**Civil Procedure**—Supplemental Jurisdiction Extended to Plaintiffs in Diversity Jurisdiction Cases with Claims Less Then $75,000—*Exxon Mobil Corporation v. Allapattah Services, Inc.*, 125 S. Ct. 2611 (2005)

The federal courts derive subject matter jurisdiction from Congress as outlined in the United States Constitution.[1] By enacting 28 U.S.C. § 1367, Congress granted federal courts supplemental jurisdiction over claims where original subject matter jurisdiction is already established.[2] In *Exxon Mobil Corp. v. Allapattah Services, Inc.*,[3] the Supreme Court considered whether § 1367 is applicable to plaintiffs permissively joined or who form part of a class action, but fail to meet the amount-in-controversy requirement of § 1332(a).[4] The Court determined that § 1367 is applicable to such plaintiffs if at least one named plaintiff meets the amount-in-controversy requirement of § 1332(a).[5]

In 1991, thousands of Exxon dealers filed a class action lawsuit against Exxon Mobil Corporation in the United States District Court for the Northern District of Florida.[6] Many of the individual dealers alleged monetary damages below the amount-in-controversy requirement of § 1332(a).[7] Despite this failure, the court permitted all of the dealers to remain part of the class.[8] The jury found that Exxon Mobil breached its contractual obligations to all of the dealers named in the class.[9] Subsequently, the district court certified its order

1. *See* U.S. CONST. art. III, § 1 (granting power to create federal courts). The judicial power is vested in one Supreme Court "and in such inferior courts as the Congress may from time to time ordain and establish." *Id.*

2. *See* 28 U.S.C. § 1367 (2000) (outlining requirements for supplemental jurisdiction). The statute states that in civil actions where the district court has original jurisdiction, the district court shall have supplemental jurisdiction over additional claims that form part of the same case or controversy. *Id.*; *see also* 28 U.S.C. § 1332 (2000) (granting original jurisdiction when amount-in-controversy exceeds $75,000 in action between citizens of different states); 28 U.S.C. § 1331 (2000) (allowing original jurisdiction when action involves Constitution, laws, or treaties of United States).

3. 125 S. Ct. 2611 (2005).

4. *Id.* at 2615 (identifying issue under consideration).

5. *See id.* at 2625 (indicating applicability of § 1367). *But see* Jacobs v. Bremner, 378 F. Supp. 2d 861, 865 (N.D. Ill. 2005) (criticizing majority for failing to consider legislative history contrary to holding).

6. Exxon Mobil Corp., 125 S. Ct. at 2615. The dealers invoked the district court's diversity jurisdiction and alleged that Exxon Mobil Corporation systematically and intentionally overcharged them for fuel in the course of a marketing program. *Id.*

7. Allapattah Servs., Inc. v. Exxon Corp., 333 F.3d 1248, 1252-53 (11th Cir. 2003) (discussing failure of class members to meet amount-in-controversy requirement), *aff'd*, 125 S. Ct. 2611 (2005).

8. Allapattah Servs., Inc. v. Exxon Corp., 333 F.3d 1248, 1252-53 (11th Cir. 2003) (noting lower court allowed case to continue despite uncertainty), *aff'd*, 125 S. Ct. 2611 (2005).

9. Allapattah Servs., Inc. v. Exxon Corp., 333 F.3d 1248, 1252 (11th Cir. 2003), *aff'd*, 125 S. Ct. 2611

for interlocutory appeal to determine, in part, whether it had properly exercised supplemental jurisdiction over the claims of class members alleging less then the amount-in-controversy requirement.[10] The Eleventh Circuit, after reviewing the explicit language of § 1367, affirmed that the district court had original jurisdiction over the action and therefore had supplemental jurisdiction over all of the claims before the court.[11]

Subsequently, the First Circuit encountered a similar supplemental jurisdiction question in the permissive joinder context.[12] Maria Del Rosario-Ortega suffered serious injuries after cutting her finger on a can of tuna manufactured by Star-Kist Foods, Inc.[13] Rosario-Ortega, along with her family, sued Star-Kist Foods for emotional distress and medical expenses in the District Court of Puerto Rico.[14] Finding none of the plaintiffs met the amount-in-controversy requirement of § 1332(a), the district court granted the defendant summary judgment.[15] The First Circuit, in reversing the district court, found that Rosario-Ortega had alleged sufficient monetary damages.[16] It determined, however, that § 1367 was inapplicable to the other plaintiffs because the district court lacked original jurisdiction due to the family members' inability to satisfy the amount-in-controversy requirement of § 1332(a).[17]

