No. 25-834

IN THE

Supreme Court of the United States

ERIE INDEMNITY COMPANY,

Petitioner,

v.

TROY STEPHENSON, CHRISTINA STEPHENSON, AND STEVEN BARNETT, IN THEIR INDIVIDUAL CAPACITIES AND IN ANY REPRESENTATIVE CAPACITIES THEY MAY HAVE RELATING TO ERIE INSURANCE EXCHANGE,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the court of appeals correctly held that two prior federal judgments that dismissed certain fiduciary-breach claims without addressing their merits did not preclude a subsequent lawsuit challenging separate breaches that occurred after the earlier judgments had become final.

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INTRODUCTION

Petitioner Erie Indemnity Company (Indemnity) is a Pennsylvania corporation that serves as attorney-in-fact for a reciprocal insurance exchange in which Respondents Troy Stephenson, Christina Stephenson, and Steven Barnett are enrolled as subscribers. Once each year, Indemnity sets a percentage of subscribers' premium payments that it will retain as a management fee. Over four years ago, Respondents filed a lawsuit in Pennsylvania state court, alleging that Indemnity breached a fiduciary duty to the exchange by setting excessive percentages for 2020 and 2021.

Rather than responding to the claims, Indemnity filed this lawsuit in federal court, seeking to enjoin the state-court proceedings. According to Indemnity, final judgments in two prior federal actions preclude Respondents' claims. First, in *Beltz v. Erie Indemnity Co.*, 279 F. Supp. 3d 569 (W.D. Pa. 2017), the district court rejected a 2016 challenge to Indemnity's decision to charge additional fees on top of its management fee, holding that because the latest decision occurred in 2008, the challenge was time-barred. *Id.* at 581–83. Then, in *Ritz v. Erie Indemnity Co.*, 2019 WL 438086 (W.D. Pa. Feb. 4, 2019), the court rejected a challenge to the annual management-fee rates starting in 2007, holding that, given the overlapping time periods and allegations, the challenge could have been raised in *Beltz* and so was barred by claim preclusion. *Id.* at *6. These rulings, Indemnity says, preclude Respondents' state-court challenge to the 2020 and 2021 fee rates.

The Third Circuit rejected Indemnity's argument. The court first held that claim preclusion does not apply because *Beltz* and *Ritz* had already reached final judgment by the time Indemnity set its 2020 and

2021 fee rates, such that a challenge to those rates could not have been brought in either prior action. The court then held that issue preclusion does not apply because *Ritz*, which ruled on the claim-preclusive effect of the *Beltz* judgment, did not address the question whether *Beltz* precludes challenges to management-fee rates that, unlike the rates in *Ritz*, were set after final judgment in *Beltz*.

The Third Circuit's case-specific application of settled preclusion principles does not merit review.

To begin, Indemnity makes no argument that the courts of appeals apply differing standards for issue preclusion. And as for claim preclusion, Indemnity's attempt to conjure a division of authority fails. Across the board, the courts of appeals agree that a challenge to allegedly unlawful conduct that postdates a prior action could not have been brought in that action and so is not barred by claim preclusion. The cases that Indemnity cites as holding otherwise reject challenges to post-judgment action that would be unlawful only if the court were to find that an earlier action that had been unsuccessfully challenged in a prior suit was *also* unlawful. Here, the Pennsylvania courts can assess the legality of the 2020 and 2021 fee rates without considering the rates set in any prior year.

Moreover, the decision below correctly applies the relevant preclusion doctrines. Claim preclusion prevents piecemeal litigation by encouraging parties to raise all their challenges to a particular instance of alleged misconduct in a single proceeding. As the court of appeals recognized, plaintiffs are not required to predict and challenge future instances of misconduct that have not yet occurred to avoid claim preclusion. As for issue preclusion, Indemnity's contention that

Ritz resolved the question whether *Beltz* precludes challenges to all of Indemnity's future management-fee rate decisions rests on a few stray sentences, shorn of context, from a reconsideration motion in *Ritz*. The court of appeals properly rejected Indemnity's strained reading of the record in the *Ritz* case.

Indemnity's policy concern that the decision below will invite repetitive lawsuits advancing previously rejected claims is baseless. If a challenge to a management-fee rate decision is unsuccessful, claim preclusion will bar the plaintiff from challenging that decision again. And if a court holds that some aspect of Indemnity's annual rate-setting practice is lawful, issue preclusion will bar the plaintiff from continuing to challenge Indemnity's future rate-setting actions in that respect, absent materially altered circumstances.

Finally, even if Indemnity had a viable preclusion argument—and it does not—it could neither satisfy the stringent standards for a federal injunction of state-court proceedings, nor show that it will suffer irreparable harm if made to defend against Respondents' claims in state court. Because an injunction is unwarranted irrespective of how the question presented is resolved, there is no reason for this Court to further delay Respondents' day in Pennsylvania court.

This Court should deny the petition for certiorari.

