3/18/26

No. 25-1116

IN THE
Supreme Court of the United States

JORDAN ZAHLER,
Petitioner,

v.

JACKSON LEWIS P.C. and GREGORY ALVAREZ,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether an entity not legally authorized to exist in a jurisdiction possesses the First Amendment right to petition tribunals in that jurisdiction—a prerequisite inherent in the Noerr-Pennington doctrine that no court has articulated because no case previously raised it.

2. Whether a clerk's 143-day refusal to perform the mandatory ministerial duty prescribed by Fed. R. Civ. P. 55(a)—"the clerk must enter the party's default"—warrants mandamus relief, and whether an appellate court may deny such relief by recharacterizing the requested entry of default as a request for default judgment.

3. Whether the proceedings below so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power, where: (a) the district court granted a motion its own published policies required it to deny, after defendants admitted violating the mandatory prerequisite for filing it; (b) the district court prejudged a pending mandamus petition in a footnote to the case-dispositive opinion; and (c) the appellate court's opinion mischaracterized the relief sought, contradicted its own factual recitation, and selectively engaged with a supplemental filing while ignoring the documented facts it contained.

PARTIES TO THE PROCEEDING

Petitioner is Jordan Zahler, an individual proceeding pro se.

Respondents are Jackson Lewis P.C., a law firm, and Gregory Alvarez, Esquire.

CORPORATE DISCLOSURE STATEMENT

Petitioner is the sole member and owner of SEQRE LLC, a single-member limited liability company organized under the laws of the State of Wyoming. No publicly held corporation owns 10% or more of SEQRE LLC's membership interest. No publicly held corporation has a financial interest in the outcome of this litigation.

DIRECTLY RELATED PROCEEDINGS

Zahler v. Jackson Lewis P.C., et al., No. 5:25-cv-04215-JMG, United States District Court for the Eastern District of Pennsylvania. Motion to dismiss granted February 11, 2026. Leave to amend expired March 4, 2026. Final judgment entered March 10, 2026.

In re Jordan Zahler, No. 26-1201, United States Court of Appeals for the Third Circuit. Mandamus denied February 25, 2026.

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TABLE OF AUTHORITIES

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit (App. D) is a non-precedential per curiam disposition filed February 25, 2026. The order of the Third Circuit (App. E) was entered the same date. The memorandum opinion of the United States District Court for the Eastern District of Pennsylvania (App. B) was signed February 11, 2026, and entered February 12, 2026. The order of the District Court (App. C) was signed and entered the same dates. The District Court granted leave to amend by March 4, 2026. Petitioner did not amend. Final judgment was entered on March 10, 2026 (Dkt. 48) (App. A). None of the opinions below is reported.

JURISDICTION

The Third Circuit denied Petitioner's Emergency Petition for Writ of Mandamus on February 25, 2026 (App. E). The District Court entered final judgment on March 10, 2026 (App. A). This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in relevant part: "Congress shall make no law ... abridging ... the right of the people ... to petition the Government for a redress of grievances."

Federal Rule of Civil Procedure 55(a) provides: "When a party against whom a judgment for affirmative relief is sought has failed to plead or

otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default."

28 U.S.C. § 455(a) provides: "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

STATEMENT OF THE CASE

Federal jurisdiction in the District Court was based on 28 U.S.C. §§ 1331 and 1964 (RICO).

A. The Phantom Entity

1. Petitioner filed a civil RICO action against Jackson Lewis P.C. and Gregory Alvarez on July 22, 2025. (Dkt. 1).

"Dejavoo Systems LLC" does not appear in New York Department of State records despite claiming a Mineola, New York address. (Complaint, Exhibit AL).

"Dejavoo Systems LLC" received $477,764 in PPP loans. (Complaint, Exhibit BW).

Jackson Lewis P.C., through Gregory Alvarez and attorney Christopher Zamlout, filed a position statement with OSHA on behalf of "Dejavoo Systems LLC" on September 4, 2024. (Complaint, Exhibit AD). Neither Alvarez nor Zamlout is licensed in Pennsylvania.

