

United States Court of Appeals
For the Eighth Circuit

No. 26-2247

Christopher Vick; Bridget Biersmith; Ryan Russell; Joshua Holman; Jordan
Damewood

Plaintiffs - Appellees

v.

Fresh Green, LLC

Defendant

Vertical Enterprise, LLC

Defendant - Appellant

OXD 19341, LLC; BD Health Retail 3, LLC; BBMO 3, LLC

Defendants

Grassroots OpCo Mo, LLC

Defendant - Appellant

Natures Health and Wellness, LLC; John Doe Dispensaries, 1-215

Defendants

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: July 20, 2026
Filed: August 20, 2026

Before ERICKSON, GRASZ, and KOBES, Circuit Judges.

GRASZ, Circuit Judge.

After Missouri legalized recreational marijuana at the state level, the Missouri Supreme Court enjoined counties from imposing a sales tax on marijuana dispensaries located in incorporated areas. In response, customers (the Class) brought a class action against marijuana dispensaries that collected the unlawful county tax (the Dispensaries) and sought restitution. The Dispensaries removed the action to federal court under the Class Action Fairness Act. The Class, however, successfully sought remand back to state court after amending its complaint to limit the plaintiff class to Missouri citizens. The Dispensaries appeal the order of remand, and we affirm.

I. Background

This appeal arises out of a dispute following the State of Missouri's legalization, under state law, of recreational marijuana in 2022. When it did so, Missouri established a taxing regime that permitted local governments to impose an additional sales tax of up to three percent on licensed marijuana dispensaries that sold recreational marijuana. In turn, these dispensaries passed the tax on to their customers. The Missouri Supreme Court later held that counties could not impose the additional sales tax on dispensaries located within an incorporated area (i.e., villages, towns, or cities). *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, 721 S.W.3d 135, 144 (Mo. 2025). Following this decision, the Class brought an action against the Dispensaries claiming the Dispensaries were seeking to convert an unlawfully collected tax into a private windfall by keeping the revenue they had collected under the taxing regime. The Dispensaries removed the case to federal court under the Class Action Fairness Act of 2005 (CAFA), 28 U.S.C.

§§ 1332(d), 1453. The Class then moved to remand the case back to state court arguing the “Local Controversy Exception” to CAFA jurisdiction applied because the parties and claims are largely confined to the State of Missouri. The district court¹ found the Class’s First Amended Complaint² was sufficient to establish three of the four statutory elements but found the Class failed to show that more than two-thirds of the proposed plaintiffs were Missouri citizens. The Class then amended its complaint to redefine the plaintiff class as “All persons who, as of June 13, 2025, were citizens of the State of Missouri and who . . . purchased [recreational] marijuana” during the relevant period. The Class renewed its motion to remand, asserting the newly redefined action invoked the Local Controversy Exception and vacated CAFA jurisdiction. Based on a recent decision of the Supreme Court, *Royal Canin U. S. A., Inc. v. Wullschleger*, 604 U.S. 22 (2025), the district court agreed and remanded the action. The Dispensaries appeal.

II. Analysis

On appeal, the Dispensaries argue (1) the Supreme Court’s recent decision in *Royal Canin* does not permit a CAFA plaintiff to alter jurisdiction post-removal by amending its complaint and (2) the Class’s First Amended Complaint controls and fails to demonstrate an exception to CAFA jurisdiction applies to warrant remand. We address each in turn under de novo review. *Waters v. Ferrara Candy Co.*, 873 F.3d 633, 635 (8th Cir. 2017) (“We review a district court’s remand for lack of CAFA jurisdiction de novo.”).

¹The Honorable David Gregory Kays, United States District Judge for the Western District of Missouri.

²The First Amended Complaint was operative at the time of removal to federal court.

A. *Royal Canin*

The issue before us is whether the Class’s First Amended Complaint or Second Amended Complaint is the operative pleading for purposes of determining CAFA jurisdiction. The Supreme Court’s recent decision on this issue is clear. When “a plaintiff amends her complaint, the new pleading ‘supersedes’ the old one: The ‘original pleading no longer performs any function in the case.’” *Royal Canin*, 604 U.S. at 35 (quoting 6 Wright & Miller’s Federal Practice & Procedure § 1476 (3d ed. 2010)).

This follows from the basic proposition that “[t]he plaintiff is ‘the master of the complaint,’ and therefore controls much about her suit.” *Id.* (quoting *Caterpillar Inc. v. Williams*, 482 U.S. 386, 398–99 (1987)). This includes the power to “determine which substantive claims to bring against which defendants” even when so doing “establish[es]” or “destroy[s]” “the basis for a federal court’s subject-matter jurisdiction.” *Id.* That this rule applies in the context of determining CAFA jurisdiction was, in our view, explicitly contemplated by the Supreme Court. *See id.* at 23 (citing CAFA’s 28 U.S.C. § 1332(d)(7) as an example of how a pleading “amendment can wipe the jurisdictional slate clean”). Because “jurisdiction follows from (and only from) the operative pleading” and the “amended complaint becomes the operative one,” we confine our review of whether there is CAFA jurisdiction to the Second Amended Complaint. *Id.* at 35. In line with our relevant precedent, and now the Supreme Court’s precedent, we hold that when the Class amended its complaint, the “amended complaint supersede[d] [the] original complaint and render[ed] the original complaint without legal effect.” *Allen v. Amsterdam*, 132 F.4th 1065, 1068 (8th Cir. 2025) (quoting *In re Atlas Van Lines, Inc.*, 209 F.3d 1064, 1067 (8th Cir. 2000)), *cert. denied*, 146 S. Ct. 886 (2025).