STATEMENT

Factual Background

1. Erie Insurance Exchange (Exchange) is an unincorporated association of subscribers who have agreed to insure one another using a common pool into which they pay premiums. Pet. App. 8a. Each subscriber has signed an identical "Subscriber's Agree-

ment" that governs the relationship among the subscribers and that appoints Indemnity as attorney-in-fact, with responsibility for managing Exchange's business and affairs. *Id.* at 8a–9a. The Agreement provides that Indemnity may retain "up to 25% of all premiums" as a management fee. *Id.* at 9a.

According to Indemnity's complaint in this case, Indemnity sets its management-fee rate once each year based on its "evaluation of current year operating results compared to both prior year and industry estimated results for both Indemnity and … Exchange," along with other factors such as "projected revenue, expense and earnings for the subsequent year." D. Ct. Dkt. 6 ¶¶ 31–32. For every year since 2007, Indemnity's Board of Directors "has voted annually" to retain the maximum rate of 25%. Pet. App. 9a.

2. Indemnity has over the years been subject to lawsuits filed by subscribers on behalf of Exchange. Three of these lawsuits are relevant here.

a. The first lawsuit, *Beltz v. Erie Indemnity Co.*, No. 1:16-cv-179 (W.D. Pa.), was filed in federal district court in July 2016. Pet. App. 11a. In *Beltz*, Exchange subscribers challenged Indemnity's practice of retaining two categories of fee on top of the management fee that Indemnity sets annually: "Service Charges," which Indemnity assesses against subscribers who opt to pay their premiums in installments rather than in a lump sum, and "Additional Fees," which Indemnity assesses under certain other circumstances, such as when a subscriber seeks to reinstate a lapsed policy. *Id.* at 10a–11a; *see id.* at 168a–75a. According to the *Beltz* complaint, "by unlawfully retaining and misappropriating the Service Charges and the Additional Fees," and consequently retaining more than the

contractual maximum of 25% of premiums paid by Exchange subscribers, Indemnity had violated the Subscriber's Agreement and breached its fiduciary duty to Exchange. *Id.* at 181a; *see id.* 181a–87a. The plaintiffs thus sought to enjoin Indemnity "from continuing to retain the Service Charges and Additional Fees." *Id.* at 187a. Contrary to what Indemnity suggests, *see* Pet. 6, the claims in *Beltz* did not target Indemnity's setting of the management-fee rate itself.

The district court dismissed the case, holding, among other things, that the fiduciary-breach claims were untimely. *Beltz*, 279 F. Supp. 3d at 581–83. Because Indemnity's Board of Directors had most recently approved the challenged practices in 2008, the court held, the 2016 *Beltz* action was filed outside the applicable two-year statute of limitations. *Id.* The Third Circuit affirmed without "reach[ing] the merits or the timeliness of the[] fiduciary duty claims." *Beltz v. Erie Indem. Co.*, 733 F. App'x 595, 599 (3d Cir. 2018). The court held that the plaintiffs had forfeited those claims by defending them based on arguments not advanced in the district court. *Id.* at 598.

b. The second lawsuit, *Ritz v. Erie Indemnity Co.*, No. 1:17-cv-340 (W.D. Pa.), was filed in federal district court in December 2017, while *Beltz* was on appeal. Pet. App. 13a. Unlike *Beltz*, *Ritz* targeted Indemnity's practices with respect to the management-fee rate, alleging that, "[s]ince at least 2007, Indemnity … retained excessive Management Fees" to "pay ever increasing dividends to [its own] shareholders." *Id.* at 135a. By "taking the maximum [25%] Management Fee year after year," the plaintiff alleged, Indemnity had retained sums that were not "appropriate and equitable" in relation to the services that Indemnity provided and so Indemnity had breached its fiduciary

duty and "the implied covenants of good faith and fair dealing that run with the Subscriber's Agreement." *Id.* at 138a; *see id.* at 135a–39a.

The district court dismissed the case on claim-preclusion grounds. *Ritz*, 2019 WL 438086, at *6. As the court explained, "the claims asserted" in the *Ritz* action "could have been brought in the *Beltz* … action." *Id.* at *4. Both cases alleged a "scheme" that "began at the same time" and "breache[d] the same provision of an identical Subscriber's Agreement." *Id.* Moreover, the *Beltz* plaintiffs "had actual knowledge" that, "since at least 2007," Indemnity had been retaining "the maximum 25% of management fees," as shown by the fact that the *Beltz* plaintiffs had "actually included" allegations as to these annual decisions in their complaint. *Id.* at *5 (emphasis omitted). Because both *Beltz* and *Ritz* were brought on behalf of Exchange and its subscribers, the plaintiff in the latter case was bound by the litigation choices made in *Beltz* and so was precluded from seeking relief for Indemnity's retention of management fees that could have been—but were not—placed at issue in *Beltz*. *See id.* at *6.