Jackson Lewis P.C., through attorney Erica Shikunov, represented "Dejavoo Systems LLC" at Petitioner's Pennsylvania unemployment compensation appeal hearing on September 17, 2024. (Complaint, ¶ 10, p. 11).

2. Petitioner was terminated in April 2024 after reporting security vulnerabilities involving approximately 450 million unencrypted payment transactions. (Complaint, ¶¶ 18–21). Fifty-four days following termination, Dejavoo acquired Z-Credit, an Israeli payment gateway company. (Complaint, ¶ 32).

B. The Procedural History

3. Judge Leeson's Order (Dkt. 24) established September 8, 2025 as the deadline for Defendants to answer or otherwise respond. The Initial Procedural

Order required a meet-and-confer conference at least five days before filing any motion. (Dkt. 25). Defendants filed a Motion to Dismiss on September 8, 2025 (Dkt. 27) without conducting the required conference.

4. On January 6, 2026, Defendants admitted: "Defendants concede that Judge Leeson's Initial Procedural Order required Defendants to confer with Plaintiff prior to filing their motion to dismiss ... and that Defendants failed to do so." (Dkt. 38) (App. G, Exhibit B). In the same filing, Defendants characterized compliance with the court's mandatory order as "futile" and attached a pre-drafted order for Judge Gallagher to sign—with the date left blank. (Dkt. 38-1).

5. Twenty days later, Defendants filed a contradictory opposition. (Dkt. 43).

6. Judge Gallagher's published Policies and Procedures state: "The Court will deny a 12(b)(6) motion that does not meet these requirements." The PACER Deadlines/Hearings record shows the September 8, 2025 answer deadline as "Unsatisfied" and "Not Terminated." (App. G, Exhibit A).

7. Petitioner filed a Demand for Entry of Default on January 20, 2026 (Dkt. 40), directing Clerk George V. Wylesol to perform his ministerial duty under Rule 55(a). The Clerk took no action. As of the mandamus filing, 143 days had elapsed since the answer deadline.

C. The Judicial Conflicts

8. This case was initially assigned to Judge Leeson. Petitioner filed a Motion for Recusal on September 22, 2025 (Dkt. 33). Judge Leeson recused within 48 hours (Dkt. 34), granting the motion "under the unique facts

of this case" and citing *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 865 (1988). Chief Judge Beetlestone signed a reassignment order 155 minutes later. (Dkt. 35).

9. Attorney Erica Shikunov is named in Petitioner's Complaint. Since May 15, 2025, Shikunov has been appearing before Judge Gallagher in another matter. Neither the Court nor Defendants disclosed this relationship. Judge Gallagher denied recusal on January 22, 2026 (Dkt. 41), characterizing this as a "routine professional interaction" without acknowledging that Shikunov is named in the Complaint.

10. Two judges were assigned to this case. Both had conflicts with parties or attorneys named in Petitioner's Complaint. The first recused. The second denied recusal without disclosure. Petitioner, proceeding pro se, was required to identify a judicial conflict that all other parties were aware of from the date of reassignment.

D. The Mandamus and Dismissal

11. On January 29, 2026, Petitioner filed an Emergency Petition for Writ of Mandamus with the Third Circuit pursuant to Fed. R. App. P. 21 and 28 U.S.C. § 1651 (App. G) requesting: (a) a writ directing the Clerk to enter default pursuant to Fed. R. Civ. P. 55(a); (b) reassignment; and (c) referral to the Judicial Council. The petition cited Rule 55(a) nine times and expressly distinguished entry of default from default judgment. (App. G, ¶ 44).

12. The petition raised the Noerr-Pennington prerequisite at paragraphs 68 through 77: "An entity not legally authorized to exist in a jurisdiction has no

standing to petition tribunals in that jurisdiction." (App. G).

13. The mandamus petition was uploaded to the District Court docket on January 30, 2026 at 9:41 AM. (Dkt. 44). At 11:53 AM—two hours and twelve minutes later—Judge Gallagher denied Petitioner's pending Motion for Reconsideration. (Dkt. 45).

