

United States Court of Appeals
for the Fifth Circuit

No. 26-30505

United States Court of Appeals
Fifth Circuit

FILED

October 5, 2026

PARISH OF CAMERON,

Lyle W. Cayce
Clerk

Plaintiff—Appellee,

STATE OF LOUISIANA, *formerly known as* LOUISIANA DEPARTMENT
OF ENERGY AND NATURAL RESOURCES, *on behalf of* LOUISIANA
DEPARTMENT OF CONSERVATION & ENERGY,

Intervenor Plaintiff—Appellee,

versus

DEVON ENERGY PRODUCTION COMPANY, L.P., *formerly known as*
PENNZENERGY EXPLORATION and PRODUCTION, L.L.C., *formerly*
known as PENNZOIL EXPLORATION & PRODUCTION COMPANY,

Defendant/Cross-Claimant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:26-CV-1335

PUBLISHED ORDER

Before SMITH, SOUTHWICK, and WILSON, *Circuit Judges*.

PER CURIAM:

Devon Energy Production Company, L.P. (“Devon”), requests that

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this court recognize an automatic stay of the district court’s remand to the Louisiana state courts while Devon appeals that remand. The district court remanded because it held that Devon had improperly removed to federal court under the federal officer removal statute, [28 U.S.C. § 1442](#). Devon appealed that remand by exercising its right under [28 U.S.C. § 1447\(d\)](#).

Devon contends that its § 1447(d) right to appeal entitles it to an automatic stay of the remand. In the alternative, Devon asks for a discretionary stay of that remand. Louisiana and Cameron Parish respond that the remand is not automatically stayed and that Devon is not entitled to a discretionary stay.

Devon was entitled to an automatic stay of the district court’s remand order once its § 1447(d) notice of appeal was docketed. The federal officer removal statute and binding precedent require as much. And the Anti-Injunction Act presents no bar to Devon’s entitlement to a stay.

I.

“We review a district court’s decision to stay a proceeding for abuse of discretion, but to the extent that such a decision rests on an interpretation of law, the review is *de novo*.”¹ Because this issue is legal—whether the district court mistakenly interpreted the federal officer removal statute and binding precedent when it failed to recognize an automatic stay—we review that decision *de novo*.

II.

A short procedural history is in order. This case arose when various Louisiana parishes—joined by the state of Louisiana as an intervenor—sued

¹ *Plaquemines Par. v. Chevron USA, Inc.*, [84 F.4th 362, 373](#) (5th Cir. 2023) (quoting *Noatex Corp. v. King Constr. L.L.C.*, [732 F.3d 479, 488](#) (5th Cir. 2013)) (internal quotation marks omitted).

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oil and gas companies in state courts for damage to the Louisiana coast. Devon was one of the defendants. Devon removed to federal court under the federal officer removal statute, [28 U.S.C. § 1442](#).

Section 1442 removes to federal court “[a] civil action or criminal prosecution that is commenced in a State court and that is directed against” (1) “[t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof” whether in an individual or official capacity, “for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue”; (2) a property holder whose title is derived from federal officers and where such a suit would affect the validity of federal law; or (3) an officer of the judiciary or Congress. [28 U.S.C. § 1442\(a\)](#).

Devon removed on two grounds. It asserted that the suit challenged Devon’s “conservation activities taken while acting in furtherance of the federal government’s property interest in the [Rockefeller Wildlife Refuge].” Br. of Devon at 7 (quoting Notice of Removal at 2–10). And it argued removal was proper because “the lawsuit challenged Exxon’s [a co-defendant’s] World War II avgas [aviation gas] production efforts under federal contracts.” *Id.*

Louisiana moved to remand. As the remand motion lay pending, Exxon settled and was excused from the case. Then, on August 19, 2026, the district court issued an opinion in a closely related case that directly implicated the one at bar. The opinion concluded that “Devon failed to satisfy the ‘acting under’ element required for federal officer removal because (1) it did not operate under any World War II contracts and (2) it did not act under the federal government through its Refuge conservation activities.” Br. of Devon at 9 (citing *Par. of Cameron v. Alpine Expl. Co.*, No. 2:26-CV-01337, [2026 WL](#)

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[2428143](#), at *14 (W.D. La. Aug. 19, 2026)). On August 21, 2026, the district court entered a remand in this case.