In March 2019, the *Ritz* plaintiff filed a motion for reconsideration. *See Ritz v. Erie Indem. Co.*, No. 1:17-cv-340 (W.D. Pa.), ECF 112 (*Ritz* Reconsideration Mot.). Among other things, she argued that "even though the complaint in *Beltz* contained passing reference to Management Fees, the material allegations" in that case "were entirely different from the claims and allegations" in *Ritz*. *Id.* at 6. And unlike the fiduciary-breach claims in *Beltz*, she argued, the fiduciary-breach claim in *Ritz* was not untimely because the latter "s[ought] to recover for wrongful acts … occurring within two years of the filing of Plaintiff's Complaint" in *Ritz* or "that ha[d] occurred

since the filing of her Complaint." *Id.* at 7. The district court, however, denied the motion for reconsideration, holding that it had already considered and rejected the "argument that the transaction or occurrence at issue in *Beltz* [was] different from the transaction or occurrence here." *Ritz v. Erie Indem. Co.*, 2019 WL 2090511, at *2 (W.D. Pa. May 13, 2019).

c. In December 2021, Respondents filed a lawsuit titled *Erie Insurance Exchange v. Erie Indemnity Co.*, No. GD-21-014814 (Pa. Ct. Comm. Pl.) (hereafter, the State Court Action), on behalf of Exchange. Pet. App. 15a–16a, 29a. Unlike the *Beltz* and *Ritz* plaintiffs, who sought to recover for a course of allegedly unlawful conduct that dated back to 2007 or 2008, Respondents' State Court Action challenged discrete acts taken by Indemnity in 2019 and thereafter. Specifically, the complaint in the State Court Action alleges that "[o]n December 10, 2019, and December 8, 2020"—after the judgments in *Beltz* and *Ritz* had become final—Indemnity "set the Management Fee rate for 2020 and 2021, respectively," at the maximum of 25%, without justification and despite "substantial conflicts of interest." *Id.* at 70a–71a. By "maximiz[ing] the Management Fee" in 2020 and 2021, Respondents allege, Indemnity "generate[d] excess profits which it has funneled" to its shareholders in breach of its fiduciary duty to Exchange, including by making a special, one-time dividend payment of nearly $100 million on December 29, 2020. *Id.* at 74a; *see id.* at 80a.

Rather than answering the complaint, Indemnity removed the case to federal district court, claiming that the Class Action Fairness Act of 2005 supplied a basis for federal jurisdiction. *See Erie Ins. Exchange ex rel. Stephenson v. Erie Indem. Co.*, 2022 WL 4534746, at *1 (W.D. Pa. Sept. 28, 2022). The district

court rejected Indemnity's claimed basis for removal, *id.*, as did a unanimous Third Circuit panel, *Erie Ins. Exchange ex rel. Stephenson v. Erie Indem. Co.*, 68 F.4th 815, 824 (3d Cir. 2023), and this Court denied review, 144 S. Ct. 1007 (2024).

On February 28, 2024, the district court remanded the State Court Action to state court. Pet. App. 36a. That same day, however, the district court entered an injunction in this case that barred the State Court Action from proceeding. *See infra* pp. 8–10.

Procedural Background

1. In March 2022, while Respondents' motion to remand the State Court Action was pending in district court, Indemnity filed this lawsuit. Pet. App. 16a–17a. Invoking the All Writs Act, 28 U.S.C. § 1651, Indemnity's complaint seeks a permanent injunction barring Respondents from pursuing the State Court Action. Pet. App. 16a–17a. Although the Anti-Injunction Act provides that "[a] court of the United States may not grant an injunction to stay proceedings in a State court," it creates an exception if an injunction is "necessary … to protect or effectuate [the federal court's] judgments." 28 U.S.C. § 2283. According to Indemnity, this exception applies here because the judgments in *Beltz* and *Ritz* preclude the fiduciary-breach claims asserted in the State Court Action. Pet. App. 17a.

After the Third Circuit affirmed the remand order directing the State Court Action to return to Pennsylvania state court, Indemnity moved for a preliminary injunction in this federal action. *Id.* at 18a–19a. The district court granted the motion. *Id.* at 57a. The court first held that Indemnity was likely to prevail on its argument that the State Court Action is barred by

claim preclusion.[1] *Id.* at 41a–53a. In the district court's view, *Beltz*, *Ritz*, and the State Court Action "all involve the same cause of action: Plaintiffs in all three cases argue that Indemnity breached a fiduciary duty to the [s]ubscribers and Exchange by unreasonably taking the maximum allowable percentage of 25% under the Subscriber's Agreement and favoring shareholders over the [s]ubscribers." *Id.* at 46a–47a. The court acknowledged that the claims in the State Court Action address "Indemnity's allegedly illegal conduct between 2019 and 2020," which "post-dated" the *Beltz* and *Ritz* complaints. *Id.* at 50a. In the district court's view, however, "Indemnity's decision to set the Management Fee at 25% in 2019 and 2020 is part of a series of connected transactions beginning with Indemnity's original decision to set the Management Fee at 25%" for 2007. *Id.* at 53a. Because that original decision could have been challenged in *Beltz* or *Ritz*, the court held, claim preclusion likely barred Respondents' challenge to the later decisions. *Id.*

The court also held that Indemnity had satisfied the equitable requirements for a preliminary injunction. *Id.* at 54a–55a. Adopting a *per se* rule that "a party suffers irreparable harm if it is required to relitigate issues in state court that have been already decided in federal court," the court held that Indemnity would be irreparably injured absent an injunction. *Id.* at 54a. And because the court viewed the claims in the State Court Action as precluded, it held that an injunction would cause no "legitimate harm"

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[1] Because the district court held that Indemnity was likely to succeed on claim preclusion, it did not reach Indemnity's argument that the State Court Action is barred by issue preclusion. *See* Pet. App. 41a & n.4.

to Respondents and would serve the public interest. *Id.* at 55a. The court thus granted Indemnity's motion for a preliminary injunction. *Id.* at 56a.

