No. _____

In the Supreme Court of the United States

REUBEN D. WALKER AND M. STEVEN DIAMOND,
INDIVIDUALLY AND ON BEHALF OF THEMSELVES AND
FOR THE BENEFIT OF THE TAXPAYERS AND ON BEHALF
OF ALL OTHER INDIVIDUALS OR INSTITUTIONS WHO
PAID FORECLOSURE FEES TO THE STATE OF ILLINOIS,

Petitioners,

v.

ANDREA LYNN CHASTEEN,
IN HER OFFICIAL CAPACITY AS THE CLERK OF THE CIRCUIT COURT OF
WILL COUNTY AND AS A REPRESENTATIVE OF ALL CLERKS OF THE
CIRCUIT COURTS OF ALL COUNTIES WITHIN THE STATE OF ILLINOIS,

Respondent.

On Petition for a Writ of Certiorari to the Illinois Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Michael D. Huber
Counsel of Record
Daniel K. Cray
CRAY HUBER HORSTMAN HEIL & VANAUSDAL LLC
303 W. Madison Street, Suite 2200
Chicago, IL 60606
(312) 332-8450
mdh@crayhuber.com

April 23, 2025 *Counsel for Petitioners*

SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

QUESTIONS PRESENTED

In January of 2025, the Illinois Supreme Court in *Walker v. Chasteen*, 2025 IL 130288, based exclusively on a state immunity statute, held that courts were powerless to order the State of Illinois to return $102 million in filing fees taken from its citizens under legislation the same court had held facially unconstitutional and *void ab initio*. It did so by explicitly resurrecting the primacy of state law over the U.S. Constitution, thereby rejecting its obligation to follow this Court's interpretation of the Takings Clause in *Tyler v. Hennepin County*, 598 U.S. 631 (2023).

The Illinois Supreme Court compounded its disregard for the primacy of the Constitution by abandoning the obligation of the courts to enforce Petitioners' constitutional rights, instead telling the Petitioners to seek a refund of the unconstitutional court filing fees from a legislative agency.

Accordingly, the questions presented are:

1. May state courts ignore the Supremacy and Takings Clauses of the U.S. Constitution as interpreted by this Court based on arguably contrary provisions of state law?

2. May state courts ignore their obligation to interpret and order compliance with the U.S. Constitution and defer that role to the legislative branch of government?

CORPORATE DISCLOSURE STATEMENT

The matter contains classes of Petitioners/Plaintiffs and Respondents/Defendants. Petitioners/Plaintiffs class representatives Reuben D. Walker and M. Steven Diamond are individuals and not corporate entities.

LIST OF PROCEEDINGS

Illinois Supreme Court
Docket No. 130288
2025 IL 130288 (not yet published)
Reuben D. Walker, et al., *Appellees* v.
Andrea Lynn Chasteen, et al., *Appellants*
Date of Opinion: January 24, 2025

Illinois Third District Appellate Court
Appeal No.: 3-22-0387
Published: 2023 IL App (3d) 220387
Reuben D. Walker, et al., *Appellants* v. Andrea Lynn Chasteen, et al., *Appellees*
Date of Opinion: November 15, 2023

Circuit Court of Will County
Case No.: 12 CH 5275
Reuben D. Walker, et al., *Plaintiffs* v. Andrea Lynn Chasteen, et al., *Defendants*
Date of Order: August 30, 2022

Illinois Supreme Court
Docket Nos. 126086, 126087, 126088
Published: 2021 IL 126086
Reuben D. Walker, et al., *Appellees* v.
Andrea Lynn Chasteen, et al., *Appellants*
Date of Opinion: June 17, 2021

Circuit Court of Will County
Published: 2020 WL 13103595
Case No. 12-CH-5275
Reuben D. Walker, et al., *Plaintiffs* v. Andrea Lynn Chasteen, et al., *Defendants*
Date of Order: May 14, 2020

Circuit Court of Will County
Published: 2020 WL 13103596
Case No. 12-CH-5275
Reuben D. Walker, et al., *Plaintiffs* v. Andrea Lynn Chasteen, et al., *Defendants*
Date of Memorandum Opinion and Order: March 2, 2020