Devon filed a notice of appeal, using § 1447(d). It also filed an emergency motion to clarify or stay the remand order. The district court denied Devon’s motion. Devon now moves for this court to recognize an automatic stay of the remand as this court considers its appeal on the merits.

We agree and hold that an automatic stay of the district court’s remand was effective once Devon’s notice of appeal under § 1447(d) was docketed. We thus grant the motion for stay pending appeal.

III.

Like the Fourth and Eleventh Circuits, we hold that Devon is entitled to an automatic stay for the duration of its appeal. We reach this conclusion in three steps. *First*, the federal officer removal statute entitles Devon to appeal a district court finding against removability in federal court. *Second*, the *Griggs* principle, *see Griggs v. Provident Consumer Disc. Co.*, [459 U.S. 56, 58](#) (1982), applies and renders available automatic stays in this federal officer removal context. *Third*, the federal officer removal statute does not displace the *Griggs* principle.²

² Because the *Griggs* principle, as a self-contained matter, affords Devon an automatic stay pending appeal—even after the district court transmitted a remand order—we need not address Devon’s contention that [Federal Rule of Civil Procedure 62\(a\)](#) automatically stayed the remand order following its entry. The Fourth and Eleventh Circuits, too, recognized automatic stays once a § 1447(d) notice of appeal is docketed on the ground of *Griggs* alone. *See City of Martinsville v. Express Scripts, Inc.*, [128 F.4th 265, 270](#) (4th Cir. 2025) (“A district court is therefore immediately required to halt all proceedings covered by the *Griggs* principle when a proper notice of appeal is docketed, whether or not the parties ask it to.”); *City of Brunswick v. Honeywell Int’l, Inc.*, [184 F.4th 1230, 1241–42](#) (11th Cir. 2026) (“Relying, then, on the *Griggs* principle as explained in *Coinbase*, we hold that the appeal of a motion to remand under § 1447(d) triggers an automatic stay of all district court proceedings—including the remand order—pending resolution of the appeal.”),

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A.

Consider the federal officer removal statute. As discussed above, § 1442 permits the removal of state court proceedings to federal district court when the matter implicates certain federal interests.³

And § 1447(d) provides that “an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise.” In other words, § 1447(d) provides the right to an interlocutory appeal whenever a district court remands to state court for want of removal jurisdiction under the federal officer removal statute.

B.

Now consider the *Griggs* principle, which was most recently distilled in *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023). *Coinbase* concerned whether there is an automatic stay of district court proceedings when a party, under its statutory right in 9 U.S.C. § 16(a), files an interlocutory appeal of a district court’s denial of its motion to compel arbitration. The Supreme Court answered in the affirmative. Applying *Griggs*, it reasoned that when an issue is appealed, the district court is “divest[ed] . . . of its control over those aspects of the case involved in the appeal.” *Coinbase*, 599 U.S. at 740 (quoting *Griggs*, 459 U.S. at 58 (internal quotation marks omitted)).

petition for cert. filed (Sept. 1, 2026) (No. 26-289).

³ See *Chevron USA Inc. v. Plaquemines Par.*, 608 U.S. 1, 6 (2026) (“Under the federal officer removal statute, a removing defendant must satisfy three requirements. 1) the removing defendant must be the United States, a federal agency, a federal officer, or a person ‘acting under’ a federal officer, such as certain private parties hired to assist federal officers. 2) the suit must be ‘for or relating to any act under color of such office.’ § 1442(a)(1). 3) the removing defendant must assert ‘a colorable federal defense.’”) (cleaned up).