2. A unanimous panel of the Third Circuit reversed and vacated the preliminary injunction. Pet. App. 2a. Quoting this Court's statement in *Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc.*, 590 U.S. 405 (2020), that claim preclusion generally "does not bar claims that are predicated on events that postdate the filing of the initial complaint," *id.* at 24a (quoting *Lucky Brand*, 590 U.S. at 414), the court held that, because the claims in the State Court Action "are based on events that occurred after the initial complaints in *Beltz* and *Ritz*, the judgments in those cases do not have claim preclusive effect over" them, *id.*

The Third Circuit also rejected Indemnity's alternative argument that the State Court Action is barred by issue preclusion. *Id.* at 25a–26a. Disagreeing with Indemnity's assertion that *Ritz* conclusively resolved the issue of whether the *Beltz* judgment has claim-preclusive effect on the claims asserted in the State Court Action, *id.* at 25a, the court of appeals explained that *Ritz* ruled on a different issue: whether the *Beltz* judgment "had claim preclusive effect on the breach-of-fiduciary duty claims in *Ritz*, which were based on the management fees set in December 2006 to 2016 for the next year." *Id.* at 26a. The claims in the State Court Action, in contrast, were "based on new material facts" that postdated the *Beltz* and *Ritz* judgments: "Indemnity's setting of management fees in 2019 and 2020 as well as its oversight in those years." *Id.* Those claims, unlike the claims in *Ritz*, could not have been brought in *Beltz*. Therefore, the Third Circuit held, *Ritz*'s holding on claim preclusion did not foreclose the claims in the State Court Action. *Id.*

Because the court of appeals held that Indemnity has no valid preclusion defense against the claims in the State Court Action, it did not address Respondents' argument that the Anti-Injunction Act would not permit an injunction even if such a defense were viable. *See id.* at 24a–26a & nn. 20–21. For the same reason, the court did not reach Respondents' argument that the district court erred as a matter of law by adopting a *per se* rule that a party with a federal preclusion defense always suffers irreparable harm if it must assert that defense in state court, rather than asserting it to support a federal injunction. *Id.* at 27a.

3. Indemnity petitioned for panel rehearing and rehearing en banc. Pet. App. 60a. The Third Circuit denied the petition without calling for a response and with no noted dissents. *Id.*

REASONS FOR DENYING THE WRIT

I. The courts of appeals agree on the relevant preclusion principles.

The decision below involves the straightforward application of settled preclusion principles to the facts of this case. Because the decision does not conflict with the holdings of other federal courts of appeals, review is unwarranted.

A. As an initial matter, Indemnity does not contend that the circuits are divided on the issue-preclusion principles applied below. Indeed, they are not. The Third Circuit's holding on issue preclusion rests on the established rule that a prior lawsuit precludes relitigation of an issue in a subsequent case only if the issue is "identical," Pet. App. 26a, to one that was "actually litigated and resolved" in the earlier lawsuit, *id.* at 25a (quoting *New Hampshire v. Maine*, 532 U.S. 742, 748–49 (2001)). This Court has

repeatedly embraced that principle. *See, e.g.*, *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 153 (2015); *New Hampshire*, 532 U.S. at 748–49. Indemnity identifies no case that has held otherwise.

B. The Third Circuit's holding on claim preclusion likewise rests on uncontroversial legal principles. As the decision below explains, this Court has recognized that claim preclusion "generally does not bar claims that are predicated on events that postdate the filing of the initial complaint." Pet. App. 24a (internal quotation marks omitted; quoting *Lucky Brand*, 590 U.S. at 414). In line with that principle, the Third Circuit has joined "other Courts of Appeals" in "adopt[ing] a bright-line rule that [claim preclusion] does not apply to events post-dating the filing of the initial complaint" in a prior suit. *Morgan v. Covington Twp.*, 648 F.3d 172, 177 (3d Cir. 2011); *see id.* at 177–78 (citing Second, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuit precedents); *see also, e.g.*, *Students for Fair Admissions, Inc. v. Univ. of Tex. at Austin*, 37 F.4th 1078, 1089 (5th Cir. 2022) (holding that a challenge to the application of a university's admissions policy in 2008 did not preclude a claim challenging the policy's application in 2018 and 2019); *Brain Life, LLC v. Elekta Inc.*, 746 F.3d 1045, 1054 (Fed. Cir. 2014) (describing the "well-settled principle[]" that claims challenging actions that postdate an earlier judgment "could not have [been] asserted" in the prior case and so are not barred by claim preclusion).