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(2005). Initially, the case was tried to a hung jury. *Id.* After a second trial, a unanimous jury reached a verdict in favor of the dealers. *Id.* The district court entered a final judgment for the class representatives and created an ad hoc claims process through which Exxon Mobil Corporation could contest each of the remaining class members' claims for compensatory damages. *Id.*

10. Allapattah Servs., Inc. v. Exxon Corp., 157 F. Supp. 2d 1291, 1326-27 (S.D. Fla. 2001) (finding supplemental jurisdiction and immediately certifying for interlocutory appeal), *aff'd*, 333 F.3d 1248 (11th Cir. 2003), *aff'd*, 125 S. Ct. 2611 (2005).

11. Allapattah Servs., Inc. v. Exxon Corp., 333 F.3d 1248, 1252 (11th Cir. 2003) (affirming jurisdiction over claims of class members not satisfying amount-in-controversy requirement), *aff'd*, 125 S. Ct. 2611 (2005). The court held that the district court had supplemental jurisdiction because it had original jurisdiction over the claims of at least one of the class representatives. *Id.* at 1256.

12. *See* Ortega v. Star-Kist Foods, Inc., 370 F.3d 124, 131-32 (1st Cir. 2004) (highlighting different contexts where question arises), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005).

13. Ortega v. Star-Kist Foods, Inc., 370 F.3d 124, 126 (1st Cir. 2004), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005). The injuries were extensive and necessitated immediate surgery to tendons and nerves. *Id.* at 129.

14. Ortega v. Star-Kist Foods, Inc., 370 F.3d 124, 127 (1st Cir. 2004), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005). The plaintiffs argued that the court had subject matter jurisdiction based on diversity. *Id.*

15. *See* Ortega v. Star-Kist Foods, Inc., 213 F. Supp. 2d 84, 95 (D.P.R. 2002) (finding no basis for federal jurisdiction), *rev'd*, 370 F.3d 124 (1st Cir. 2004), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005).

16. Ortega v. Star-Kist Foods, Inc., 370 F.3d 124, 127 (1st Cir. 2004), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005). The First Circuit critiqued the methods used by the district court to compute damages. *Id.* at 127-29. Accordingly, the First Circuit determined that the injured child, but not her parents, met the amount-in-controversy requirement. *Id.* at 127-31.

17. *See* Ortega v. Star-Kist Foods, Inc., 370 F.3d 124, 136-44 (1st Cir. 2004) (explaining lack of original jurisdiction), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005).

The Supreme Court granted certiorari to resolve the split in circuits on the interpretation of § 1367.[18] The Court consolidated the cases because they concerned similar questions of statutory interpretation.[19] The Court affirmed the Eleventh Circuit and reversed the First Circuit, holding that Congress, by enacting § 1367, unambiguously granted supplemental jurisdiction over claims not meeting the amount-in-controversy requirement of § 1332(a).[20]

The Constitution limits jurisdiction for federal courts and confers upon Congress the power to create additional requirements.[21] In limiting and defining these parameters, Congress granted federal courts jurisdiction over cases that involve the Constitution, laws, or treaties of United States-federal question cases-or controversies between citizens of different states where the complaint is for the requisite amount-in-controversy.[22] Federal courts subsequently developed the doctrines of pendent and ancillary jurisdiction, permitting jurisdiction over additional claims that did not independently meet the statutory requirements for subject matter jurisdiction outlined by Congress.[23] While courts liberally applied these doctrines to extend jurisdiction over additional *claims* between the same parties involving federal questions, federal judges were reluctant to extend jurisdiction over claims involving additional *parties* in both federal question and diversity cases.[24]

18. 125 S. Ct. at 2615 (noting division over interpretation of § 1367).

19. *See id.* (highlighting consolidation).

20. *See id.* (noting impact of § 1367 on amount-in-controversy requirement).

21. *See* U.S. CONST. art. III, § 1 (outlining congressional authority in limiting federal courts); *see also* Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 372 (1978) (explaining jurisdictional limitations of federal court), *superseded by statute*, 28 U.S.C. § 1367 (2000). Constitutional authority is only the "first hurdle" to overcome in determining whether a federal court has jurisdiction over a particular matter. Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 372 (1978), *superseded by statute*, 28 U.S.C. § 1367 (2000). Statutes may also limit jurisdiction. *Id.*

22. *See* 28 U.S.C. § 1331 (2000) (granting jurisdiction when action involves federal question); 28 U.S.C. § 1332(a) (2000) (outlining diversity jurisdiction requirements). The first congressional grant enabling district courts to hear cases between citizens of different states set the amount-in-controversy requirement at $500. *See* Snyder v. Harris, 394 U.S. 332, 334 (1969). Since that time, Congress has progressively increased the amount-in-controversy requirement. *See id.* Currently, the amount-in-controversy required for diversity actions is $75,000. 28 U.S.C. § 1332(a) (2000).

