution and statutes, that in so far as controversies between citizens of different States arise which are within the established equity jurisdiction of the Federal courts . . . the jurisdiction may be exercised, *and is not subject to limitations or restraint by state legislation establishing courts of probate and giving them jurisdiction over similar matters.*" Pet'r Br. 44 (quoting *Waterman*, 215 U.S., at 43 (emphasis added)).

But Petitioner fails to mention that, after making this general statement, the Court then noted "[t]his rule is subject to certain qualifications." *Waterman*, 215 U.S., at 44. Among the

"qualifications" outlined by the Court was the principle announced in *O'Callaghan*, discussed *supra*, that state-law classification of a claim as "ancillary" to probate meant that such an action fell outside of federal courts' subject-matter jurisdiction. *See Waterman*, 215 U.S., at 44-45 (discussing *O'Callaghan*). And nine years later, in *Sutton*, the Court cited *Waterman* for the proposition that federal courts could entertain claims relating to the interests of heirs and devisees, but only insofar as they "may be determined without interfering with probate." *Sutton*, 246 U.S., at 205 (citing *Waterman*, 215 U.S., at 43).

B. Because the Probate Exception Exists Today as a Legislatively-Accepted Limitation of Federal Courts' Jurisdiction, It Does Not Violate the Supremacy Clause.

The modern justification for the probate exception removes any doubt that its fixing of federal-court jurisdiction by reference to state law does not violate the Supremacy Clause. That justification is revealed in the Court's explication of the cognate jurisdictional limitation for domestic-relations cases in *Ankenbrandt v. Richards*, 504 U.S. 689 (1992).

In *Ankenbrandt*, the Court granted certiorari to consider whether the domestic-relations exception was in fact a limit on federal courts' subject-matter jurisdiction, despite its not appearing in any constitutional provision or statute defining such jurisdiction. *See* 504 U.S., at 692. Reviewing Article III of the Constitution and the Court's domestic-relations jurisprudence, the Court concluded first that the exception was not of constitutional dimension. *Id.*, at 695-97. This assessment was not dispositive of the issue, however, because the Court noted that Congress does not necessarily invest lower federal courts with all the jurisdiction authorized by the Constitution. *Id.*, at 697 (citing *Palmore v. United States*, 411 U.S. 389, 401 (1973)). Rather, in establishing the lower courts, Congress can withhold some matters from their jurisdiction that

would otherwise be within the judicial power of the United States under Article III. *See id.*, at 698. To test whether the domestic-relations exception was one such reservation of jurisdiction, the Court turned to the federal jurisdictional statutes. *Id.*

The Court examined the Judiciary Act of 1789 establishing lower federal courts, noting that it limited these courts' jurisdiction to "suits of a civil nature at common law or in equity" where the requisite amount in controversy and diversity of citizenship among the parties was satisfied. *Id.* (quoting Act of Sept. 24, 1789, §11, 1 Stat. 73, 78). The Court identified this language as the source of the domestic-relations exception, citing its seminal decision in *Barber v. Barber*, 62 U.S. (21 How.) 582 (1858). Specifically, because the English courts in chancery lacked jurisdiction over the subjects of divorce and alimony—such matters being committed to the ecclesiastical courts—it followed that these subjects were not within the meaning of "suits of a civil nature at common law or equity" when Congress extended federal jurisdiction over such actions in 1789. *See Ankenbrandt*, 504 U.S., at 698-99 (discussing *Barber*); *see also Ohio ex rel. Popovici v. Agler*, 280 U.S. 379, 383-84 (1930) (explaining domestic-relations exception as rooted in the precept that Congress did not confer federal jurisdiction over matters that had formerly been within the province of the ecclesiastical courts).

The Court then explained that, although there was much debate over whether this initial justification for the domestic-relations exception was historically accurate, such an inquiry was no longer relevant. *See Ankenbrandt*, 504 U.S., at 699-700. Rather, because this longstanding construction of the Judiciary Act was not disturbed by Congress when it amended the Act in 1948, the Court held that the domestic-relations exception had effectively been integrated into the Act as a limit on federal courts' diversity jurisdiction:

> "When Congress amended the diversity statute in 1948 to replace the law/equity distinction with the phrase "all civil actions," we presume Congress did so with full cognizance of the Court's nearly century-long interpretation of the prior statutes, which had construed the statutory diversity jurisdiction to contain an exception for certain domestic relations matters. With respect to the 1948 amendment, the Court has previously stated that no changes of law or policy are to be presumed from changes of language in the revision unless an intent to make such changes is clearly expressed. With respect to such a longstanding and well-known construction of the diversity statute, and where Congress made substantive changes to the statute in other respects, we presume, absent any indication that Congress intended to alter this exception, that Congress adopted that interpretation when it reenacted the diversity statute." *Id.*, at 700-01 (citations and quotations omitted).