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As a corollary of a § 16(a) appeal’s jurisdictional shift, an automatic stay must issue. Otherwise, “Congress’ decision in § 16(a) to afford a right to an interlocutory appeal would be largely nullified.” *Id.* at 743. Allowing the trial to move forward whilst a court of appeals considers the arbitrability issue would render “many of the asserted benefits of arbitration [such as efficiency] . . . irretrievably lost.” *Id.* “Absent a stay, parties also could be forced to settle to avoid the district court proceedings (including discovery and trial) that they contracted to avoid through arbitration.” *Id.* Not staying trial proceedings would also derogate judicial economy. *Id.* And “when Congress wants to authorize an interlocutory appeal, but *not* to automatically stay district court proceedings pending that appeal, Congress typically says so.” *Id.* at 744.

In short, automatic stays must issue when “continuation of proceedings in the district court largely defeats the point of the appeal.” *Id.* at 743 (citation omitted).

C.

The *Griggs* principle applies here. Its logic and justifications work with equal force to the federal officer removal statute.

At bottom, *Coinbase* and *Griggs* teach that when an interlocutory appeal is filed, an automatic stay obtains where not granting one would “defeat[] the point of the appeal,” nullifying “Congress’ decision . . . to afford a right to an interlocutory appeal” in turn. *Id.* at 743–44.⁴ And they instruct that the *Griggs* principle is a backdrop presumption read into other-

⁴ Of course, an automatic stay pending an interlocutory appeal only stays the lower court proceedings affected by the appeal. Unrelated lower court proceedings may proceed. The contours of an automatic stays pending appeal are controlled by its lodestar of vindicating “Congress’s decision” to provide a right to an interlocutory appeal, after all. See *Coinbase*, 599 U.S. at 743–44.

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wise silent authorizations of interlocutory appeals. The *Coinbase* Court recognized the *Griggs* principle's trans-substantive nature: "In relying on *Griggs*, *Coinbase* did not discriminate between arbitration and other appeals. Indeed, it went out of its way to approvingly recognize that qualified immunity and double jeopardy were 'analogous contexts' where the courts of appeals have long imposed automatic stays upon appeal." *City of Martinsville*, 128 F.4th at 271 (quoting *Coinbase*, 599 U.S. at 742 & n.2).

To begin, the facts here parallel those in *Coinbase*. "[J]ust as [the *Coinbase*] appeal of a motion to compel arbitration decides the forum in which proceedings will continue, the appeal of a remand order decides 'whether the case belongs in [state court] or instead in the district court.' In both contexts, 'the entire case is essentially 'involved in the appeal.''" *City of Brunswick*, 184 F.4th at 1240 (quoting *Coinbase*, 599 U.S. at 743 and *Griggs*, 459 U.S. at 58) (citation modified).

As in *Coinbase*, not automatically staying the remand order could jeopardize Devon's appeal and undermine Congress's decision to afford the § 1447(d) right to appeal. The point of Devon's Section 1447(d) appeal—and Section 1447(d) appeals generally—is to adjudicate its right to removal under Section 1442. And the right to removal is—eponymously—a right to be *removed* from the jurisdiction of state courts. Not staying the remand order, therefore, would defeat Devon's appeal, for Devon would be subjected to the jurisdiction of the state court: It would lose the right that it seeks to retain by exercising its § 1447(d) appeal. Further, "[u]nless the district court or state court grants a discretionary stay pending appeal, it is likely that state court proceedings during the appeal would require . . . litigation in state court—[which could] moot[] this appeal Recognizing an automatic stay in this context preserves Congress's choice to grant appellate review of decisions denying federal officer removal." *City of Brunswick*, 184 F.4th at 1240 (citation modified).

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Granted, *Coinbase* applied *Griggs* to a stay of a *federal* district court's proceedings and did not implicate state court proceedings. Hence, Louisiana distinguishes *Coinbase*, reasoning that Devon's proposed stay would divest "another sovereign of jurisdiction." Br. of Louisiana at 13 (cleaned up).

This court's decision in *Plaquemines Parish* averts Louisiana's theory. As Louisiana agrees, we noted in *Plaquemines Parish* that district courts retain jurisdiction to enter discretionary stays when a party appeals under § 1447(d). *Plaquemine Par.*, [84 F.4th at 371–73](#). Those discretionary stays, like the automatic stay sought, would also divest state courts—another sovereign—of their jurisdiction. If discretionary stays are available and comply with federalism, then the same is true about automatic stays. Louisiana's argument proves too much.

