NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 25-2152 & 25-8027

DANIEL LA HART; KATHERINE LA HART

v.

SUNOCO PIPELINE L.P.; ENERGY TRANSFER LP;
ENERGY TRANSFER (R&M) LLC
Appellants in No. 25-2152
Petitioners in No. 25-8027

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(District Court No. 2:25-cv-02072)
District Judge: Honorable Mia R. Perez

Argued: April 30, 2026

Before: CHAGARES, Chief Judge, ROTH, Circuit Judge, and DOW, * District Judge

(Filed: August 18, 2026)

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* Honorable Robert M. Dow, Jr., District Judge of the United States District Court for the Northern District of Illinois, sitting by designation.

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OPINION[†]

CHAGARES, Chief Judge.

After a leak opened in a nearby fuel pipeline, Daniel and Katherine La Hart filed a class action lawsuit against the pipeline's operators in state court. The operators removed the case to federal court under the Class Action Fairness Act ("CAFA"). The La Harts then moved to remand to state court, arguing that the local controversy exception to CAFA jurisdiction applied. The District Court agreed. The pipeline's operators now

[†] This disposition is not an opinion of the full Court and, pursuant to 3d Cir. I.O.P. 5.7, does not constitute binding precedent.

appeal that ruling through two different tracks: (1) a direct appeal, pursuant to 28 U.S.C. § 1291 (Case No. 25-2152), and; (2) a petition for a discretionary appeal, pursuant to 28 U.S.C. § 1453(c) (Case No. 25-8027). For the following reasons, we will dismiss the direct appeal, grant the petition for a discretionary appeal, and reverse the District Court's order.

I.[1]

On January 31, 2025, Sunoco Pipeline LP ("Sunoco") identified a leak in its Twin Oaks Pipeline in Upper Makefield Township, located in Bucks County, Pennsylvania. The leak contaminated the groundwater, soil, and air of the surrounding communities.

The Pennsylvania Department of Environmental Protection ("PADEP") issued an administrative order on March 6, 2025 requiring Sunoco and Energy Transfer (R&M), LLC ("R&M") to take remedial action. PADEP observed that R&M "is a Pennsylvania Business Corporation and . . . a parent entity of Sunoco" that jointly owns and operates the Twin Oaks Pipeline with Sunoco. Joint Appendix ("J.A.") 640, No. 25-2152 (Dkt. No. 33). PADEP noted that Sunoco and R&M had 30 days to appeal the order to PADEP's Environmental Hearing Board. Sunoco and R&M did not appeal this order. Instead, a representative from Sunoco's actual corporate parent, Energy Transfer LP ("Energy Transfer"), responded to the administrative order via email. The Energy Transfer representative suggested that R&M was not properly included in the order because it does not own or operate the pipeline and is not a parent entity of Sunoco.

[1] We write primarily for the parties, so we recite only the facts essential to our decision.

Daniel and Katherine La Hart filed this lawsuit on March 27, 2025, in the Philadelphia County Court of Common Pleas on behalf of other local residents against Sunoco, Energy Transfer, and R&M ("Sunoco defendants"). The Sunoco defendants timely removed the action to federal court under the Class Action Fairness Act. The La Harts then moved to remand, arguing that because R&M is based in Pennsylvania, the local controversy exception to CAFA jurisdiction applied. The Sunoco defendants opposed the motion to remand, countering that the PADEP order erroneously included R&M. The District Court granted the motion. The Sunoco defendants timely appealed under 28 U.S.C. § 1291 and petitioned for a discretionary appeal under § 1453(c).[2]

II.[3]

We begin by addressing the threshold question of the proper avenue for this appeal. The Sunoco defendants urge us to consider this appeal under § 1291. We will decline that invitation.

Appellate review of a district court's remand order is limited by statute. See 28 U.S.C. §§ 1447(c), (d); Things Remembered, Inc. v. Petrarca, 516 U.S. 124, 127–28

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[2] Several weeks later, PADEP sent Sunoco and Energy Transfer a letter clarifying that PADEP "has looked to [Sunoco], and its ultimate parent corporation Energy Transfer LP," to respond to the leak, while it has "not sought response, investigation or remediation actions from Energy Transfer (R&M), LLC." Letter from Patrick Patterson, Regional Director, PADEP, to Matthew Gordon, Energy Transfer, (July 14, 2025) (Case No. 25-2152, Dkt. No. 31, Ex. 1). The Sunoco defendants have moved to include this letter in the record. The La Harts do not oppose the motion, which we will grant.