In other words, the domestic-relations exception presently stands as a presumption against federal subject-matter jurisdiction—to the extent described by the Court's precedents—which may be rebutted by a clear expression of congressional intent. *See id.*

This interpretation applies with equal force to the probate exception, which shares a similar history. The probate exception pre-dates the domestic-relations exception by over thirty years, and thus has a even lengthier and more established pedigree in the Court's jurisprudence. *Compare Armstrong v. Lear*, 25 U.S. (12 Wheat.) 169 (1827) (probate exception), *with Barber v. Barber*, 62 U.S. (21 How.) 582 (1858) (domestic-relations exception). Also, as with domestic relations, the historical justification for excepting probate issues from federal courts' jurisdiction was that, in England, the ecclesiastical courts possessed exclusive jurisdiction over such matters. *See Broderick's Will*, 88 U.S. (21. Wall.), at 512-14; *Armstrong*, 25 U.S. (12 Wheat.), at 175-76. Accordingly,

under the logic of *Ankenbrandt*, when Congress amended the diversity statute in 1948 without expressing any intent to disturb the probate exception, it likewise incorporated that exception as an implicit limitation on federal courts' diversity jurisdiction. *Cf. Ankenbrandt*, 504 U.S., at 700-01.

For the same reasons, the probate exception also delimits federal-question and bankruptcy jurisdiction. The Court has treated the probate exception as applicable in these types of cases. *Markham*, 326 U.S., at 494 (federal question); *Harris v. Zion Sav. Bank & Trust Co.*, 317 U.S. 447, 450 (1943) (bankruptcy). And the statutes establishing these forms of jurisdiction have also since been amended by Congress without any apparent intent to disturb the Court's construction of these jurisdictional grants as being circumscribed by the probate exception. *See* 1948 Judicial Code & Judiciary Act, ch. 646, 62 Stat. 930 (1948) (codified as amended at 28 U.S.C. §1331) (federal question); Act of July 10, 1984, Pub. L. 98-353, §101, 98 Stat. 333 (1984) (codified as amended at 28 U.S.C. §1334) (bankruptcy). Thus, the probate exception, as defined by the Court, currently exists as an implicit limitation on federal courts' jurisdiction that has been incorporated into federal law by congressional acquiescence. *Cf. Ankenbrandt*, 504 U.S., at 700-01.

Because Congress has accepted the Court's probate-exception jurisprudence as an integral component of the federal jurisdictional statutes, the fact that state law plays a role in defining the scope of the exception does not offend the Supremacy Clause. That is, when a State defines a particular claim as ancillary to its probate proceedings, the probate exception does not impermissibly elevate that state action as *superseding* federal law. Rather, the State's decision simply fixes the value of a *variable* that Congress itself has accepted as part of the calculus defining federal courts' jurisdiction in probate-related cases.

There is nothing improper, or even unusual, about a line between federal- and state-court jurisdiction that is contingent on state-law principles that may vary from one State to the next. Indeed, Congress has drawn such lines explicitly in several statutes. For example, the Tax Injunction Act provides that: "The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State." 28 U.S.C. §1341. As with the probate exception, this Act has been interpreted as a limitation on federal courts' jurisdiction. *Osceola v. Fla. Dep't of Revenue*, 893 F.2d 1231, 1232 (CA11 1990); *May v. Supreme Court*, 508 F.2d 136, 137 (CA10 1974). This jurisdictional limitation is necessarily contingent on state law—*i.e.*, whether a State's courts can provide "a plain, speedy, and efficient remedy." 28 U.S.C. §1341. Consequently, when the Act is otherwise implicated, a federal court's jurisdiction can rise or fall depending on the particulars of state law. *See, e.g.*, *Washington v. Linebarger, Goggan, Blair, Pena & Sampson, LLP*, 338 F.3d 442, 444-45 (CA5 2003) (holding that particular remedies available under Louisiana law deprived federal courts of jurisdiction under Act); *Alcan Aluminum Ltd. v. Dep't of Revenue*, 724 F.2d 1294, 1297 (CA7 1984) (holding that ambiguities in Oregon law precluded application of Act as jurisdictional bar).[2]

Likewise, the Civil Rights Removal Act, which extends federal removal jurisdiction over actions not otherwise within a jurisdictional grant, conditions that jurisdiction in part on whether

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2. Similarly, the Johnson Act deprives federal courts of jurisdiction to enjoin state agencies' utility rate orders if the state courts provide a "plain, speedy and efficient remedy." 28 U.S.C. §1342; *Tennyson v. Gas Serv. Co.*, 506 F.2d 1135, 1141-42 (CA10 1974) (holding that remedies available under Kansas law deprived federal court of jurisdiction over utility customers' federal class action).

the defendant can "enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States." 28 U.S.C. §1443. The Court has explained that federal jurisdiction in this regard thus requires "reference to a [state] law of general application that the defendant will be denied or cannot enforce the specified federal rights in the state courts." *State v. Rachel*, 384 U.S. 780, 800 (1966).