Louisiana retorts that the *Griggs* principle's applicability was foreclosed by *Plaquemines Parish*. It avers that this court in *Plaquemines Parish* applied *Coinbase* while evaluating the propriety of a *discretionary* stay. Louisiana concludes that *Coinbase*'s automatic stay holding should not extend to the removal context, for the *Plaquemines Parish* court impliedly rejected the availability of an automatic stay by citing *Coinbase* whilst discussing the discretionary stay factors.

Louisiana misreads *Plaquemines Parish*. While this court in *Plaquemines Parish* cited *Coinbase*, it did so in the procedural posture of the plaintiff's asking for vacatur of the district court's entry of a discretionary stay. *Id.* at 366. We granted vacatur. Thus, the question of automatic stays was not before us: We were reviewing whether the district court had erred in granting a *discretionary* stay. *Id.* at 373.

Further, this court's citation of *Coinbase* was limited to explaining what counts as an "irreparable harm" under the traditional test for discretionary stays. *Id.* at 375–76. And we cited *Coinbase* for its quotation of *other*

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cases that explained the scope of the irreparable harm prong. *Id.* (citing *Coinbase*, [599 U.S. at 746–47](#) (quoting *Renegotiation Bd. v. Bannerkraft Clothing Co.*, [415 U.S. 1, 24](#) (1974), and *Nken v. Holder*, [556 U.S. 418, 434–35](#) (2009))). Thus, *Plaquemines Parish*’s cursory citation of *Coinbase* did not concern the availability—or the lack thereof—of automatic stays in the removal context. *Plaquemines Parish* did not generate binding precedent foreclosing *Coinbase*’s application to officer removal. We do not overturn, contradict, or abrogate *Plaquemines Parish*.⁵

D.

The federal officer removal statute does not displace *Griggs*. Louisiana postulates that § 1447(c) displaces the *Griggs* principle because it “established . . . statutorily protected jurisdiction for the state court while any such appeal is pending.” Br. of Louisiana at 12. Section 1447(c) provides, in relevant part, that after “[a] certified copy of the order of remand [is] mailed by the [district court] clerk to the clerk of the State court . . . [t]he State court may thereupon proceed with such case.” Similarly, Louisiana argues that because the “remand order has been transmitted to the state court, *Coinbase* would have no work to do even if it otherwise applied: There are no district court ‘proceedings’ to be stayed, for the district court is done with the case.” Br. of Louisiana at 11.

⁵ One could contend that this decision contradicts *Plaquemines Parish* because it abrogates the availability of discretionary stays: Discretionary stays that *Plaquemines Parish* found available. See *Plaquemines Par.*, [84 F.4th at 371–73](#). Not so. We do not hold that discretionary stays are unavailable, but only that an automatic stay obtains when a § 1447(d) notice of appeal is docketed.

While this decision curtails the necessity for discretionary stays—going forward, discretionary stays in the § 1447(d) context will be rare—we do not disturb *Plaquemines Parish*’s holding that district courts retain jurisdiction to enter discretionary stays when a party appeals under § 1447(d). See *id.* Discretionary stays remain available.

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Plaquemines Parish forecloses both arguments. Like Louisiana, the *Plaquemines Parish* plaintiffs argued that “the district court lacked jurisdiction to stay the remand order because the plain text of [28 U.S.C. § 1447\(c\)](#) shows that jurisdiction transfers to the state court upon the mailing of the remand order, and jurisdiction to stay the order does not follow from jurisdiction to vacate it.” *Plaquemines Par.*, [84 F.4th at 371–72](#).

