No. ________

IN THE
SUPREME COURT OF THE UNITED STATES

STEVE SNYDER, et al.,
Petitioners,

v.

VILLAGE OF LUCKEY, OHIO,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

CORRECTED PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In addition to the reversal of the November 24, 2025, Judgment of the U.S. Court of Appeals for the Sixth Circuit, the questions for which Petitioners seek certiorari are as follows:

1. Whether this Court's Opinion in *Knick, supra*, permits a federal cause of action against a municipal entity for an uncompensated physical taking when the municipal entity has materially impaired the value and precluded the alienability of the Petitioners' property.

2. Whether the actions of the Village in singling out the Petitioners' property and engaging in concerted actions to prevent its sale at auction are sufficient to state a claim for violation of Petitioners' rights to due process and equal protection under the Fourteenth Amendment to the Constitution.

LIST OF PARTIES

Petitioner Steve Snyder is a natural person who, at all relevant times, was the record owner of certain real property located in Wood County, Ohio.

Petitioner Tim Snyder is a natural person who, at all relevant times, was the record owner of certain real property located in Wood County, Ohio.

Petitioner T&S Agriventures, LLC is an Ohio limited liability company whom, at all relevant times, was the record owner of certain real property located in Wood County, Ohio. At all relevant times, Petitioner Tim Snyder and Petitioner Steve Snyder were the sole members of Petitioner T&S Agriventures, LLC, with each having an equal interest therein.

The Petitioner Beth Rose Real Estate and Auction, LLC is an Ohio limited liability company whom, at all relevant times, was in the business of marketing, selling, and auctioning real property in Northwest Ohio, including the subject property.

The Respondent Village of Luckey, Ohio is, and at all relevant times was, is a municipal corporation incorporated under the laws of Ohio pursuant to OH. Rev. C. § 707.01, *et seq*.

CORPORATE DISCLOSURE STATEMENT

Counsel for Petitioners hereby states and affirms that none of the Petitioners are a subsidiary and/or affiliate of a publicly owned corporation. Counsel for Petitioners further states that Petitioners are not aware of any publicly owned corporation that has a financial interest in the outcome of this appeal.

LIST OF RELATED CASES

Luckey v. Snyder, Wood County, Ohio Common Pleas Case No. 2023CV0144. Property Owners' Consolidated Motion to Show Cause, Motion to Set Aside Judgment, and Motion to Dismiss Petition is pending before the state court with a status pretrial scheduled for April 21, 2026. A copy of the pending state court motion is reproduced at Pet.App. 86a.

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CORRECTED PETITION FOR A WRIT OF CERTIORARI

Petitioners Steve Snyder, Tim Snyder, T&S Agriventures, LLC, and Beth Rose Real Estate and Auctions, LLC respectfully petition for a writ of certiorari to review and reverse the November 25, 2025, Opinion and Judgment of the United States Court of Appeals for the Sixth Circuit in this case.

OPINIONS BELOW

The Sixth Circuit Court of Appeals' January 5, 2026, Order denying Petitioners' petition for rehearing en banc is reproduced at Pet.App.1a. The Sixth Circuit Court of Appeals' November 24, 2025, Opinion affirming the dismissal of Petitioners' Complaint is reproduced at Pet.App.3a.

The U.S. District Court for the Northern District of Ohio's June 7, 2024, Memorandum Opinion and Order denying Petitioners' Motion to alter or amend its dismissal of Petitioners' case is reproduced herewith as Pet.App. 49a. The district court's February 12, 2024, Memorandum Opinion and Order dismissing the Petitioners' Amended Complaint is reproduced herewith as Pet.App. 59a.