Supreme Court of Illinois
Published: 2015 IL 117138
Case No. 117138
Reuben D. Walker, *Appellee and Cross-Appellant* v. Pamela J. McGuire, *Intervenor-Appellant and Cross-Appellee*
Date of Opinion: September 24, 2015

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CONSTITUTIONAL PROVISIONS

STATUTES

PETITION FOR A WRIT OF CERTIORARI

Petitioners Reuben D. Walker and M. Steven Diamond as class representatives request that this Court issue a writ of certiorari to review the decision of the Illinois Supreme Court in Case No. 2025 IL 130288.

OPINIONS BELOW

The Opinion of the Supreme Court of Illinois, dated January 24, 2025 (App.1a) published at 2025 IL 130288, reversed the opinion of the Illinois Court of Appeals, dated November 15, 2023. (App.20a).

JURISDICTION

The judgment and opinion of the Supreme Court of the State of Illinois was entered on January 24, 2025. No petition for rehearing was filed. Petitioners invoke this Court's jurisdiction under 28 U.S.C. § 1257(a) having timely filed this Petition for a Writ of Certiorari within 90 days of the Illinois Supreme Court's final judgment.

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Constitution, Article VI, Clause 2 (Supremacy Clause)

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Constitution, Fifth Amendment (Takings Clause)

> . . . nor shall private property be taken for public use, without just compensation . . .

INTRODUCTION

The 2025 *Walker* decision represents a substantial, disturbing, and unmistakable challenge to the very basis upon which the Constitution of the United States was adopted in 1789: recognition that the Constitution of the United States rather than the laws of the individual states must be treated as the "supreme law of the land." By refusing to recognize this supremacy in favor of a state statute, the *Walker* decision challenges the continuing viability of the Constitution as the supreme law of this country as well as the power and role of

this Court in ensuring the continued recognition of the Constitution as the supreme law of the land.

As such, and if permitted to stand, Petitioners respectfully submit that the *Walker* decision presents a unique and unprecedented repudiation of both the Constitution and the role of this Court in enforcing its provisions. This decision requires review and reversal by this Court not simply to protect the citizens of the State of Illinois from its consequences but to ensure that this type of repudiation does not become a precedent to be followed by other state courts.

STATEMENT OF THE CASE

The *Walker* matter was first filed in an Illinois Circuit Court in 2012 challenging the constitutionality of legislation passed by the Illinois General Assembly imposing an "add-on" court filing fee on all mortgage foreclosure filings within the State of Illinois. The case was filed as a class action with its lead plaintiff Reuben Walker, an individual property owner, who was required to pay an additional filing fee in the Circuit Court of Will County, Illinois prior to initiating a mortgage foreclosure. Walker's class action was filed against a class consisting of all 102 Circuit Court Clerks in the State of Illinois, the state officers who were charged with collecting the fees. (*Walker v. McGuire*, 2012 CH 05275 (2012))

On March 2, 2020, the Circuit Court found that the "add-on" court filing fee legislation before it was facially unconstitutional under the Free Access Clause and enjoined the continued collection of fees. Enforcement of the injunction was stayed pending the direct appeal

of the order to the Illinois Supreme Court as required by Illinois law. The state officers continued to collect the add-on mortgage foreclosure filing fees during the pendency of the appeal.

On June 17, 2021, the Illinois Supreme Court affirmed the trial court's ruling and held the legislation under which the fees continued to be collected facially unconstitutional and void for all purposes. *Walker v. Chasteen*, 2021 IL 126086, ¶ 49, 183 N.E.3d 153, 166 (2021). The Supreme Court then remanded the case "for further proceedings consistent with this opinion." *Id*. at ¶ 43. (App.53a).