This court rejected the foregoing argument on two grounds. “*First*, we have stayed already-mailed remand orders at least twice since 2014, and at least once in the face of identical arguments in a case closely related to this one.” *Id.* at 372 (citing *Humphries v. Elliott Co.*, [760 F.3d 414, 416](#) (5th Cir. 2014), and Order, *Par. of Cameron v. BP Am.*, No. 19-30829 (5th Cir. Nov. 4, 2019), ECF No. 76). While not precedential, “they presuppose federal court jurisdiction to stay an already-mailed remand order.” *Id.*

Second, this court concluded that the *Plaquemines Parish* plaintiffs over-read § 1447(c). We reasoned that their contention “is inconsistent with the undisputed proposition that the district court *retains jurisdiction* to vacate its already-mailed remand order because the order is appealable under section 1447(d).” *Id.* And while this court stated in *Arnold v. Garlock* that “the district court is divested of jurisdiction . . . [when] the remand order . . . is certified and mailed by the clerk of the district court,” [278 F.3d 426, 438](#) (5th Cir. 2001), “*Arnold* speaks only to remand orders that are not appealable Instead, where a remand order is appealable under Section 1447(d), the remand order is treated like any other final judgment [and the district court retains jurisdiction].” *Plaquemines Par.*, [84 F.4th at 372](#) (1994) (citation and internal quotation marks omitted).

And “because [the district court] had jurisdiction to vacate its remand

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order, it also had jurisdiction to stay its remand order.” *Id.*⁶

Like the *Plaquemines Parish* plaintiffs’ argument, Louisiana’s contention fails. As *Plaquemines Parish* teaches, § 1447(c) does not foreclose discretionary stays because a district court “retain[s] jurisdiction to vacate its already-mailed remand order,” granting them “jurisdiction to stay its remand order[s]” in turn. *Id.* In other words, Section 1447(c) does not “statutorily protect[],” Br. of Louisiana at 12, state court jurisdiction from discretionary stays.

Automatic stays operating in the same removal context are no different. They work the same: Divesting a court proceeding of its legal force. And they rely on the same jurisdictional authority: the district court’s residual jurisdiction to stay its own remand orders. If Louisiana’s theory were correct, then the *Plaquemines Parish* court’s consideration of a discretionary stay would prove unnecessary: *Any* stay would be foreclosed by § 1447(c). And like Devon’s proposed stay, the stay discretionarily vacated in *Plaquemines Parish* was entered after (in the *Plaquemines Parish* case over one month after) the district court “mailed its remand order to state court.” *Plaquemines Par.*, 84 F.4th at 366. Nonetheless, in *Plaquemines Parish*, we vacated the district court’s stay by considering the discretionary stay factors and noting that § 1447(c) serves no bar to stays in the removal context, evincing the availability of stays, discretionary and automatic.⁷

⁶ See also Christopher D. Moore, *So-Called “Administrative Stays” in Trump 2.0*, 104 TEX. L. REV. ONLINE 1, 9 (2025) (“A stay is . . . a temporary version of vacatur.”)

⁷ See also *City of Martinsville*, 128 F.4th at 271 (“Distinctions require meaningful differences to matter; a decision’s rationale binds us even if some immaterial facts differ As Justice Gorsuch explained in *Ramos v. Louisiana*, ‘[i]t is usually a judicial decision’s reasoning—its ratio decidendi—that allows it to have life and effect in the disposition of future cases.’”) (quoting *Ramos v. Louisiana*, 590 U.S. 83, 104 (2020)).

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If anything, the *Griggs* principle augurs a *greater* availability of automatic stays. It is a “background principle” that “reflects a longstanding tenet of American procedure.” *Coinbase*, [599 U.S. at 740](#). Therefore, “when Congress wants to authorize an interlocutory appeal, but *not* to automatically stay district court proceedings pending that appeal, Congress typically says so.” *Id.* at 744. It is presumptively read into authorizations of interlocutory appeal, statutory silence notwithstanding. *Id.* *Griggs* did not apply in *Plaquemines Par.*, for this court reviewed a discretionary stay. Nonetheless, we held that § 1447(c) did not displace the availability of discretionary stays. Accordingly, it is hard to imagine how it would rebut the *Griggs* principle’s presumption of automatic stays pending appeal.