STATEMENT OF JURISDICTION

The Opinion and Judgment of the U.S. Court of Appeals for the Sixth Circuit was entered on

November 24, 2025. A timely petition for rehearing en banc was denied on January 5, 2026. (Pet.App.1a). This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution states:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fourteenth Amendment to the United States Constitution states, in relevant part:

> **Section 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall

> abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S. Code Section 1983, which states, in relevant part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

INTRODUCTION

It has long been recognized that private property rights are comprised of "a 'bundle of sticks'—a collection of individual rights which, in certain combinations, constitute property. . . Rights to exclude and to use are two of the most crucial sticks in the bundle." *Manhattan Cmty. Access Corp. v. Halleck*, 587 U.S. 802, 825, 139 S. Ct. 1921, 1937–38, 204 L. Ed. 2d 405 (2019) (quoting *United States v. Craft*, 535 U.S. 274, 278, 122 S.Ct. 1414, 152 L.Ed.2d 437 (2002)). Moreover, under Ohio law, the right to dispose of property is "an original and fundamental right." *Etzler v. City of Cincinnati, Ohio*, No. 1:07CV1035, 2009 WL 3210337, at *2 (S.D. Ohio Sept. 30, 2009) (quoting *City of Norwood v. Horney,* 110 Ohio St.3d 353, 853 N.E.2d 1115, 1128 (Ohio 2006)).

The actions of the Village of Luckey between August 4, 2021, and the September 18, 2021, attempted auction evidence a clear and unambiguous intention to interfere with the fundamental 'sticks' in the Petitioners' bundle of property rights. Moreover, this impairment of the Petitioners' constitutional rights was further perpetuated through the Village's initiation of a sham state appropriation proceeding, premised exclusively upon misrepresentations of fact by the Village's officials. Thus, the Village has made Ohio's state court system an unwitting accomplice in its scheme to purloin and impair the Petitioners' foundational constitutional rights.

The facts of this case present a shocking abuse of government authority and present exactly the type of 'gap' in our constitutional protections that this

Court has previously sought to plug with its holding in *Knick* that:

> [i]f a local government takes private property without paying for it, that government has violated the Fifth Amendment—just as the Takings Clause says—without regard to subsequent state court proceedings. And the property owner may sue the government at that time in federal court for the "deprivation" of a right "secured by the Constitution."

Knick v. Twp. of Scott, Pennsylvania, 588 U.S. at 189-90. Ohio law does not provide an adequate remedy---or even any remedy at all---for the impairment and deprivation of Petitioners' constitutional rights inflicted by the Village. Accordingly, federal law is obliged to provide both a forum and a mechanism for the Petitioners to secure the vindication of their fundamental rights as American Citizens.

The constitutional malfeasance suffered by Petitioners is even more egregious when viewed in light of the Village's admissions that:

1. it had no interest in taking the Petitioners' property until the Petitioners tried to auction it;

2. it had no idea as to the cost or feasibility of constructing any of the planned improvements and did not even know if the liquid in the quarry well was potable water; and

3. it had no timeline for any aspect of the project, had no money to perform the conceptualized

> improvement, and had no idea whether the project would be undertaken or completed in ten years, 20 years, or ever.

The Village has violated their constitutional rights under color of state law and Petitioners have stated a claim in their Amended Complaint upon which relief can---and must---be granted.

Finally, absent the intervention of this Court, the lower courts judgments will serve to embolden municipalities to disregard the guarantees embodied in the United States Constitution and its Amendments, placing the fundamental property rights of all Ohioans under the 'Sword of Damocles' of bad faith appropriation, with no remedy for their constitutional injury.

These issues are of vital constitutional importance and the November 24, 2025, Judgment of the Sixth Circuit, if allowed to stand, will perpetuate the profound truncation of Ohioans' rights under the Fifth---and also the Fourteenth---Amendments.

Petitioners pray the Court grant certiorari.

STATEMENT OF THE CASE

I. Factual Background

A. The Subject Property

The Petitioners' property is located within the confines of the Village of Luckey, Ohio. The site was formerly utilized by France Stone Company as a quarry. The subject property is ± 72.49 acres and includes a quarry site (hereinafter the "quarry well"), which has an area of ± 30 acres and a depth between 70-80’. The quarry well is filled through a combination of surface and storm runoff as well as water rising from the carbonate bedrock aquifer that was hit during the quarry’s operational period. An aerial of the subject property, as it was identified and marketed in advance of the Petitioners,’ attempted, September 18, 2021, auction is below:

Petitioners Tim and Steve Snyder, through Petitioner T&S Agriventures, LLC (“Snyder”), originally purchased the land as part of a larger, multi-parcel purchase in 2005. From 2005 through 2021, Petitioners made substantial improvements to the property with the intention of selling the property to a developer.