If Congress may explicitly condition a grant of federal jurisdiction on considerations of state law, it follows that Congress can acquiesce in and adopt a judicial interpretation of a jurisdictional statute that also hinges on state law. Therefore, the fact that the scope of the probate exception to federal subject-matter jurisdiction turns in part on a State's particular probate laws does not violate the Supremacy Clause.

III. Sound Considerations of Federalism, Finality, and Judicial Economy Support the Deference to State Law Embodied in the Probate Exception.

Using state law as a reference point to define the scope of the probate exception also advances important policy objectives that are unique to the probate process. These goals include: (1) preserving the integrity of state probate systems; (2) deferring to the expertise of state probate courts and judges; and (3) promoting judicial economy in handling probate-related matters. *See Storm v. Storm*, 328 F.3d 941, 944 (CA7 2003).

As the Court has observed, States have an "interest in facilitating the administration and expeditious closing of estates." *Tulsa Prof'l Collection Servs., Inc. v. Pope*, 485 U.S. 478, 479-80 (1988). To that end, States also have an interest in "managing *all* challenges addressing an estate res located in that state or with which the state has some meaningful connection." *Golden v. Golden*, 382 F.3d 348, 359 (CA3 2004). Thus, when a State requires that a particular challenge be prosecuted in a probate

proceeding or in a probate court, it has made a policy judgment that adjudication of such a claim within the probate process is necessary to the effective disposition of the estate. *Cf. id.* (noting that, when a State classifies a probate-related claim as an independent action *inter partes* that may be pursued in general-jurisdiction courts, it "has presumably determined as a matter of law that such actions will not disrupt the activities of the state probate courts").[3]

The probate exception reflects respect for these policy judgments by engrafting the States' classifications of probate-related claims into the boundary of federal jurisdiction. In this manner, the exception preserves the integrity of state probate systems by ensuring that litigants may not file collateral proceedings in federal court to pursue claims that the State has deemed integral to the probate process—such as occurred in this case. *See Harris*, 317 U.S., at 452 ("The law of the State demands the speedy settlement of the estate. If independently of that law the administrator may apply under [the Bankruptcy Act], it may well happen that this state policy will be nullified."); *Moore v. Graybeal*, 843 F.2d 706, 710 (CA3 1988) (rejecting federal jurisdiction over claim under probate exception because "the proposed action is so inconsistent with the Delaware statutory plan for exclusive review of probate proceedings that allowing it would subvert the probate law").

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3. In this sense, probate proceedings should not be viewed as "pitting the individual against the state," thereby justifying the availability of a federal forum as necessary to protect individual rights. *See* DAVID L. SHAPIRO, FEDERALISM: A DIALOGUE 100 (1995). Rather, probate presents "a conflict of individual or group interests" in which "the state may be seen as the defender of one set of private interests against another"—specifically, the interest of a State's citizens in having their testamentary intentions properly effectuated against those who would subvert those intentions through collateral litigation. *See id.*

In addition, "[b]ecause state courts have nearly exclusive jurisdiction over probate matters, state judges vested with probate jurisdiction develop a greater familiarity with such legal issues." *Storm*, 328 F.3d, at 944; *see also Bassler v. Arrowood*, 500 F.2d 138, 142 (CA8 1974) ("The area of probate and decedents' estates presents many varied problems. State courts deal with these problems daily and have developed an expertise which should discourage federal court intervention."). Indeed, in many States this expertise is particularly concentrated because the States have established specialized probate courts throughout the State, or at least in certain regions of the State.[4] And even in those States

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4. ALA. CONST. art. VI, §144 (establishing probate courts in each county); COLO. CONST. art. VI, §1 (establishing probate court in City and County of Denver); CONN. GEN. STAT. §§45a-3 to -6i (establishing probate courts in districts throughout State); D.C. CODE §11-902 (establishing probate division within Superior Court of District of Columbia); GA. CONST. art. VI, §1, ¶VI (establishing probate courts in each county); IND. CODE §33-31-1-1 (establishing probate court in St. Joseph County); ME. CONST. art. VI, §6 (establishing probate courts in each county); MD. CONST. art. IV, §40 (establishing orphans' courts in all but two counties); MASS. GEN. LAWS ch. 211B, §1 (establishing probate department within state trial courts); MICH. CONST. art. VI, §15 (establishing probate courts in each county); MINN. STAT. §487.01 (establishing separate probate courts in Hennepin and Ramsey Counties); MO. REV. STAT. §472.020 (establishing probate division in state circuit courts); N.H. REV. STAT. ANN. §547:1 (establishing probate courts); N.J. STAT. ANN. §2B-14:1 (establishing surrogate's courts in each county); N.M. CONST. art. VI, §23 (establishing probate courts in each county); MCKINNEY'S CONST. art. VI, §12 (establishing surrogate's courts in each county in New York); OHIO CONST. art. IV, §4(C) (establishing probate division in Court of Common Pleas); OHIO REV. CODE ANN. §2101.46 (re-establishing probate courts in certain counties); 20 PA. CONS. STAT. §701 (establishing orphan's court divisions in court of common pleas); R.I. GEN. LAWS §8-9-4 (establishing probate courts on a town-by-town

