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Dog Doesn't Hunt: After Plaintiff Drops Federal Claim, U.S. Supreme Court Says Dog Food Case Must Be Remanded to State Court

The United States Supreme Court clarified this month in [*Royal Canin U.S.A., Inc. v. Wulschleger*](#) that when a plaintiff amends her complaint, following removal from state to federal court, to “cut[] out all her federal-law claims, federal-question jurisdiction dissolves” and the case must be remanded “to the state court where it started.”

In *Royal Canin*, Anastasia Wulschleger purchased “a brand of dog food available only with a veterinarian’s prescription” and “sold at a premium price,” thinking that the dog food “contained medication not found in off-the-shelf products.” When Ms. Wulschleger learned that, despite its trappings, the dog food was just “ordinary dog food,” she brought suit in Missouri state court, filing a complaint that included asserted violations of the Federal Food, Drug, and Cosmetic Act (FDCA), as well as factually intertwined state-law claims.

The defendant dog food company removed Ms. Wulschleger’s complaint from state to federal court based on federal-question jurisdiction resulting from the FDCA. In response, Ms. Wulschleger amended her complaint to remove any reference to the FDCA, and she asked the federal court to remand the case back to state court, arguing that there was no longer federal jurisdiction over the “amended, all-state-law complaint.”

The district court denied Ms. Wulschleger’s petition. It reasoned that federal jurisdiction could not be unilaterally eliminated by a plaintiff’s post-removal amendment to the complaint. The Court of Appeals for the Eighth Circuit reversed, however, holding that Ms. Wulschleger’s amendment had eliminated any basis for federal jurisdiction. The Supreme Court affirmed the Eighth Circuit in a unanimous opinion by Justice Elena Kagan.

The Supreme Court acknowledged that a footnote in its 2007 opinion in *Rockwell International Corp. v. United States* had suggested that, “when a defendant removes a case to federal court based on the presence of a federal claim, an amendment eliminating the original basis for federal jurisdiction generally does not defeat jurisdiction,” because “removal cases raise forum-manipulation concerns.” But the Court referred to the *Rockwell* footnote as “barely reasoned” and a “drive-by jurisdictional ruling[]” that should not be accorded precedential effect.

Thoroughly recapping the first principles of jurisdiction, the Supreme Court held in *Royal Canin* that when a plaintiff in a removed case has “ditched all claims involving federal questions,” there can be neither federal-question jurisdiction nor supplemental jurisdiction under 28 U.S.C. § 1367 because “the leftover state claims are supplemental to nothing” federal that remains. The Court underscored that a plaintiff is “the master of the complaint,” and “an amendment can wipe the jurisdictional slate clean, giving rise to a new analysis with a different conclusion.”

Royal Canin alters the terrain in several circuits, including the Third Circuit, which had reached the opposite conclusion, holding that subject-matter jurisdiction should be determined by examining the complaint solely as it existed at the time of removal. As a result, defendants who remove cases to federal court that involve both federal- and state-law claims should be aware that a plaintiff may retain the option to amend her complaint to eliminate federal-question jurisdiction and to petition for remand.

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