B. The Village of Luckey Interferes with and Prevents the Sale of the Property

In July 2021, Snyder entered into an agreement with Petitioner Beth Rose Real Estate and Auctions, LLC ("Beth Rose"), to market and sell the subject property at auction. Per the parties' agreement, Beth Rose was to receive a percentage of the sale proceeds as compensation for her services in auctioning the property. The auction was scheduled for September 18, 2021, and, shortly after the execution of the agreement between Snyder and Beth Rose, significant efforts were undertaken to market the property for auction.

On or about August 4, 2021, as the marketing efforts for the auction were intensifying, the Village became aware of Snyder's plan to sell the subject property. Having previously rejected an invitation to submit a purchase offer for the Snyder land, the Village immediately began scrambling to thwart the auction. As contained in the minutes for the August 17, 2021, Council Meeting, the Village passed a Motion to direct the Village Solicitor, Attorney Speweik, to "begin the eminent domain process on the [Petitioners' properties] for public purpose." Neither the minutes nor the motion provided any information on what the 'public purpose' allegedly was. However, at no point during the August 17, 2021, meeting or thereafter, until September 21, 2022, did the Village pass/enter a Resolution authorizing the appropriation of the subject property.

On August 20, 2021---three (3) days after the Council Meeting and without a Resolution or Ordinance authorizing the appropriation of the

Snyder property---the Village issued its first Notice of Intent to Acquire to the Petitioners. The Notice identifies the alleged purpose of the appropriation for a "public water supply and/or park." This Notice was deficient on its face as it was not supported by any legislative enactment and further, was contrary to Ohio Revised Code Section 743.01, which acts to specifically limit the Village's eminent domain power by mandating that "[a]ny land, water right, or easement so taken possession of for water-works purposes shall not be used for any other purpose, except by authority of the director of public service and with consent of such legislative authority."

In addition to the void and *ultra vires* Notice of Intent to Acquire, the Village engaged in a concerted pattern of activity, through its elected officials and agents, to prevent the auction and limit the marketability and alienability of the Snyder property. For example, the Village demanded that Beth Rose notify all bidders of the Village's actions and sent representatives to the auction---not to bid, but to dissuade others from bidding. The Village, via its police force, also erected 'No Parking' signage and barriers to accessing the property in a clear attempt to disrupt the auction.

The Village's efforts were successful in chilling potential bidders and sabotaging the auction. The property failed to meet its reserve---with less than $8,500/acre being offered for the property in spite of its buildable road frontage, access to utilities, and improved, shovel-ready condition--- and Snyder was left to retain title in the property. Moreover, any efforts to sell or market the property were precluded by the cloud placed on the title by the Village's misconduct.

C. The Village's Sham Efforts to Appropriate the Subject Property

Nearly 19 months after the issuance of the facially deficient Notice of Intent to Acquire, 18 months after its sabotage of the auction, and following the filing of the Petitioners' federal lawsuit, the Village chose to initiate appropriation proceedings against Snyder in the Wood County, Ohio Court of Common Pleas in the action captioned *Village of Luckey Ohio v. T&S Agriventures, LLC*, No. 2023CV0144.

On September 21-22, 2023, the parties participated in the state court Necessity Hearing to determine whether the Village had the ability to appropriate the property under Ohio law. During the Hearing the Village's Mayor, Mr. Corey Panning, admitted that there was no interest by the Village in the establishment of a new public water source and system until August 2021, when the Village became aware of Petitioners' intention to sell the property via auction.

Testimony from Village officials further confirmed that the entire basis for the appropriation, Resolution 393---which declared the necessity of the appropriation of the entirety of Petitioners' property---was adopted prior to performance of ***any*** testing, before the village had any sense or idea of the potability of the water on the property, and before it had even contacted a contractor to develop a conceptual proposal for the project. Mayor Panning even confirmed that the Village initiated the appropriation process against the Petitioners' property prior to having an idea of what the Village would ultimately use the property for once it was acquired, and without any timeframe for the development or improvement---for any purpose---of the subject property after acquisition.