Seizing on this Court's use of the word "generally" in *Lucky Brand*, Indemnity points out that actions that postdate an earlier judgment create a new cause of action for claim-preclusion purposes only if they give rise to new "material operative facts." Pet. 11. The Third Circuit's decision is fully in line with that

point. As the court explained, "Indemnity's setting of management fees in 2019 and 2020 as well as its oversight in those years" are "new material facts" that had not yet occurred at the time *Beltz* and *Ritz* reached final judgment. Pet. App. 26a. Those facts, after all, define the very actions that Respondents allege are unlawful and that caused the damages that Respondents seek to recover in the State Court Action.

Indemnity is incorrect that cases from the Second, Seventh, Eighth, and Tenth Circuits conflict with the Third Circuit's decision here. *See* Pet. 12–14. To begin, the Second Circuit adheres to the consensus view that claim preclusion "does not bar litigation of claims arising from transactions which occurred after [a prior] action was brought." *Comp. Assocs. Int'l, Inc. v. Altai, Inc.*, 126 F.3d 365, 370 (2d Cir. 1997); *see Storey v. Cello Holdings, LLC*, 347 F.3d 370, 383–84 (2d Cir. 2003) (reiterating the "unremarkable principle" that, "[w]here the facts that have accumulated after [a] first action are enough on their own to sustain [a] second action, the new facts clearly constitute a new 'claim,' and the second action is not barred").

The case cited by Indemnity, *Monahan v. New York City Department of Corrections*, 214 F.3d 275 (2d Cir. 2000), *cited at* Pet. 13–14, does not hold otherwise. In that case, individual members of a bargaining unit filed claims raising constitutional challenges to applications of their employer's sick-leave policy. 214 F.3d at 279. The facial constitutionality of the policy, however, had been the subject of a prior suit filed by the bargaining unit's president. *See id.* at 279–80. Although some of the applications at issue in *Monahan* postdated the earlier suit, the Second Circuit held that the individual claims that were "sufficiently inherent in a neutral application" of the

policy were precluded. *Id.* at 291 (quoting *Monahan v. City of N.Y. Dep't of Corr.*, 10 F. Supp. 2d 420, 426 (S.D.N.Y. 1998)). Because these "new as-applied challenges" essentially challenged "aspects of the policy" that were previously at issue, they were "subsumed by the earlier litigation." *Id.* at 290. Unlike in *Monahan*, Respondents here do not challenge run-of-the-mill enforcement actions that are unlawful only if a previously challenged policy that authorizes them is also unlawful. Rather, they claim that Indemnity's actions in December 2019 and after "are enough on their own to sustain" liability. *Storey*, 347 F.3d at 384. In the Second Circuit, their claims could thus proceed.

The law in the Seventh Circuit is also consistent with the decision below. In *Smith v. Potter*, 513 F.3d 781 (7th Cir. 2008), for example, the court observed that where a defendant's allegedly unlawful conduct is "a practice, repetitive by nature, that happens to continue after [a] first suit is filed, or … an act, causing discrete, calculable harm, that happens to be repeated," the dismissal of an earlier suit "does not entitle the defendant to continue or repeat the unlawful conduct with immunity from further suit." *Id.* at 783 (citation omitted). Although Indemnity cites *Adams v. City of Indianapolis*, 742 F.3d 720 (7th Cir. 2014), as supposedly holding otherwise, *see* Pet. 14, *Adams* is inapposite for largely the same reason as *Monahan*: It involved claims that depended for their resolution on an assessment of the legality of a prior action that had already been challenged. Specifically, *Adams* held that claim preclusion barred challenges to the use of a promotion-eligibility list that (like the sick-leave policy in *Monahan*) had already survived an earlier lawsuit alleging that it was unlawful. 742 F.3d at 735–36. Here, though, whether the management-

fee rates that Indemnity set for 2020 and 2021 are lawful can be determined without assessing the legality of any conduct that was at issue—or that could have been placed at issue—in an earlier lawsuit.

The Eighth Circuit also recognizes that "if facts giving rise to a claim in [a] second action did not occur until after the first action terminates, claim preclusion would not bar the subsequent claim." *Anderson v. City of St. Paul*, 849 F.3d 773, 777 (8th Cir. 2017).[2] Far from "reject[ing] the Third Circuit's approach," as Indemnity claims, Pet. 12, the Eighth Circuit's opinion in *Saylor v. Jeffreys*, 131 F.4th 864 (8th Cir. 2025), recognizes that it is "well settled that claim preclusion does not apply to claims that did not arise until *after* [a] first suit was filed." *Id.* at 866–67 (quoting *Lundquist v. Rice Memorial Hosp.*, 238 F.3d 975, 977 (8th Cir. 2001) (per curiam)). In *Saylor*, the court found claim preclusion because the plaintiff—an incarcerated individual asserting discrimination claims based on his housing in solitary confinement—"allege[d] no new specific discriminatory events" that had occurred following a prior ruling that his conditions of confinement were lawful. *Id.* at 867; *see id.* at 865. Indemnity emphasizes that the plaintiff in *Saylor* was "transfer[red] to the Mental Health Unit … subsequent" to the prior judgment, Pet. 12 (quoting *Saylor*, 131 F.4th at 867), but it omits that the transfer did not form the basis for the plaintiff's claim. Rather, the plaintiff challenged his "subsequent return to conditions" that the Eighth Circuit had previously

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[2] *Anderson* applied Minnesota law, but the elements of claim preclusion under Minnesota law and federal common law "are nearly identical." *Magee v. Hamline Univ.*, 1 F. Supp. 3d 967, 973 n.4 (D. Minn. 2014).