14. On February 11, 2026, Judge Gallagher issued a 17-page Memorandum Opinion dismissing the case. (Dkt. 46, 47). The accompanying Order was issued "upon consideration of" three documents filed by September 17, 2025 and does not reference any filing after that date—including Defendants' written admission (Dkt. 38), the Notice of Procedural Default (Dkt. 37), or the Demand for Entry of Default (Dkt. 40). Defendants never answered the Complaint.

15. In footnote 9, Judge Gallagher stated that Petitioner "did not request a stay of these proceedings," then stated he would deny such a stay regardless, and declared that the mandamus petition "lacks merit." (Dkt. 46, n.9). Petitioner had not requested a stay from the District Court. The mandamus petition served upon the District Court was pending before the Third Circuit.

16. The Opinion declined to reach Noerr-Pennington, stating it dismissed on "independent grounds." (Dkt. 46, § J). But each of those independent grounds presumes the legitimacy of Defendants' representation of "Dejavoo Systems LLC." The CFPA claim was dismissed because Defendants were not Petitioner's employer—but his employer's counsel. The defamation claim was dismissed under the litigation privilege—because the communication was between counsel in furtherance of a client's interest.

The Lanham Act claim was dismissed because the advertising was the client's, not the attorneys'. Every ground assumes the attorney-client relationship was legitimate and the entity was real—while disregarding the government records filed as exhibits to the Complaint proving that it was not. But "Dejavoo Systems LLC" does not legally exist in New York. The entity cannot be sued. The firm that represented it is the only legally existing participant against whom a claim can be brought. By declining to address the prerequisite, the District Court created a closed loop in which no party can be held accountable.

17. The following events occurred within a 48-hour period: On February 11, 2026, defense counsel entered appearances in the Third Circuit mandamus proceeding—eight days prior to the February 19 deadline. The same day, Judge Gallagher signed the 17-page Memorandum Opinion and Order dismissing the case. On February 12, 2026, the Opinion was docketed at 8:37 AM and the Order at 8:44 AM. That same day, the Third Circuit marked the mandamus case submitted. Judge Gallagher's public calendar reflects no scheduled proceedings between January 30 and February 23, 2026. (App. H).

E. The Third Circuit Opinion

18. On February 12, 2026, Petitioner filed an Emergency Supplemental Notice (App. F) documenting the District Court's post-petition actions. That same day, the Third Circuit marked the case submitted. The opinion was filed February 25, 2026—thirteen days later. (App. D). The opinion is four pages, unsigned, and non-precedential.

19. The opinion states that Petitioner "requested entry of default judgment against the named

defendants." (App. D at 2). Petitioner requested entry of default under Rule 55(a)—not default judgment. The opinion references "default judgment" four times. It does not cite Rule 55(a) or Rule 55(b). It replaced the Rule entirely with the phrase "default judgment."

20. The opinion states: "there is no evidence of repeated assignment of conflicted judges." (App. D at 4). The same opinion, two pages earlier, acknowledges that the first assigned judge recused due to a conflict. (App. D at 2).

21. The opinion does not reference the Emergency Supplemental Notice by name. In footnote 2, however, the opinion quotes specific language from Section VI of the Supplemental Notice to deny the stay request—proving the panel had the Supplemental Notice before it and read it. The opinion does not address Sections II through V, which documented Defendants' written admission, the published policy violation, footnote 9, and the Noerr-Pennington prerequisite.

22. On the Noerr-Pennington prerequisite, the opinion is silent. The mandamus raised it at paragraphs 68 through 77. The Supplemental Notice restated it at Section V. The District Court declined to reach it. The Third Circuit did not mention it. No court at any level has addressed whether an entity not legally authorized to exist in a jurisdiction possesses the First Amendment right to petition tribunals in that jurisdiction.

REASONS FOR GRANTING THE PETITION

I. The Prerequisite Is Inherent in the Doctrine and Has Never Been Articulated

The First Amendment protects "the right of the people ... to petition the Government for a redress of grievances." U.S. Const. amend. I. Noerr-Pennington immunity derives from this right. *Eastern R.R. Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961); *United Mine Workers v. Pennington*, 381 U.S. 657 (1965). The attorney acts as agent. The client is the principal.