The Village's own officials emphasized that the only plan of the Village was to prevent the sale of the Snyder property at its fair market value. Other than a single test on the water in the quarry well in September 2021, the Village testified that it had performed no other testing on the soil or water on subject property and had no plans to do so in the future. The Village also testified that it had not performed any feasibility analysis or even hired an engineer or other professional to perform such inquiry. Finally, the Village admitted that it did not have sufficient funds allocated or available to perform any of the contemplated infrastructure improvements to create a Village public water system.

In spite of the Village's stated lack of any public necessity, planning, or financial ability to even contemplate the project, the Wood County Court found that the Village had met its burden to proceed with the appropriation. This conclusion was later affirmed by Ohio Sixth Appellate District which held that the Village's stated 'open-ended' need for the property comported with Ohio law that permitted the appropriation of land for "future needs." *Luckey v. T & S Agriventures, LLC*, 2025-Ohio-871, ¶ 47, 265 N.E.3d 798, 807, *appeal not allowed sub nom. Luckey v. T&S Agriventures, L.L.C.*, 2025-Ohio-2348, 178 Ohio St. 3d 1517, 262 N.E.3d 427. However, subsequent events during the pendency of this appeal have demolished the Village's feeble façade and exposed their conduct, both prior to and during the state appropriation proceeding, as an ongoing effort to deprive the Petitioners of their fundamental constitutional rights.

D. Legislative and Administrative Changes at the Village Expose its Scheme

During the pendency of the state court appropriation proceedings, the actions of the Village began to gain larger awareness amongst the electorate and dissatisfaction with the Village's actions regarding the subject property. This led to contested Village Council elections in November 2025.

The November vote resulted in the election of several new Council members, all of whom ran upon their opposition to the alleged water project and the taking of the Petitioners' property. Following the election results, but before the new Council started its term, the then-current Village Council, as well as the mayor and village solicitor, resigned, rendering the future of the alleged project even more remote and uncertain. *See, e.g.,* Alex Bracken, *Luckey Officials Resign, Sowing Uncertainty about Water Project's Future,* Toledo Blade, Nov. 22, 2025, https://www.toledoblade.com/local/suburbs/2025/11/21/luckey-officials-resign-uncertainty-water-project/stories/20251120121; Alex Bracken, *Luckey Mayor Resigns, Newly Elected Council President to Fill Role*, Toledo Blade, Dec. 5, 2025, https://www.toledoblade.com/local/suburbs/2025/12/05/luckey-mayor-resigns-new-council-president-fill-role-village/stories/20251204104.

The state court case having become the litigation equivalent of Schrodinger's cat, neither alive nor dead, the Petitioners awaited the commencement of the new Council term and the first meeting of 2026.

The agenda for the Luckey Village Council meeting on January 21, 2026, included discussion of the ongoing state and federal lawsuits. The meeting was attended by the Petitioners and recorded in accordance with Ohio law. The recording of the meeting, and the Petitioners subsequent conversations with past and current Council members were subsequently transcribed and filed with the Wood County Court of Common Pleas. The statements made in these recordings confirm the sham nature of the contemplated appropriation as well as its complete lack of factual, legal, or economic basis. Instead, the recordings and the transcripts produced therefrom establish the following:

a. There was never any plan or intention of providing public water to the village.

b. There was never any interest in the property, until the Petitioners put up auction signs;

c. Based on concern that the property would be sold for an industrial use, the then-Village Solicitor unilaterally placed the issue of the Petitioners' property before the Village Council. The Village, acting in concert with its then-Solicitor determined they would commence eminent domain/appropriation proceedings solely to stop the auction sale.