23. *See* United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 723-24 (1966) (discussing pendent claim jurisdiction in federal question cases), *superseded by statute*, 28 U.S.C. § 1367 (2000). Pendent claim jurisdiction allowed a plaintiff with an action properly before a federal court to add a related state claim against the same defendant. *Id.* Ancillary jurisdiction was based on the theory that if the court had jurisdiction, other claimants should be allowed to intervene to protect their interests regardless of whether the intervenor could have independently satisfied jurisdiction. *See* Aldinger v. Howard, 427 U.S. 1, 11 (1976) (discussing use of ancillary jurisdiction), *superseded by statute*, 28 U.S.C. § 1367 (2000); *see also* M. Ashley Harder, Comment, *Making a Federal Case Out of It: Supplemental Jurisdiction Under 28 U.S.C. § 1367*, 22 U. BALT. L. REV. 67, 67-76 (1992) (summarizing history of pendent and ancillary jurisdiction).

24. *See, e.g.*, Finley v. United States, 490 U.S. 545, 556 (1989) (declining to extend pendent jurisdiction over additional parties without congressional authority), *superseded by statute*, 28 U.S.C. § 1367 (2000); Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 376-77 (1978) (declining to grant ancillary jurisdiction over claims by plaintiffs against third-party defendants), *superseded by statute*, 28 U.S.C. § 1367 (2000); Aldinger v. Howard, 427 U.S. 1, 17 (1976) (requiring consideration of relevant statutory language before extending

Courts have strictly interpreted the diversity jurisdiction statute, declining to utilize the pendent and ancillary jurisdiction doctrines.[25] Courts required complete diversity of citizenship between all parties before establishing original jurisdiction.[26] Further, each party to an action, whether permissively joined or part of a class action, was required to independently meet the amount-in-controversy requirement of § 1332(a).[27] The enactment of § 1367 cast serious doubt on the applicability of these requirements.[28]

Congress, by enacting § 1367, halted the courts' dogmatic practice of denying pendent and ancillary jurisdiction over additional parties.[29] The first part of the statute, § 1367(a), clearly confers supplemental jurisdiction over additional claims and parties when a federal question or diversity jurisdiction is the basis for subject matter jurisdiction.[30] Indeed, the last sentence of § 1367(a) explicitly overrules the courts' prior practice of not allowing supplemental

pendent jurisdiction over additional parties), *superseded by statute*, 28 U.S.C. § 1367 (2000).

25. *See* Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 376 (1978) (considering ancillary jurisdiction for diversity cases), *superseded by statute*, 28 U.S.C. § 1367 (2000). *Owen* presented the issue of whether a plaintiff, in an action based on diversity of citizenship, could amend a complaint to assert a claim against a third-party defendant when there was no independent basis for federal jurisdiction. *Id.* at 367-68. The Supreme Court, in strictly interpreting the diversity of citizenship requirement of § 1332, refused to extend jurisdiction to the third-party defendant. *Id.* at 374-75. Allowing the parties to circumvent the diversity of citizenship requirement in this manner would "flout the congressional command." *Id.* at 377.

26. *See* Strawbridge v. Curtiss, 7 U.S. (3 Cranch) 267, 267 (1806) (requiring diversity of citizenship for all parties). The complete diversity requirement is thus derived from case law and not the Constitution. *See* State Farm Fire & Cas. Co. v. Tashire, 386 U.S. 523, 531 (1967) (observing Article III not obstacle to extension of subject matter jurisdiction to non-diverse parties). *But see* Mark Hutcheson, Comment, *Unintended Consequences: 28 U.S.C. 1367's Effect on Diversity's Amount-In-Controversy Requirement*, 48 BAYLOR L. REV. 247, 271 (1996) (recognizing possibility of § 1367(b) reversing complete diversity requirement).