"held constitutional." *Saylor*, 131 F.4th at 868. Under these circumstances, where the plaintiff had not alleged that his solitary confinement had "caused significant deterioration of mental or physical health over time," *id.* at 868 n.3, the mere "continu[ation]" of living conditions that he had previously challenged did not give rise to a new claim, *id.* at 867.

Finally, the Tenth Circuit—like the others—holds that "claim preclusion does not bar subsequent litigation of new claims based on facts the plaintiff did not and could not know when it filed its complaint" in an earlier suit. *Lenox MacLaren Surgical Corp. v. Medtronic, Inc.*, 847 F.3d 1221, 1244 (10th Cir. 2017). The case that Indemnity cites, *Denver Homeless Out Loud v. Denver*, 32 F.4th 1259 (10th Cir. 2022), *cited at* Pet. 13, is entirely consistent with this principle. There, the Tenth Circuit held that a settlement in an earlier case that expressly released claims "*which may occur in the future*" based on Denver's practice of sweeping homeless encampments, 32 F.4th at 1274 n.14 (citation omitted), barred challenges to subsequent sweeps, *see id.* at 1275. In concluding that the "settlement agreement intended to, and d[id], preclude" such challenges, the court explicitly observed that "settlements 'are of a contractual nature and, as such, their terms may alter the preclusive effects of a judgment.'" *Id.* at 1271 (quoting *In re Young*, 91 F.3d 1367, 1376 (10th Cir. 1996)). The Tenth Circuit's enforcement of a particular settlement agreement's "far-reaching … release," *id.* at 1272, does not undermine its recognition that claim preclusion is inapplicable where two lawsuits are "grounded on different conduct[] … occurring at different times," *id.* at 1275 (quoting *Lucky Brand*, 590 U.S. at 413).

In sum, in the Second, Seventh, Eighth, and Tenth Circuit cases that Indemnity cites, the courts found claim preclusion where post-judgment facts reflected the continuation of prior conditions or policies, rather than new, discrete conduct by the defendant. In such a case, the Third Circuit would have found the same. *See, e.g.*, *Huck ex rel. Sea Air Shuttle Corp. v. Dawson*, 106 F.3d 45, 49 (3d Cir. 1997) (holding that a claim challenging the ongoing refusal to give the plaintiff access to seaplane ramps that a court had previously found the plaintiff had no right to access was precluded because "continued damage" due to "the same conduct challenged" and held lawful "in [an] earlier suit" does not "create[] a new cause of action"). Here, by contrast, as the court of appeals found, Respondents challenge discrete acts that were not at issue—because they had not yet occurred—in prior lawsuits.

II. The decision below correctly applies uniformly accepted preclusion principles.

Unable to identify any conflict among the courts of appeals as to the governing legal principles, Indemnity devotes the bulk of its petition to arguing that the decision below misapplies these principles to the facts of this case. Pet. 15–22. The case-specific application of a correctly stated principle of law, however, does not merit review. *See* S. Ct. R. 10. At any rate, the decision below is correct.

A. The decision below is correct as to claim preclusion.

As the Third Circuit correctly recognized, the claims in the State Court Action are "based on Indemnity's actions in December 2019 and December 2020" and so could not have been asserted when "the *Beltz* and *Ritz* cases were filed in July 2016 and

December 2017 respectively." Pet. App. 24a. Accordingly, "the judgments" in *Beltz* and *Ritz*—both of which were entered prior to Indemnity's 2019 and 2020 actions—"do not have claim preclusive effect over the challenges" in the State Court Action. *Id.*

Arguing to the contrary, Indemnity contends that the State Court Action challenges "ongoing, continued conduct" that was at issue in *Beltz* and *Ritz* without "alleg[ing] any material change in fact." Pet. 15. As explained above, however, *see supra* pp. 12–13, new, allegedly unlawful actions that cause new damages and support new legal claims *are* new material facts. And the complaint in the State Court Action alleges precisely such actions: In 2019 and 2020, Indemnity decided to retain 25% of Exchange's premiums in the following years. Pet. App. 15a–16a. As a result, Indemnity collected discrete sums of money in 2020 and 2021, giving rise to Respondents' damages claims.

Critically, Indemnity is wrong to contend that the 2019 and 2020 decisions constituted nothing more than "a mere continuation of the same ongoing conduct attacked in … prior suits." Pet. 18. As the complaint in the State Court Action alleges, Pet. App. 70a, and as Indemnity's own press releases confirm, *see id.* at 76a–80a, they were discrete decisions that Indemnity made at specific points in time. Indeed, Indemnity's complaint in this case represents that the management-fee rate decision is made "once a year," purportedly based on an assessment of a variety of contemporaneous factors. D. Ct. Dkt. 6 ¶¶ 31–32.