[3] The District Court had jurisdiction under 28 U.S.C. § 1332(d). We have discretionary jurisdiction under 28 U.S.C. § 1453(c). We review de novo issues of subject matter jurisdiction and statutory interpretation. Vodenichar v. Halcón Energy Props., Inc., 733 F.3d 497, 502 (3d Cir. 2013).

(1995) ("As long as a district court's remand is based on a timely raised defect in removal procedure or on lack of subject-matter jurisdiction—the grounds for remand recognized by § 1447(c)—a court of appeals lacks jurisdiction to entertain an appeal of the remand order under § 1447(d)."). The Supreme Court has clarified that this statutory bar means "that review of the District Court's characterization of its remand as resting upon lack of subject-matter jurisdiction, to the extent it is permissible at all, should be limited to confirming that that characterization was colorable." Powerex Corp. v. Reliant Energy Servs., Inc., 551 U.S. 224, 234 (2007) (emphasis added).

The District Court repeatedly characterized its remand order as being rooted in a lack of subject-matter jurisdiction. The District Court began its opinion by acknowledging its obligation to assess subject matter jurisdiction and explaining that, "[a]s set forth in this memorandum, the Court lacks subject matter jurisdiction." J.A. 7 n.23. The court noted that § 1447(c) provides that the court must remand if it appears "that the district court lacks subject matter jurisdiction." J.A. 8 (quoting 28 U.S.C. § 1447(c)). And after concluding that it "lacks subject matter jurisdiction under CAFA," J.A. 12, the court remanded the case to state court.

At oral argument, the Sunoco defendants contended that it was not colorable for the District Court to characterize its remand on local controversy grounds as a jurisdictional decision. But we have previously described CAFA's local controversy exception as sounding in subject matter jurisdiction. See Vodenichar v. Halcón Energy Props., Inc., 733 F.3d 497, 506 (3d Cir. 2013) ("[W]e turn to the other exception to CAFA's subject matter jurisdiction: the local controversy exception."). Accordingly, the

District Court's characterization of its remand order was at least colorable. We thus lack jurisdiction to review the District Court's order under § 1291 and will dismiss the direct appeal.

III.

We turn to the Sunoco defendants' petition for a discretionary appeal. Section 1453(c)(1) provides: "[n]otwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed." 28 U.S.C. § 1453(c)(1). The Sunoco defendants urge us to exercise our discretionary jurisdiction, contending that the District Court erred in holding that the local controversy exception to CAFA jurisdiction applied. Because this is a close question, we will exercise our discretionary jurisdiction and grant the Sunoco defendants' petition to appeal.

Having accepted the appeal, we now turn to the merits of the Sunoco defendants' argument. The local controversy exception provides in relevant part that a district court must decline to exercise jurisdiction over a class action in which there is at least one defendant:

> **(aa)** from whom significant relief is sought by members of the plaintiff class;
> **(bb)** whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class; and
> **(cc)** who is a citizen of the State in which the action was originally filed[.]

28 U.S.C. § 1332(d)(4)(A). Only the second prong — the significant basis element — is in dispute.

The Sunoco defendants contend that R&M, the only local defendant, has nothing to do with this dispute and was only included in the PADEP administrative order because of a "clerical error." Sunoco Br. 5. The District Court correctly acknowledged that the final administrative order — which, as the court emphasized, the Sunoco defendants chose not to appeal — suggests that R&M was "not some nominal party." J.A. 12. This is not enough to satisfy the local controversy exception, however.

In Kaufman v. Allstate New Jersey Insurance Co., we outlined a variety of factors that courts could consider in comparing the local defendant's alleged conduct to the alleged conduct of all defendants. 561 F.3d 144, 157 n.13 (3d Cir. 2009). We concluded: "[w]hether the District Court considers any or all of these factors, it must in every case still provide a reasoned analysis that focuses on the conduct of the Defendants—local and non-local—as alleged in the complaint." Id. Although the District Court identified the Kaufman standard, it did not analyze the alleged conduct of R&M as compared to the alleged conduct of Sunoco or Energy Transfer. Accordingly, we will reverse and remand for further proceedings.[4]

IV.

For the foregoing reasons, we will dismiss the Sunoco defendants' direct appeal, grant their petition for a discretionary appeal, and reverse and remand the District Court's order.

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[4] We note that the District Court is best positioned to determine in the first instance the impact, if any, of PADEP's July 14, 2025 follow-up letter.