27. *See* Zahn v. Int'l Paper Co., 414 U.S. 291, 301 (1973) (holding plaintiffs joined in class action cannot aggregate claims to satisfy jurisdictional limits), *overruled by* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005); *see also* Clark v. Paul Gray, Inc., 306 U.S. 583, 589 (1939) (barring aggregation of separate demands by plaintiffs joined in single suit), *overruled by* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005). The remedy for the failure of a plaintiff to allege the requisite amount-in-controversy was the dismissal of that litigant. *See* Zahn v. Int'l Paper Co., 414 U.S. 291, 295-96 (1973) (outlining amount-in-controversy rule), *overruled by* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005). *But see* Snyder v. Harris 394 U.S. 332, 335 (1969) (explaining certain circumstances justifying aggregation). First, aggregation was allowed in cases where a single plaintiff seeks to aggregate two or more claims against a single defendant. *Id.* Second, aggregation was allowed in cases where "two or more plaintiffs unite to enforce a single title or right in which they have a common and undivided interest." *Id.*

28. *See* 28 U.S.C. § 1367(b) (failing to include plaintiffs joined under Federal Rules 20 or 23 in exceptions).

29. *See* 28 U.S.C. § 1367 (outlining requirements for supplemental jurisdiction). Congress enacted this statute in response to the courts' treatment of pendent party situations, specifically in cases like *Finley v. United States*. *See* Stromberg Metal Works, Inc. v. Press Mech., Inc., 77 F.3d 928, 931 (7th Cir. 1996). *See also* Richard D. Freer, *Compounding Confusion and Hampering Diversity: Life After* Finley *and the Supplemental Jurisdiction Statute*, 40 EMORY L.J. 445, 473 (1991) (approving elimination of terms pendent and ancillary jurisdiction).

30. *See* 28 U.S.C. § 1367(a) (2000) (establishing applicability in federal question context); 28 U.S.C. § 1367(b) (2000) (extending to diversity jurisdiction).

jurisdiction over claims made by or against additional parties.[31] Additionally, in addressing prior concerns of plaintiffs bypassing the diversity requirements of § 1332(a), Congress included a list of exceptions in § 1367(b) where supplemental jurisdiction is inapplicable.[32] The legislative history indicates that Congress may have inadvertently overruled prior precedent requiring permissively joined and class action plaintiffs to independently meet the amount-in-controversy requirement by certain omissions in § 1367(b).[33] The circuits have disagreed on the impact of the plain language of § 1367 on prior precedent and the relevancy of legislative history.[34]

In *Exxon Mobil Corp. v. Allapattah Services, Inc.* the Supreme Court considered whether § 1367 grants supplemental jurisdiction over litigants who do not independently meet the amount-in-controversy requirement of § 1332(a).[35] Prior to considering the supplemental jurisdiction question, the Court considered whether original jurisdiction was possible over *any* of the claims in light of the failure by certain plaintiffs to meet the amount-in-

31. *See* 28 U.S.C. § 1367(a) (2000) (extending applicability to claims by additional parties); *see also* Stromberg Metal Works, Inc. v. Press Mech., Inc., 77 F.3d 928, 931 (7th Cir. 1996) (observing § 1367(a) allowance of pendent party cases possibly only significance).

32. *See* 28 U.S.C. § 1367(b) (2000) (outlining exceptions). This section only applies where original jurisdiction is based on § 1332 diversity. *Id.* It states that federal courts

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[s]hall not have supplemental jurisdiction . . . over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24

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*Id.*

Notably, the statute did not include plaintiffs permissively joined under Federal Rule 20 or certified as class members under Federal Rule 23. *Id.*

33. *See* H.R. REP. NO. 101-734, at 28 (1990) (explaining rationale behind enactment of § 1367). The report stated that § 1367 would "authorize jurisdiction in a case like *Finley*, as well as essentially restore the pre-*Finley* understandings of the authorization for and limits on other forms of supplemental jurisdiction". *Id.* Further, the report stated that § 1367(b) "is not intended to affect the jurisdictional requirements of [§ 1332] in diversity-only class actions, as those requirements were interpreted prior to Finley". *Id.* at 29; *see also* Thomas D. Rowe, Jr. et al., *Compounding or Creating Confusion About Supplemental Jurisdiction? A Reply to Professor Freer*, 40 EMORY L.J. 943, 960 n.90 (1991) (describing legislative history to § 1367 as effort to correct certain omissions). *But see* Reed Dickerson, *The Legislative Process: Statutory Interpretation: Dipping Into Legislative History*, 11 HOFSTRA L. REV. 1125, 1130 (1983) (advocating rejection of legislative material purporting to define statutory meaning); Patricia M. Wald, *Some Observations on the Use of Legislative History in the 1981 Supreme Court Term*, 68 IOWA L. REV. 195, 214 (1983) (criticizing use of legislative history).