Following the 2021 remand after nearly a decade of litigation in the courts, and once the case was before the circuit court for further proceedings to address the refund of the fees unlawfully taken, the state officers suddenly 'discovered' the existence of an immunity statute (745 ILCS 5/1) adopted by the Illinois legislature decades previously. Based on their interpretation of this legislation they asserted that, while the judicial branch had the authority to consider the constitutionality of the legislation, the immunity statute barred the courts from ordering the state to disgorge funds collected under the legislation. The state official defendants further claimed that any request for a refund of the fees could only be considered by filing a new action before an agency of the Illinois legislature, the Illinois Court of Claims. Their interpretation of the immunity statute would therefore allow the State to retain from Petitioners their own money paid as a "litigation tax". 2021 IL 126086 at ¶ 43.

The circuit court, over Petitioners' objections, granted the motion to dismiss and stated that it believed that any request for a refund of the fees collected

under this legislation had to be presented in a new filing before the Court of Claims. The dismissal was appealed to the Illinois Appellate Court, Third Judicial District.

In their argument to the Illinois Appellate Court, Petitioners maintained, *inter alia*, that the dismissal based on deference to the supposed exclusive jurisdiction of the Court of Claims was without merit. As they correctly noted, the Illinois Court of Claims is not a "court" nor is it part of or subject to control or review by the judicial branch of Illinois government. The Court of Claims is, instead, a part of the legislative branch of state government. *People v. Philip Morris*, 198 Ill.2d 87, 96-97, 759 N.E.2d 906, 912 (2001).

The Appellate Court, reviewing the matter before it and specifically addressing the jurisdiction of the Court of Claims reversed the trial court's dismissal order, agreeing with Petitioners that the Court of Claims was not the appropriate forum to address the issues related to the unconstitutional taking of court filing fees, and confirmed the jurisdiction of the court to order the refund. *Walker v. Chasteen*, 2023 IL App (3d) 220387, ¶ 19, *appeal allowed* (Ill. 2024), and *rev'd*, 2025 IL 130288, and *leave to appeal denied*, 2025 IL 130281 (2025). (App.27a). The State officials then sought and received further review of the dismissal before the Illinois Supreme Court.

Once the case was back before the Illinois Supreme Court, the state defendants did not contest the Supreme Court's earlier decision which held the subject legislation to be facially unconstitutional and thereby void for all purposes. They did not seek reconsideration of that finding despite the opportunity to do so. They argued instead solely that the immunity

statute adopted by the Illinois legislature barred Illinois courts from ordering the State to return the $102 million in now admittedly unlawful fees taken from all class plaintiffs during the decade that the case was pending.

The state defendants further insisted that under the immunity statute only the Court of Claims, established and controlled by the legislature, had the unilateral discretion to determine whether the State had to return the Petitioners' money taken through facially unconstitutional legislation or keep it. *Walker v. Chasteen*, 2025 IL 130288, ¶ 13.

Petitioners responded by contesting the state defendants' interpretation of Illinois law. Petitioners further pointed out that the Court of Claims lacked the jurisdiction to hear the matter and that the courts have the exclusive power to interpret and enforce the Constitution. (Plaintiffs-Appellees' Response Brief, Supreme Court of Illinois-Relevant Excerpts, App.72a).

More critically however, Petitioners pointed out to the Illinois Supreme Court in their brief and argument that under the Supremacy and Takings Clauses of the United States Constitution the immunity statute did not provide the State of Illinois with authority to retain the funds it had taken without lawful authority. In support of their argument, Petitioners submitted the recent decision of this Court in *Tyler*, 598 U.S. 631 (2023) as controlling over any possible interpretation of a state statute. (Plaintiffs-Appellees' Response Brief, Supreme Court of Illinois-Relevant Excerpts, App.72a, App.79a-81a.)

Petitioners also pointed out to the Illinois Supreme Court that its own earlier decisions had recognized

that the courts of Illinois were obliged to adhere to the decisions of this Court interpreting such issues of law under the Supremacy Clause, citing to a 2016 decision of the Illinois Supreme Court that had relied on the decisions of this Court interpreting the Takings Clause as authority. *Hampton v. Metropolitan Water Reclamation District*, 2016 IL 119861, 57 N.E.3d 1229 (2016). (Plaintiffs-Appellees' Response Brief, Supreme Court of Illinois-Relevant Excerpts, App.72a, App.79a-80a.)