The fact that Indemnity decided to set the management-fee rate at 25% in prior years does not mean that its independent decision to do the same in 2019 and 2020 forms part of the same transaction or occurrence

for purposes of claim preclusion. *See Lawlor v. Nat'l Screen Serv. Corp.*, 349 U.S. 322, 327–28 (1955) (noting that claim preclusion does not bar a later suit involving "essentially the same course of wrongful conduct" as a prior suit where "[t]he conduct … complained of" in the later suit "was all subsequent to the [earlier] judgment"). Indemnity's focus on similarities between factual allegations in the *Beltz* and *Ritz* complaints and factual allegations in the State Court Action, *see* Pet. 16–18, is therefore misplaced. It is true enough that the factual circumstances that made Indemnity's pre-2019 conduct unlawful are similar to the factual circumstances that make its conduct in 2019 and thereafter similarly unlawful. What has changed since *Beltz* and *Ritz*, however, is that Indemnity has engaged in new conduct (including new retentions of excessive management fees and a one-time dividend payment of nearly $100 million on December 29, 2020) that creates new liability. That new conduct was not—and could not have been—challenged before it occurred.

B. The decision below is correct as to issue preclusion.

The Third Circuit was also correct to reject Indemnity's argument that *Ritz* conclusively resolved the issue of whether the *Beltz* judgment has claim-preclusive effect on the fiduciary-breach claims in the State Court Action. As the Third Circuit explained, *Ritz* held that *Beltz* precluded claims "based on the management fees set in December 2006 to 2016 for the next year" because those claims "could have been brought" in the 2016 *Beltz* action. Pet. App. 26a. In contrast, *Ritz* "did not address" whether *Beltz* precludes claims based on "Indemnity's setting of

management fees in 2019 and 2020," which occurred only after the entry of final judgment in *Beltz*. *Id.*

Indemnity would read *Ritz* more broadly. According to Indemnity, *Ritz* "held that preclusion applies even where a new [s]ubscriber lawsuit challenges [post-*Beltz*] settings of the Management Fee." Pet. 21. Tellingly, though, Indemnity quotes nothing from the briefing on its motion to dismiss the *Ritz* case to show that the issue of post-*Beltz* conduct was "actually litigated," in *Ritz*. *New Hampshire*, 532 U.S. at 748–49. And Indemnity quotes nothing from the district court's opinion granting the motion to dismiss to show that the issue was "actually … resolved." *Id.* There is a reason for that omission: The *Ritz* plaintiff did not present the issue of whether the *Beltz* judgment has preclusive effect on fiduciary-breach claims based on post-*Beltz* conduct, and *Ritz* did not decide it.

Indemnity points to the district court's statement in the opinion denying the plaintiff's motion for reconsideration in *Ritz* that the court had already "considered … and rejected" the plaintiff's argument "that the transaction or occurrence at issue in *Beltz* [was] different from the transaction or occurrence" in *Ritz*. 2019 WL 2090511, at *2, *cited at* Pet. 21. But the *Ritz* plaintiff had not raised the issue of post-*Beltz* conduct in defending against the motion to dismiss, and the district court thus had not already considered and rejected *that* argument. Rather, the argument that the court had considered and rejected was the reconsideration motion's argument that "even though the complaint in *Beltz* contained passing reference to Management Fees, the material allegations" in *Beltz* "were entirely different from the claims and allegations" in *Ritz*. *Ritz* Reconsideration Mot. at 6; *see*

Ritz, 2019 WL 438086, at *4–5 (rejecting this argument while granting Indemnity's motion to dismiss).

Indemnity focuses on a statement in the introduction to the reconsideration motion that certain post-*Beltz* facts included in the *Ritz* complaint "could not even have been included" in the *Beltz* complaint. Pet. 21 (quoting *Ritz* Reconsideration Mot. at 3). But the motion based no legal argument on that fact. Indeed, the only argument that the reconsideration motion based on the timing of the "separate, independent acts" that postdated the *Beltz* judgment was an argument that claims based on those acts, unlike the claims in the *Beltz* case, "cannot be untimely." *Ritz* Reconsideration Mot. at 7. Despite Indemnity's contention that "the match between the issue decided in *Ritz* and the critical issue in this case could not be clearer," Pet. 21, then, the record amply supports the Third Circuit's holding on issue preclusion.

III. Indemnity's policy concerns are baseless.

Throughout its petition, Indemnity paints a dramatic picture of the decision below, claiming, for example, that it "blows a gaping hole in preclusion doctrine," Pet. 2, and "threatens to destroy finality," *id.* at 22. Indemnity, though, fails to recognize how the distinct doctrines of claim and issue preclusion operate together to prevent the outcomes it fears.

Where a court has entered a final judgment on the merits regarding a particular instance of challenged conduct, claim preclusion "prevents litigation of all grounds for, or defenses to, recovery that were previously available to the parties, regardless of whether they were asserted or determined in the prior proceeding." *Brown v. Felsen*, 442 U.S. 127, 131 (1979). The doctrine thus prevents piecemeal

litigation by encouraging litigants to advance all of their available claims in a single proceeding. So, for example, after the *Beltz* judgment denied recovery for Indemnity's retention of excessive fees from 2007 to 2016, the *Ritz* plaintiff, who was in privity with the *Beltz* plaintiffs, *see Ritz*, 2019 WL 438086, at *6, could not challenge that same conduct using a different legal theory, *id.* at *4–5. Challenges to actions that occurred in 2019 and thereafter, in contrast, could not have been brought in the 2016 *Beltz* case or the 2017 *Ritz* case. Claim preclusion thus has no role to play.