Further, Devon’s proposed stay targets the district court’s remand order, *not* state court proceedings themselves. Unlike injunctions, which target particular parties, stays “operate[] [upon] the judicial proceeding itself” by “halting or postponing some portion of the proceeding, or by temporarily divesting an order of enforceability.” *Nken*, [556 U.S. at 428](#) (citation omitted). Here, “Devon has moved for a stay of the *District Court’s Remand Order*, not of any state court proceeding.” Devon’s Reply Br. at 7 (emphasis added). And *Plaquemines Parish* teaches that the district court retains jurisdiction to stay its previously mailed remand order. *Plaquemines Par.*, [84 F.4th at 372](#). Contrary to Louisiana’s assertion, there is a valid district court proceeding—a remand—to be stayed. *Coinbase* controls.

IV.

Because the automatic stay deprives the state court of jurisdiction, the Anti-Injunction Act provides no bar to a stay in Devon’s favor: There is no state court proceeding to enjoin. And even if Devon is seeking an injunction to stay state court proceedings, it is not barred by the Anti-Injunction Act because it is in aid of this Court’s jurisdiction.

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A.

The Anti-Injunction Act provides that “A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.” [28 U.S.C. § 2283](#).

To be barred by the Anti-Injunction Act, Devon’s remedy must enjoin to “stay” state court proceedings. But the automatic stay here divests the state court of jurisdiction, so there are no valid state court proceedings to enjoin.

As aforementioned, stays “operate[] [upon] the judicial proceeding itself.” *Nken*, [556 U.S. at 428](#). And even after a § 1447(d) appeal, a district court retains jurisdiction to stay its own remand orders owing to its jurisdiction to *vacate* its own remand; the instant automatic stay operates under that residual jurisdiction. *Plaquemines Par.*, [84 F.4th at 371–73](#). Considering its function and jurisdictional context, the instant stay temporarily deprives the district court’s remand order of its legal effect.

And by divesting the remand of its legal force, the stay turns off the state court’s jurisdictional “pipeline,” rendering any state court proceedings a nullity in turn. The remand order is the state court’s source of jurisdiction for “the removal of a case from state court to federal court ends the power of the state court to act The jurisdiction of the state court is not restored unless and until the federal court remands the case.” *E. D. Sys. Corp. v. Sw. Bell Tel. Co.*, [674 F.2d 453, 458](#) (5th Cir. 1982) (citations omitted). Absent state court jurisdiction, there are no valid “proceedings in a State court” to enjoin. [28 U.S.C. § 2283](#).

B.

But suppose that Devon is seeking an injunction to stay state court proceedings. Arguably, the automatic stay here enjoins the district court

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because it is recognized by an appellate court but uses—and thus directs—the district court’s residual jurisdiction: The paradigmatic example of an injunction’s compelling action *in personam*. And arguably, the automatic stay stays state court proceedings, for it divests state courts of authority to hear the case by divesting their predicate jurisdictional authority: the district court’s remand order. If so, the instant automatic stay falls within the Anti-Injunction Act’s plain terms.

Even then, Devon’s proposed stay is not barred by the Anti-Injunction Act. It would be “necessary in aid” of [this Court’s] jurisdiction. 28 U.S.C. § 2283. As *Griggs* teaches, when an issue is appealed, the district court is “divest[ed] . . . of its control over those aspects of the case involved in the appeal.” *Coinbase*, 599 U.S. at 740 (citing *Griggs*, 459 U.S. at 58). Jurisdictional concerns animated the foregoing principle: It “grew from the general understanding that a federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously.” *City of Brunswick*, 184 F.4th at 1239 (citing *Coinbase*, 459 U.S. at 58) (internal quotation marks omitted). *Coinbase* extended that principle to protect appellate jurisdiction from parallel district court proceedings pending a § 16(a) appeal. *Id.* And this Court, alongside the Fourth and Eleventh Circuits, now extends that principle to protect appellate jurisdiction from parallel state court proceedings.

Therefore, an automatic stay here is “necessary in aid” of this court’s jurisdiction. The Anti-Injunction Act, in turn, does not apply.

* * *

The motion for stay, pending appeal, of the district court’s order of remand is GRANTED.