On January 24, 2025, the Illinois Supreme Court published its opinion reversing the decision of the Illinois Appellate Court and holding that under the Illinois immunity statute the courts had no authority to order the State to return the fees taken under the facially unconstitutional legislation. The Court concluded that any request for refund had to be submitted to a legislative agency, the Court of Claims, for further disposition and that the Court of Claims was free to apply its own procedural rules even if they were contrary to the Takings Clauses of the Constitutions of the State of Illinois or the United States. *Walker v. Chasteen*, 2025 IL 130288 ¶ 46 (App.18a).

REASONS FOR GRANTING THE PETITION

The bedrock of the Constitution of the United States of America is the Supremacy Clause, Article VI, Clause 2, which establishes the Constitution and federal law as the supreme law of the land. Under the previous Articles of Confederation state law had been accorded primacy by the courts. U.S. Const. art. VI, cl. 2.

The primacy of the Constitution as embodied in the Supremacy Clause was first recognized by this Court as controlling when in conflict with state statutes in *Ware v. Hylton*, 3 U.S. 199 (1796). The supremacy and the control of the Constitution and federal law was expanded upon in seminal decisions such as *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816), *McCulloch v. Maryland*, 17 U.S. 316 (1819) and *Cohens v. Virginia*, 19 U.S. 264 (1821).

In order to ensure that the provisions of the Constitution and federal law were properly applied throughout the United States this Court adopted judicial review as necessary so the courts, rather than the legislative or executive branches, determine the correct application of the Constitution. *Marbury v. Madison*, 5 U.S. 137 (1803).

I. The Illinois Supreme Court Repudiates the Supremacy and Takings Clauses of the Constitution of the United States in its 2025 *Walker* Decision

This Court has consistently applied the Supremacy Clause since its first recognition, and did so recently in *Tyler v. Hennepin County*, 598 U.S. 631 (2023). In *Tyler* this Court reversed and vacated decisions of lower courts that had upheld a Minnesota statutory scheme that permitted the government to retain a "$25,000 excess" over an $15,000 tax debt as contrary to and barred by the primacy of the Takings Clause. This Court held that the States must recognize a citizen "must render unto Caesar what is Caesar's, but no more." *Tyler*, 598 U.S. 631, 647 (2023).

The primacy of the Takings Clause over any contrary state law or regulation was considered so

fundamental and critically important to the continuing application of the primacy of the Constitution and the Takings Clause that later in 2023, this Court citing *Tyler* in a single paragraph order, summarily reversed and remanded for further proceedings a decision of the Nebraska courts for a similar violation of the Takings Clause in a case where that jurisdiction had disregarded the Takings Clause by confiscating a citizen's home and retained the remaining value over a $588 tax debt. *Continental Resources v. Fair*, 311 Neb. 184, 971 N.W.2d 313 (2022), *cert. granted and judgment vacated*, 143 S. Ct. 2580 (2023). This Court granted the same relief on the same basis to another Nebraska resident in *Nieveen v. Tax 106*, 311 Neb. 574, 974 N.W.2d 15 (2022), *cert. granted and judgment vacated*, 143 S. Ct. 2580 (2023).

Despite the clear language and intent to enforce the primacy of the Takings Clause over contrary state laws this Court expressed in *Tyler*, *Fair,* and *Nieveen* above, and further being presented with the *Tyler* decision before its ruling in January of 2025, the Illinois Supreme Court in *Walker v. Chasteen*, 2025 IL 130288, explicitly refused to abide by the requirements of the Takings Clause of the Constitution as well as its interpretation and application by this Court in *Tyler* when addressing the issue of the primacy of state law.

On January 24, 2025, the Illinois Supreme Court published its opinion holding solely on the basis of the Court's interpretation of an Illinois immunity statute that the courts had no authority to order the State of Illinois to refund the Petitioners' $102 million in fees taken under legislation the same Court had previously held to be facially unconstitutional and thereby *void ab initio*.