34. *Compare* Stromberg Metal Works, Inc. v. Press Mech., Inc., 77 F.3d 928, 930-31 (7th Cir. 1996) (finding supplemental jurisdiction extends to parties not satisfying amount-in-controversy requirement), *with* Meritcare, Inc. v. St. Paul Mercury Ins. Co., 166 F.3d 214, 221-22 (3d Cir. 1999) (finding supplemental jurisdiction does not extend to parties not satisfying amount-in-controversy requirement), *overruled by* Exxon Mobil Corp. v. Allapattah Servs. Inc., 125 S. Ct. 2611 (2005). *See generally* James M. Underwood, *Supplemental Serendipity: Congress' Accidental Improvement of Supplemental Jurisdiction*, 37 AKRON L. REV. 653 (2004) (discussing circuit split regarding whether legislative history should trump plain language of § 1367).

35. 125 S. Ct. at 2615 (outlining question under consideration).

controversy requirement.[36] The Court, by considering the policy goals of § 1367, determined that there is original jurisdiction over a civil action as required under § 1367(a) when there is original jurisdiction over a single claim in a complaint.[37]

In accordance with the language of the statute, the Court considered the exceptions listed in § 1367(b) and concluded that the exceptions clearly did not preclude supplemental jurisdiction over plaintiffs permissively joined or part of a class action.[38] Indeed, the statute clearly does not list Rules 20 or 23 in the exceptions.[39] The Court reasoned that because the language of § 1367 is not ambiguous, there was no need to consider the legislative history.[40] The Court, in dismissing legislative history to the contrary, concluded that § 1367 does not bar supplemental jurisdiction over plaintiffs joined under Rule 20 and Rule 23 and therefore overrules prior precedent holding that each party must individually satisfy the amount-in-controversy requirement of § 1332(a).[41]

Although the majority outlined one possible interpretation of the effects of § 1367 on plaintiffs permissively joined or part of a class action, this interpretation is contrary to the legislative history of § 1367.[42] The majority

36. *See id.* at 2620 (suggesting lack of importance of considering supplemental jurisdiction if original jurisdiction not present).

37. *See id.* at 2620-21 (discussing distinctions between individual claims and entire civil actions). The Court rejected both the "indivisibility theory" and "contamination theory". *Id.* at 2621-22. The indivisibility theory requires all claims to stand or fall as a single unit. *Id.* Similarly, the contamination theory considers the inclusion of a claim or party falling outside the district court's original jurisdiction as contaminating all other claims. *Id. But see* 125 S. Ct. at 2638 (Ginsburg, J., dissenting) (arguing no original jurisdiction in diversity actions where any plaintiff fails to meet amount-in-controversy requirement). Justice Ginsburg argued that if one carefully reads § 1367(a) as requiring federal courts to have original jurisdiction over a civil action, then prior precedent remains intact. *Id.* Thus, if there is no original jurisdiction, a court does not need to consider supplemental jurisdiction at all because the case cannot be considered. *Id.*

38. *See* 125 S. Ct. at 2621 (highlighting omission of Federal Rules 20 and 23 in § 1367(b)). *But see* 125 S. Ct. at 2638 n.9 (Ginsburg, J., dissenting) (explaining possible rationale of omissions). Under Justice Ginsburg's argument, it is irrelevant that § 1367(b) does not withdraw supplemental jurisdiction over the claims of the additional parties under Federal Rules 20 or 23. *Id.* Justice Ginsburg argues that because those claims would not come within § 1367(a) in the first place, Congress would have had no reason to list them in § 1367(b). *Id.*

39. *See* 28 U.S.C. § 1367(b) (outlining exceptions).

40. *See* 125 S. Ct. at 2625 (rejecting arguments for considering legislative history). The Court briefly considered the legislative history, however, and found conflicting views on the rationale behind § 1367. *Id.* at 2625-26. The Court emphasized that the legislative history included a subcommittee report. *Id.* at 2625-27. In this report, the committee members included a footnote affirming that § 1367 would effectively overrule *Zahn v. Int'l Paper Co. Id. But see* 125 S. Ct. at 2628 (Stevens, J., dissenting) (advocating benefits of considering all reliable evidence of legislative intent). Justice Stevens argued that the legislative history clearly illustrates that the drafters did not intend to overrule prior precedent concerning the amount-in-controversy requirement. *Id.* at 2629. Therefore, "[g]iven Justice Ginsburg's persuasive account of the statutory text and its jurisprudential backdrop, and given the uncommonly clear legislative history," Justice Stevens believed the majority made a mistake in its conclusion. *Id.* at 2631.