The Dispensaries maintain that two of our prior cases require an opposite result — that the operative complaint at the time of removal still governs our jurisdictional review, *Hargis v. Access Cap. Funding, LLC*, 674 F.3d 783 (8th Cir. 2012); *Hargett v. RevClaims, LLC*, 854 F.3d 962 (8th Cir. 2017). We disagree.

First, the Dispensaries argue that *Hargis* dictates we apply the same operative complaint in place at the time of removal. There, we held the “original complaint,” and not the amended complaint, was the operative pleading to determine whether “the amount in controversy exceed[ed] the \$5 million mark” for CAFA jurisdiction. *Hargis*, 674 F.3d at 789–90. But this is “analogous to [a] time-of-filing rule” that “assesses a factual issue relevant to jurisdiction only at the suit’s outset.” *Royal Canin*, 604 U.S. at 38 n.8. A pleading amendment that reduces the alleged amount in controversy “will usually not destroy diversity jurisdiction” and so differs from the “plaintiff’s selection of claims and parties,” that *can* destroy diversity jurisdiction. *Id.* So, *Hargis* does not dictate a plaintiff’s original “selection of claims and parties,” at the outset, forever permits or forecloses diversity jurisdiction.

Second, the Dispensaries assert a prior statement of our court in *Hargett* is binding on this panel. In *Hargett*, eight years before the Supreme Court’s decision in *Royal Canin*, we observed “the concept of redefining a class to trigger [CAFA’s] local-controversy exception seems to violate § 1332(d)(7), which says that for purposes of the local-controversy exception, class citizenship must be determined as of the date of the pleading giving federal jurisdiction.” 854 F.3d at 967. The Dispensaries argue *Royal Canin* did not change our prior “interpretation of section 1332(d)(7)”³ and that accordingly, the Second Amended Complaint is not operative

³Section 1332(d)(7) states “Citizenship of the members of the proposed plaintiff classes shall be determined [for jurisdictional purposes] as of the date of filing of the complaint or amended complaint, or . . . amended pleading” While *Royal Canin* is clear enough to call our prior statement into question, we also note the Dispensaries’ “lock in” theory stands contrary to the plain text of the statute. Section 1332(d)(7) is concerned with timing, when the citizenship of the class members is to be measured. It does not permanently fix the nature of the claim brought, which of course can destroy federal jurisdiction. *See Wullschlegel v. Royal Canin U.S.A., Inc.*, 75 F.4th 918, 922–23 (8th Cir. 2023) (distinguishing the “state of things, which is subject to the time-of-filing rule, refer[ring] to the actual facts on the ground” from the “*alleged* state of things,” which include “the facts in the complaint” that “can create or destroy federal jurisdiction” and is subject to amendment) *aff’d*, *Royal Canin*, 604 U.S. 22.

for determining CAFA jurisdiction. Not so. As the district court noted, the Dispensaries’ argument “locks in citizenship” and in effect “locks in” federal jurisdiction. This squarely conflicts with *Royal Canin* and is no longer tenable.

“Although one panel of this court ordinarily cannot overrule another panel, this rule does not apply when the earlier panel decision is cast into doubt by a decision of the Supreme Court.” *Walls v. Sanders*, 144 F.4th 995, 1004 (8th Cir. 2025) (quoting *United States v. Williams*, 537 F.3d 969, 975 (8th Cir. 2008)). *Royal Canin* makes clear that “[w]hen a plaintiff amends her complaint following her suit’s removal, a federal court’s jurisdiction depends on what the new complaint says.” 604 U.S. at 30. So, the Second Amended Complaint is operative.

B. Exception to CAFA Jurisdiction

Now that we have determined which complaint is operative, we must determine whether the district court properly remanded this action for lack of CAFA jurisdiction. “We review de novo a district court decision that subject matter jurisdiction exists under CAFA” but “[i]f the district court’s jurisdictional decision rests on findings of fact, we review those factual determinations for clear error.” *Dammann v. Progressive Direct Ins. Co.*, 856 F.3d 580, 583 (8th Cir. 2017) (cleaned up).

CAFA excludes certain cases that, while satisfying its jurisdictional prerequisites, remain local controversies. *See, e.g.*, § 1332(d)(4)(A). When the Local Controversy Exception is satisfied, “[a] district court shall decline to exercise jurisdiction” and remand the action to state court. § 1332(d)(4).

The Local Controversy Exception applies to a class action in which (1) more than two-thirds of the class members in the aggregate are citizens of the state in which the action was originally filed, (2) at least one defendant “from whom significant relief is sought by members of the plaintiff class” and “whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class” is a citizen of the state in which the action was originally filed, (3) the principal

injuries were incurred in the state in which the action was filed, and (4) no other class action alleging similar facts has been filed in the three years prior to the commencement of the current class action. § 1332(d)(4)(A); *see also Atwood v. Peterson*, 936 F.3d 835, 839 (8th Cir. 2019).

The district court found by a preponderance of the evidence that the Class had already satisfied the final three elements of the Local Controversy Exception based on the First Amended Complaint.⁴ The district court found the remaining class citizenship element was satisfied after the Second Amended Complaint limited the class to “All persons who, as of June 13, 2025, *were citizens of the State of Missouri . . .*” The Dispensaries do not challenge the district court’s findings and so have not shown it was clear error to determine the Local Controversy Exception was satisfied. Remand was proper.

III. Conclusion

Because an exception to CAFA jurisdiction applied once the Second Amended Complaint became the operative pleading, we affirm the district court’s order of remand.

⁴While the district court initially made this finding in its stay-of-remand order considering the Class’s First Amended Complaint, the only change between the First Amended Complaint and the Second Amended Complaint was the Second’s amendment to narrow the class definition to include only Missouri citizens.