The *Walker* Court allowed the State of Illinois to retain the $102 million in court filing fees which were acknowledged by the State, and recognized by the Court, as unconstitutionally taken. The Illinois Supreme Court made its decision based on an Illinois statute despite the conflict between that statute and the Takings Clause. The Court did so despite the fact that Petitioners had pointed out to the Court prior to its ruling that under the Supremacy and Takings Clauses of the United States Constitution as interpreted by this Court in *Tyler,* the immunity statute could not be given primacy to provide the State of Illinois with authority to retain the funds it had taken without constitutional authority.

Despite being aware that the Takings Clause and the decision of this Court in *Tyler* precluded state statute primacy, the *Walker* Court did not simply disregard its obligation to adhere to the Takings Clause as it was compelled to do by the *Tyler* decision. The Court made its repudiation distinct and explicit by concluding its opinion with an instruction that the Court of Claims was free to apply its own procedural rules even if they were contrary to the Takings Clauses of the Constitutions of the State of Illinois or the United States.

> "[If] the State's retention of the unconstitutionally taken funds would violate the takings clause of the United States Constitution and the Illinois Constitution [.] adopting plaintiffs' position that a procedural bar to recovery in the Court of Claims is tantamount to a takings clause violation would negate the procedural

> requirements that the General Assembly enacted to prescribe the court's authority"[1]

Walker v. Chasteen, 2025 IL 130288 ¶ 46 (App.18a).

What was the rationale the *Walker* Court offered for rejecting the primacy of the Constitution of the United States and its obligation to abide by the decisions of this Court interpreting the Constitution as the law of the land? The opinion is silent as to any reason for this repudiation of the 236 years of contrary authority established by the adoption of the Constitution and the decisions of this Court.

The opinion contains no analysis in support of its explicit refusal to abide by the Takings Clause. It makes no effort to distinguish the facts or issues of law before it from those presented in *Tyler*. Instead, the opinion declined to even recognize the existence of the decision of this Court in *Tyler* and made no effort to explain how it was *not* obliged to follow the mandate of this Court. The *Walker* Court thus held without analysis, explanation, or comment that in Illinois the Takings Clause of the Constitution would not be given primacy over a state statute.

The Illinois Supreme Courts' 2025 decision in *Walker* to reject its obligation to adhere to the Consti-

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[1] The Illinois Court of Claims is not a "court" nor part of or subject to the control of the Illinois courts. It is an agency of the Illinois legislature and subject to the rules and control of that branch of Illinois government. It is "well established that decisions of the court of claims are not subject to appellate review." *Reichert v. Court of Claims of the State of Illinois*, 203 Ill. 2d 257, 261 (2003); *see also*, *People v. Philip Morris*, 198 Ill.2d 87, 97 (2001) The Illinois legislature set the authority and jurisdiction of the Court of Claims per statute. 705 ILCS 505/1 et seq.

tution as the supreme law of the land, and specifically its obligation to recognize and apply the Takings Clause as interpreted by the decisions of this Court, is difficult to understand especially where the same court less than a decade before had ruled to the contrary. In *Hampton v. Metropolitan Water Reclamation District*, the Illinois Supreme Court addressed its obligation to recognize and apply the decisions of this Court interpreting the Takings Clause under what the Illinois court referred to as the "limited lockstep" doctrine. *Hampton v. Metro. Water Reclamation Dist. of Greater Chicago*, 2016 IL 119861 ¶ 10, 57 N.E3d 1229, 1234 (2016). In the *Hampton* decision, the Illinois Supreme Court examined this doctrine and specifically the Takings Clause in great detail before doing what it declined to do later in *Walker*:

> "The first step to resolving this question is to determine whether the Takings Clauses of the Illinois and U.S. Constitutions are synonymous. The Illinois Takings Clause states: 'Private property shall not be taken or damaged for public use without just compensation as provided by law. Such compensation shall be determined by a jury as provided by law.' Ill. Const.1970, art. I, § 15. The federal takings clause, in relevant part, provides: 'nor shall private property be taken for public use, without just compensation.' U.S. Const., amend. V. Clearly, the takings clause is not unique to the Illinois Constitution * * *"
>
> "Therefore, United States Supreme Court decisions regarding what constitutes a taking are relevant for purposes of determining whether a plaintiff has sufficiently alleged a