without statutorily-created probate courts, many general-jurisdiction courts have assigned probate matters to specialized probate divisions or judges within those courts by local rule.[5] The probate exception properly defers to this expertise by examining whether state law assigns a matter to a specialized court. *See Dragan v. Miller*, 679 F.2d 712, 715 (CA7 1982) (commenting that "[i]f a state creates a specialized cadre of judges to administer its probate jurisdiction, this will be a reason for interpreting the probate exception to the federal diversity jurisdiction broadly in that state"); *Bassler*, 500 F.2d, at 142 (concluding that "[t]hese local problems should be decided by state courts").

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basis); S.C. CODE ANN. §14-1-70 (establishing probate courts statewide); 1870 Tenn. Pub. Acts 135 (creating probate court in Shelby County); TEX. GOV'T CODE §§25.0173, 25.0453, 25.0595, 25.0632, 25.0733, 25.0862, 25.1034, 25.1103, 25.2224, 25.2293 (establishing probate courts in certain counties); VT. STAT. ANN. tit. 4, §§271-277 (establishing probate courts in districts throughout State).

5. Special probate divisions or judge assignments have been created by courts in Arizona, California, Florida, Indiana, Illinois, Iowa, Kansas, Nevada, and Tennessee. *See, e.g.*, SUPER. CT. LOC. R.— MARICOPA COUNTY R. 5 (Ariz.) (establishing Probate/Mental Health Department of Court); SUPER. CT. LOC. R.—LOS ANGELES COUNTY R. 2.2 (Cal.) (establishing Probate Division); 11TH JUD. CIR. LOC. R. R-1-9 (Fla.) (same); CIR. CT. COOK COUNTY LOC. R. 12.1 (Ill.) (same); MARION SUPER. CT. ADMIN. R. art. IV.A (Ind.) (same); IOWA CT. R. 22.7 (providing for assignment of probate cases to associate probate judges); 7TH JUD. DIST. CT. R. 1.F.5 (Kan.) (providing for assignment of probate cases to specific court division); 8TH JUD. DIST. CT. R. 4.10 (Nev.) (providing for assignments to probate judges); KNOX COUNTY CH. CT. R. 17 (Tenn.) (providing for Probate Division of Chancery Court); *see also* COMMISSION ON NATIONAL PROBATE COURT STANDARDS, NATIONAL PROBATE COURT STANDARDS 5-6 (1993) (discussing creation of probate departments and judge assignments by local rule).

Finally, by respecting a State's decision to consolidate related probate matters in a special court or a single proceeding, the probate exception fosters efficiency and judicial economy. "The process of determining and effectuating a decedent's testamentary wishes will generally begin in a state court." *Storm*, 328 F.3d, at 944. Because this process may implicate the interests of multiple, competing claimants, a State may reasonably prefer that collateral matters involving these interests also be resolved in the probate proceeding rather than some other forum. *See* WILLIAM M. MCGOVERN & SHELDON F. KURTZ, PRINCIPLES OF WILLS, TRUSTS & ESTATES 276 (Thomson/West 2005) ("[W]ills often affect many persons and so might give rise to many lawsuits between heirs and devisees, whereas a single probate proceeding binds them all."). By giving due consideration to this legitimate state preference, the probate exception "serves to preserve the resources of both the federal and state judicial systems and avoids the piecemeal or haphazard resolution of all matters surrounding the disposition of the decedent's wishes." *Storm*, 328 F.3d, at 944; *see also Dragan*, 679 F.2d, at 714 ("If the probate proceeding thus must begin in state court, the interest in judicial economy argues for keeping it there until it is concluded.").[6]

CONCLUSION

The Court should affirm the judgment of the court of appeals.

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6. To be sure, competing policy considerations may be implicated in certain cases in which the United States is a party, such as disputes regarding federal tax liability. But as the United States implicitly acknowledges, *see* U.S. Br., at 23-24, application of the probate exception in such circumstances is not a question presented in this case, and the Court need not reach that issue to affirm the judgment of the court of appeals.

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