41. *See id.* at 2622 (explaining logic of overruling prior precedent). The Court's holding regarding class actions in *Zahn v. Int'l Paper Co.* was based primarily on the reasoning for permissive joinder in *Clark v. Paul Gray, Inc. Id.* Therefore, after concluding that *Zahn* should be overruled, the Court overruled *Clark. Id.*

42. *See id.* at 2628-29 (Stevens, J., dissenting) (discussing alternative theories based on legislative

was reluctant to consider legislative history in determining the applicability of the statute because it considered the statutory language clear.[43] Indeed, Congress should have made § 1367 clear instead of forcing courts to consider the legislative history.[44] By ignoring the explicit language of the legislative history, however, the majority dismissed unambiguous evidence contrary to its holding.[45]

Additionally, the Court diminishes the importance of the amount-in-controversy requirement of § 1332(a).[46] The majority illogically followed case law in preserving the diversity of citizenship requirement while dismissing over sixty years of precedent when considering the amount-in-controversy requirement.[47] As a result, the Court's holding will likely cause an increase in the amount of cases brought in federal court.[48]

Further, Justice Ginsburg plausibly argued in her dissent that in situations where a plaintiff does not meet the amount-in-controversy requirement of § 1332(a), original jurisdiction over a civil action is lacking, making § 1367 inapplicable.[49] Under this analysis, it was logical for Congress to omit Rule 20 and Rule 23 from the statute.[50] Given the different plausible readings of § 1367, the majority should have given more deference to legislative history.[51]

In *Exxon Mobil Corp. v. Allapattah Services, Inc.*, the Court considered whether § 1367 is applicable in diversity jurisdiction cases where certain plaintiffs do not meet the amount-in-controversy requirement of §1332(a). The Court's conclusion that § 1367 is not ambiguous is ostensibly plausible considering the literal language of § 1367. By ignoring legislative history and prior case law, however, the Court overruled more then sixty years of

history); *see also supra* note 33 and accompanying text (discussing legislative history of § 1367).

43. *See* 125 S. Ct. at 2625 (rejecting use of legislative history because "§ 1367 is not ambiguous"); *see also* Wald, *supra* note 33, at 214 (discussing potential misuse of legislative history); Hutcheson, *supra* note 26, at 260 (arguing legislative history irrelevant when language of statute clear).

44. *See supra* note 43 and accompanying text (indicating reluctance to consider legislative history).

45. *See* Jacobs v. Bremner, 378 F. Supp. 2d 861, 865 (N.D. Ill. 2005) (criticizing majority in *Exxon Mobil* for failing to follow legislative history). The district court, in a decision subsequent to *Exxon Mobil*, found it troubling that the majority placed emphasis on a footnote in a preliminary working paper. *Id.* at 865 n.4. *But see supra* note 40 (discussing relevance of subcommittee report).

46. *See* 125 S. Ct. at 2636 n.5 (Ginsburg, J., dissenting) (arguing splitting requirements of § 1332 defies logic). Justice Ginsburg explained that the majority was driving a wedge between the two components of § 1332(a). *Id.* She argued that this is not in accordance with ordinary rules of statutory interpretation. *Id.*; *see also* Hutcheson, *supra* note 26, at 271 (discussing possible abolishment of complete diversity requirement).

47. *See* 125 S. Ct. at 2622 (distinguishing amount-in-controversy requirement from complete diversity requirement).

48. *See* Ortega v. Star-Kist Foods, Inc., 370 F.3d 124, 141 (1st Cir. 2004) (noting potential increase of federal plaintiffs if § 1367 given broad reading), *rev'd sub nom.* Exxon Mobil Corp. v. Allapattah Servs., Inc., 125 S. Ct. 2611 (2005). The only way that the parties in *Ortega* could have gained access to the federal court was if the court exercised supplemental jurisdiction. *Id.* at 131.

49. *See* 125 S. Ct. at 2638 (Ginsburg, J., dissenting) (discussing inapplicability of § 1367 under certain circumstances).

50. *See id.* at 2639 (explaining possible logic behind omission of Federal Rules 20 and 23).

51. *See* 125 S. Ct. at 2628 (Stevens, J., dissenting) (criticizing majority's holding).

precedent. This will likely lead to an increase in the amount of claims brought to federal court.

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