> taking under the Illinois Constitution. *See* International College of Surgeons, 153 F.3d at 363 ('Although it is true that the Illinois Takings Clause provides protection greater than that provided by its federal counterpart * * * [t]he greater protection provided by the Illinois Takings Clause stems from the fact that the clause not only guards against a governmental taking of private property but also guards against governmental 'damage' to private property. * * * If the plaintiff cannot make this showing, then his claim is analyzed under the same standard employed under the federal constitution * * *.')."

Hampton v. Metro. Water Reclamation Dist. of Greater Chicago, 2016 IL 119861, ¶ 11, 16, 57 N.E.3d 1229, 1234, 1236 (2016).

Thus, while in 2016 the Illinois Supreme Court clearly recognized and understood its obligation to apply and interpret the Takings Clause of the Illinois Constitution in the same manner as this Court had interpreted the Takings Clause of the U.S. Constitution, seven years later the Illinois Supreme Court chose to disregard the Takings Clause and the decision of this Court in *Tyler* altogether just as it chose to disregard the Supremacy Clause in favor of a state statute which it deemed to be controlling. And, in doing so, it has further adopted a procedure that abrogates the continuing viability and protections of the Takings Clause and the Constitution of the United States itself within Illinois.

II. The State of Illinois Now Repudiates the *Walker* Decision That the Petitioners' Refund Claim Is "The Province of the Court of Claims"

The *Walker* Court's decision to repudiate the Constitution in favor of state law was itself quickly recognized by the State of Illinois as a means to retain the $102 million in funds it no longer claims it collected lawfully. The *Walker* Court affirmed the dismissal of what it termed as the refund portion of this cause of action, as the state officials had successfully requested, by holding that the Illinois Court of Claims was the appropriate forum in Illinois to provide a refund of the fees unlawfully collected. "[O]nce the courts declared the fee statute unconstitutional and enjoined its enforcement, plaintiffs' claim for a monetary award to redress a past wrong was the type of claim that *is the province of the Court of Claims*." *Walker v. Chasteen*, 2025 IL 130288 ¶ 4 (App.3a).

After the 2025 *Walker* decision, the Petitioners filed a demand before the Illinois Court of Claims in reliance upon the instruction by the Illinois Supreme Court that the demand for refund was to be submitted to the Court of Claims. However, after the Attorney General of the State of Illinois convinced the *Walker* Court that any refund request must be submitted to the Court of Claims, the Attorney General on April 8, 2025, repudiated the State's position and the *Walker* decision itself when he filed a motion to dismiss the Petitioners' refund claim asserting, *inter alia*, that the Court of Claims had no jurisdiction to adjudicate a refund claim. (Respondent State of Illinois' Motion to Dismiss Pursuant to 735 ILCS 5/2-619 (April 8, 2025)) (App.68a, App.70a.)

The State of Illinois' motion to dismiss is, of course, contrary to the finding of the *Walker* Court that the courts have no jurisdiction to return the Petitioners' money but that a refund of fees for the unconstitutional taking was within the jurisdiction of the Court of Claims. This motion was filed by the State of Illinois confident that it could dismiss the refund action which the Illinois Supreme Court required to be filed in the legislative body of the Court of Claims and safely retain $102 million in unlawful court filing fees taken by the State. Further, since the *Walker* decision states that the courts of Illinois have no power to order the State to disgorge funds even if collected unlawfully, the Court's finding that the Court of Claims has the jurisdiction to refund the illegal proceeds of facially unconstitutional legislation is meaningless.

Accordingly, the Illinois Supreme Court, which in the *Walker* case ostensibly addressed the violation of the Free Access Clause, provided pyrrhic relief to Petitioners as the fees taken under such legislation are not returned and the harm caused by the constitutional violation is left unanswered.