Indemnity disagrees. In its view, the claim-preclusive effect of a judgment bars subsequent challenges both to *past* conduct that could have been challenged in the earlier lawsuit and to all *later* conduct that resembles the conduct at issue in the earlier suit. That extension of claim preclusion, however, would not serve the doctrine's purposes. More importantly, it would allow an unsuccessful challenge to a single instance of past misconduct to confer carte blanche on the defendant to engage in a course of similar conduct—even if flagrantly unlawful—indefinitely into the future without fear of legal consequence.

Indemnity's distortion of claim-preclusion principles is also unnecessary to avoid Indemnity's policy concerns about repetitive suits. After all, the distinct doctrine of *issue* preclusion will in many cases prevent a party from seeking to challenge the continuation of allegedly unlawful conduct after a final judgment has dismissed a claim based on earlier instances of similar conduct. For example, if the *Beltz* and *Ritz* judgments had rested on a legal determination that Indemnity bears no fiduciary duty to Exchange or on a factual determination that Indemnity labors under no conflict of interest, issue preclusion may well bar a fiduciary-

breach claim by the *Beltz* and *Ritz* plaintiffs (or a plaintiff in privity with them) challenging Indemnity's future management-fee decisions absent changed circumstances. Rather than seeking to prevail on these issues in the State Court Action, however, Indemnity has invoked inapposite preclusion principles in an effort to ensure that they remain forever unresolved. The Third Circuit correctly rejected that effort, and Indemnity's baseless policy concerns are no reason for this Court to disturb that sensible ruling.

IV. This case is a poor vehicle for addressing the question presented.

This case's posture as a federal action seeking to enjoin state-court proceedings makes it a bad vehicle to opine on preclusion principles in any event. The Anti-Injunction Act forbids the injunction that Indemnity seeks unless Indemnity demonstrates that it is "necessary … to protect or effectuate [the *Beltz* and *Ritz*] judgments." 28 U.S.C. § 2283. Although Indemnity suggests that the test for whether the Anti-Injunction Act exception applies is the same as the test for whether its preclusion defenses are valid, Pet. 4, this Court's decisions say otherwise. For one thing, although claim preclusion bars plaintiffs from raising claims that "could have been raised and decided in a prior action—even if they were not actually litigated," *Lucky Brand*, 590 U.S. at 412, the "strict and narrow" exception to the Anti-Injunction Act's prohibition on federal injunctions of state-court proceedings applies only if "the claims … which the federal injunction insulates from litigation in state proceedings actually have been decided by [a] federal court," *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 148 (1988). Even then, this Court has emphasized that "an injunction can issue only if preclusion is clear beyond

peradventure." *Smith v. Bayer Corp.*, 564 U.S. 299, 307 (2011); *see Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng'rs*, 398 U.S. 281, 297 (1970) ("Any doubts as to the propriety of a federal injunction against state court proceedings should be resolved in favor of permitting the state courts to proceed in an orderly fashion to finally determine the controversy.").

Because the court of appeals in this case held that Indemnity had no valid preclusion defense, it had no need to determine whether the Anti-Injunction Act would permit an injunction if a defense were viable. Pet. App. 24a–26a & nn. 20–21. But even if that court, or this one, were to view the preclusion question as close, "close cases have easy answers: The federal court should not issue an injunction, and the state court should decide the preclusion question." *Smith v. Bayer*, 564 U.S. at 318. Thus, irrespective of this Court's views on the question presented, the district court's injunction was inappropriate, and the State Court Action should be allowed to proceed.

Moreover, the Third Circuit also had no need to address Respondents' argument that the district court erred in adopting a *per se* rule that a defendant always suffers irreparable harm if it is required to proceed in state court to defend a claim that is arguably precluded by a federal judgment. Pet. App. 27a. The district court's rule, however, is inconsistent with the Anti-Injunction Act's "core message … of respect for state courts," *Smith v. Bayer*, 564 U.S. at 306, and with this Court's recognition that "the fact that an injunction *may* issue under the Anti-Injunction Act does not mean that it *must* issue," *Chick Kam Choo*, 486 U.S. at 151. Because Indemnity presented below no case-specific evidence of irreparable harm, its failure to carry its burden as to this prerequisite for

injunctive relief provides yet another reason why the Third Circuit's vacatur of the preliminary injunction was appropriate. *See Starbucks Corp. v. McKinney*, 602 U.S. 339, 345 (2024) (stating that the proponent of an injunction must make a "clear showing that 'he is … likely to suffer irreparable harm in the absence of preliminary relief'" (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008))).

Granting review, then, would not alter the outcome of this case. It would, however, compound the substantial four-year delay that Indemnity has so far imposed on the State Court Action—first through improper removal of that case to federal court and then, following that case's remand, through the injunction in this case. The Third Circuit correctly held that Respondents are entitled at long last to have the Pennsylvania courts adjudicate their state-law claims on the merits.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

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