This Petition does not ask the Court to create new doctrine. The prerequisite it identifies—that a constitutionally derived immunity requires a principal with legal existence in the jurisdiction where it operates—is not a novel legal theory. It is the necessary logical foundation of the doctrine this Court established in *Noerr* and *Pennington*. Agency has always required a principal that exists. The First Amendment has always protected the rights of "the people." An entity derives its legal existence in a jurisdiction from the State that grants it, through either domestic formation or foreign registration. These are not propositions that require this Court's resolution. They are self-evident. What has never occurred, until this case, is a set of facts that raised the question.

"Dejavoo Systems LLC" does not appear in New York Department of State records despite claiming a Mineola, New York address. Jackson Lewis P.C. represented this entity before OSHA and at Petitioner's Pennsylvania unemployment hearing. Defendants invoked Noerr-Pennington immunity in their Motion to Dismiss. (Dkt. 27). For the first time,

a party claimed constitutional immunity for petitioning activity conducted on behalf of a principal that does not legally exist in the jurisdiction where the petitioning occurred. The prerequisite that courts have never needed to articulate was, for the first time, necessary to state.

It was stated in the mandamus petition at paragraphs 68 through 77 and restated in the Supplemental Notice at Section V. No party challenged it. No court addressed it. No attorney briefed the counterposition. It is undisputed on this record.

This case satisfies Rule 10(c): the proceedings below implicate "an important question of federal law that has not been, but should be, settled by this Court." Not because the answer is uncertain, but because no court has yet stated what the doctrine already requires. The question has implications beyond this case. Every law firm in America represents entities. If Noerr-Pennington immunity can attach to petitioning on behalf of an entity with no legal existence in the relevant jurisdiction, the doctrine has no threshold. If it cannot, this Court's acknowledgment is necessary to foreclose the silence that has allowed the question to go unaddressed.

The District Court created a closed loop that makes the question inescapable. The Opinion dismissed every count on grounds that each presume the legitimacy of Defendants' representation of "Dejavoo Systems LLC"—while disregarding the government records filed as exhibits to the Complaint proving that the entity does not legally exist in New York. It cannot be sued. The firm that represented it is the only legally existing participant against whom

a claim can be brought. By declining to address the prerequisite, the court immunized both the entity and its agents—the entity because it does not exist, and the agents because they claim they were representing a client.

II. The Courts Below Denied Relief That Was Never Sought While Declining to Address the Relief Requested

Petitioner's mandamus requested entry of default under Rule 55(a)—a ministerial act by the clerk. The Third Circuit's opinion states that Petitioner requested "default judgment." The opinion references "default judgment" four times without citing either subsection of Rule 55. (App. D at 2–3). It then concluded that Petitioner "has not demonstrated his entitlement to such extraordinary relief." (App. D at 3).

The parallel extends to the District Court. Judge Gallagher denied a stay Petitioner never requested, opined on the merits of a mandamus petition pending in another court, and granted a motion its own published policies required it to deny. (Dkt. 46, n.9). At each level, the court addressed something other than what was before it.

The distinction between entry of default and default judgment is not semantic. Entry of default under Rule 55(a) is a ministerial act—the clerk records the fact of non-response. Default judgment under Rule 55(b) is a judicial act with substantive legal consequences. By conflating the two, the Third Circuit applied a judicial standard to evaluate a request for clerical action, then used that elevated standard to justify the clerk's 143-day inaction. *See In re Abbott Lab'ys*, 96 F.4th 371, 379 (3d Cir. 2024).

III. The Third Circuit's Selective Engagement with the Supplemental Notice

The Emergency Supplemental Notice contained six sections. Sections II through V documented: the procedurally deficient motion and Defendants' written admission (Section II), the recusal standard applied (Section III), the District Court's prejudgment of the mandamus in footnote 9 (Section IV), and the Noerr-Pennington prerequisite (Section V). Section VI requested a stay. (App. F).

The Third Circuit's opinion quotes specific language from Section VI to deny the stay request. (App. D at 4, n.2). This proves the panel had the Supplemental Notice before it and read at least part of it. The opinion does not address Sections II through V.

A panel of three circuit judges that reads a document and engages with one section has made a decision about the remaining sections. That decision is documented in footnote 2 of the opinion itself.