In short, the decision of the Illinois Supreme Court repudiating the primacy of the Constitution of the United States and allowing legislative enactments to override its protections raises a high likelihood that in contrast to the citizens of Michigan and Nebraska that this Court protected by the proper application of the Takings Clause, the State of Illinois may now ignore its obligations and retain whatever money or property it takes from its citizens, even if it does so unlawfully.

Petitioners therefore respectfully submit that this clearly erroneous and harmful precedent warrants the grant of this Petition for a Writ of Certiorari to

address and reverse its impact on the citizens of the State.

III. The Illinois Supreme Court Has Abrogated Its Obligation of Judicial Review to Ensure Compliance with the Constitution

In addition to the reasons set out above which Petitioners submit warrant the grant of this Petition, the decision in the *Walker* case rejects yet another longstanding and crucial obligation of the courts to ensure the protection of citizens' constitutional rights. That obligation was addressed once again by this Court less than a month following the *Tyler* decision in *Moore v. Harper*, 600 U.S. 1 (2023). The *Moor*e decision stated that "where the exercise of federal authority or the vindication of federal rights implicates questions of state law the Court has an obligation to ensure that state court interpretations of the law do not evade federal law" as the doctrine of judicial review requires the courts, not the legislature, to ensure that constitutional rights of citizens are enforced. *Moore v. Harper*, 600 U.S. 1, 34 (2023).

The Illinois Supreme Court's 2025 *Walker* decision provides that a citizen who has had funds taken from him through facially unconstitutional legislation cannot ask the judicial branch to enforce its right to relief for this unconstitutional taking. Instead, after protracted effort at successfully establishing the facial unconstitutionality of legislation before the courts, a citizen must seek enforcement of his constitutional relief by petitioning the legislative branch of government, the very branch which passed the unlawful legislation in the first place.

In seeking recovery of the unconstitutionally taken fees, the Petitioners must pay yet another fee to the State in an attempt to recover a fee that the court proceeding established should never have been paid in the first place. (705 ILCS 505/21 describes the fee to be paid to file an action in the Court of Claims) If the Illinois Court of Claims, interpreting its own jurisdiction and rules, grants a motion to dismiss and denies a refund, the *Walker* decision stands for the proposition that the courts are powerless to compel the return of a citizen's own money despite the unconstitutional taking.

In short, while this court in *Moore* and earlier decisions beginning with *Marbury v. Madison* recognized the obligation of the courts to ensure the proper and just application of the provisions of the Constitution, the Illinois Supreme Court in *Walker* stripped the Illinois courts of their power to do so and left its role as the guardian of the Constitution to the legislature. Moreover, and quite ironically, the *Walker* court did so after protracted litigation which held that the legislation that compelled petitioners to pay a fee was unlawful as it violated the Free Access Clause.[2]

Under the 2025 *Walker* decision the Illinois Supreme Court deems an Illinois statute to be controlling over the U.S. Constitution and permits the state of Illinois to retain property taken unlawfully from its

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[2] Petitioners addressed this issue in their arguments before the Illinois Supreme Court as well. Unfortunately, like the other issues addressed in this petition, the *Walker* court chose to ignore the adverse impact on the protected constitutional rights of thousands of citizens who have yet to have returned to them their own money paid to the State due to unconstitutional filing fee legislation.

citizens. The decision strips the citizens of their right to petition the courts for return of their money taken by unconstitutional action as if the Constitution and the power of this Court to enforce the Constitution do not exist. Petitioners, therefore, respectfully request that this Court grant their Petition for a Writ of Certiorari to correct this patent injustice.

CONCLUSION

For the foregoing reasons, this Court should grant this Petition for a Writ of Certiorari.

Respectfully submitted,

Michael D. Huber
Counsel of Record
Daniel K. Cray
CRAY HUBER HORSTMAN HEIL & VANAUSDAL LLC
303 W. Madison Street, Suite 2200
Chicago, IL 60606
(312) 332-8496
mdh@crayhuber.com

Counsel for Petitioners

April 23, 2025