IV. The Proceedings Below Warrant This Court's Supervisory Power

Under Rule 10(a), certiorari is warranted where a court of appeals "has so far departed from the accepted and usual course of judicial proceedings ... as to call for an exercise of this Court's supervisory power." The following departures are documented:

(a) The Third Circuit mischaracterized the requested relief, substituting "default judgment" for entry of default throughout its opinion. (App. D at 2–3).

(b) The Third Circuit stated there is "no evidence of repeated assignment of conflicted

judges" while acknowledging in the same opinion that the first judge recused due to a conflict. (App. D at 2, 4).

(c) The Third Circuit selectively engaged with one section of the Supplemental Notice while declining to address the five sections documenting facts already in the record. (App. D at 4, n.2; App. F).

(d) Defendants admitted violating mandatory meet-and-confer requirements. (Dkt. 38). The District Court's published Policies and Procedures required denial of the motion. Neither court addressed this admission.

(e) The Clerk refused for 143 days to perform a mandatory duty under Rule 55(a) while PACER showed the answer deadline as "Unsatisfied." (App. G, Exhibit A).

(f) The District Court prejudged the pending mandamus in footnote 9 of the case-dispositive opinion, denied a stay never requested, and pre-determined it would deny such a stay. (Dkt. 46, n.9).

From the filing of the Complaint on July 22, 2025 through the Third Circuit's disposition on February 25, 2026, no tribunal adjudicated Petitioner's claims free of identified institutional conflicts.

V. Appeal Is Not a Remedy

The Third Circuit's opinion directed Petitioner to challenge the District Court's rulings "on appeal." (App. D at 3). That direction is not a remedy. It is a circle.

An appeal would return this case to the same court whose opinion mischaracterized the relief sought, contradicted its own factual recitation, selectively engaged with one section of a supplemental filing while ignoring five others, and declined to address the constitutional prerequisite. The same institutional relationships would govern. A new panel would review the District Court's dismissal against the backdrop of a mandamus denial that already telegraphed the circuit's disposition.

The mandamus was not a remedy. The District Court dismissed the case while it was pending, prejudged its merits in footnote 9, and rendered the requested relief moot before the Third Circuit ruled. The Third Circuit then pointed Petitioner to an appellate path that did not yet exist—final judgment was not entered until March 10, 2026, thirteen days after the mandamus denial.

Appeal would ask the Third Circuit to review questions it has already refused to address, through an institutional structure it has already demonstrated it will not use to provide relief. Every procedural path available within the Third Circuit leads back to the same court whose conduct is documented in this Petition. This Court is not an alternative forum. It is the only forum in which the constitutional prerequisite and the documented departures from accepted judicial practice can receive review free of the institutional conflicts that have defined every prior proceeding.

CONCLUSION

This Petition presents a prerequisite that is inherent in the doctrine this Court established in *Noerr* and *Pennington* but that no court has articulated: an entity not legally authorized to exist in a jurisdiction does not possess the First Amendment right to petition tribunals in that jurisdiction. That prerequisite is not new law. It is the necessary foundation of existing law—a foundation that no case raised until this one. It was stated. It was not disputed. It was not addressed.

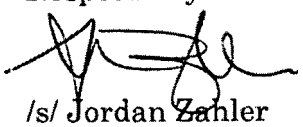
The proceedings below compounded the question with departures from accepted judicial practice: mischaracterization of the relief sought, contradiction of the court's own factual recitation, selective engagement with a supplemental filing, and enforcement of a motion the court's own published policies required it to deny. The Third Circuit directed Petitioner to seek relief "on appeal"—to the same court whose conduct necessitates this Petition.

Appeal is not a remedy when the appellate court's own opinion demonstrates the deficiencies under review.

In this RICO action, Defendants never answered the Complaint. No court required them to. No court at any level addressed the constitutional prerequisite presented in two docketed filings. The case was terminated without a substantive response from any party or any tribunal to any question Petitioner raised.

This Court is the only forum in which these questions can receive review free of the institutional conflicts documented in the record. The petition for a writ of certiorari should be granted.

Respectfully submitted,



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