These admissions were directly contrary to the sworn testimony of the Village and its officials, as presented to the state court and which served as the exclusive factual basis for the Court's finding of necessity. Accordingly, Petitioners, as defendants in the state court action, filed their Consolidated Motion to Show Cause, Motion to Set Aside Judgment, and Motion to Dismiss Petition, which is currently awaiting the Village's response.

Since August 2021, Petitioners have been substantially denied the use and enjoyment of their fundamental property interests and the Village's actions were undertaken with clear malice against the rights of the Petitioners. Petitioners suffered significant financial damage as a result of the Village's misconduct and have stated a valid claim for redress of their constitutional injury.

II. Procedural History

Petitioners initiated this action with the filing of their Verified Complaint on December 20, 2022. The District Court's jurisdiction over the subject matter of Petitioners' claims was premised upon 28 U.S.C. §1331 as Petitioners' alleged that the Village of Luckey, Ohio had, *inter alia,* completely impaired their ability to dispose of the subject property and had taken their property without payment of just compensation.

Following service of the Complaint, and prior to filing its responsive pleading, the Village initiated state court appropriation proceedings against the Petitioner landowners to appropriate the entirety of the subject property in the Wood County, Ohio, Court of Common Pleas at the case caption *Village of Luckey,* *Ohio v. T&S Agriventures, LLC, et al.*, Case No. 2023CV0144.

Thereafter, on April 10, 2024, Petitioners sought and were granted leave to file an Amended Complaint. Petitioners' Amended Complaint was filed on April 10, 2024. The Village filed its Motion to Dismiss Petitioners' Amended Complaint on April 24, 2024.

On February 12, 2024, the District Court issued its Memorandum Opinion and Order, dismissing Petitioners' claims on the basis that Petitioners had failed to identify a constitutionally protected property interest that was impaired by the Village's interference with the September 18, 2021, auction.

In light of the erroneous nature of the District Court's order and also as a result of new evidence obtained through the state court appropriation proceeding, Petitioners timely filed their Motion to Alter or Amend Judgment on April 1, 2024. On June 7, 2024, the District Court issued its Memorandum Opinion and Order denying the Petitioners' Motion

Petitioners timely filed their Notice of Appeal to the United States Court of Appeals for the Sixth Circuit on June 13, 2024. Oral argument was held on January 30, 2025. On November 24, 2025, the court, over the dissent of Judge Clay, affirmed the judgment of the Northern District of Ohio, concluding that although "many aspects of the Village's conduct in this matter are troubling" they did not rise to the level of an uncompensated taking and violation of the Petitioners' constitutional rights.(Pet.App. 20a).

Petitioners timely petitioned the Court of Appeals for rehearing en banc on December 9, 2025. The petition for rehearing was denied on January 5, 2026. (Pet.App.1a).

REASONS FOR GRANTING THE WRIT

I. The Fifth Amendment's Self-Executing Guarantee of Just Compensation is a Foundational Constitutional Right and that Right May Not Be Qualified or Abridged.

Given that this appeal involves analysis of the Fifth Amendment's takings clause, it may seem self-evident to note the fundamental right of the Petitioners in this case to own and control their own property. However, in dismissing Petitioners' claims, the lower courts lost sight of the magnitude of the violation of their rights at the hands of the Village of Luckey and also of the paramount importance of private property rights in engineering "the last great experiment for promoting human happiness." George Washington, Jan. 9, 1790. Indeed, and as explained by Justice Johnson "[t]he great and paramount purpose [of the constitution], was to unite this mass of wealth and power, for the protection of the humblest individual; his rights, civil and political, his interests and prosperity, are the sole *end;* the rest are nothing but the *means*." *Gibbons v. Ogden*, 22 U.S. 1, 223, 6 L. Ed. 23 (1824) (Johnson, J. dissenting) (emphasis in original).

This view as to inviolate nature of individual liberty, and particularly of private property rights, was universally held at the founding of the Republic. As explained by the U.S. Court of Appeals for the Eleventh Circuit, "the Founding Fathers placed the right to private property upon the highest of pedestals," ensuring our country's commitment to protecting the 'three-legged stool' of individual liberties---"personal security, personal liberty, and private property." *GeorgiaCarry.Org, Inc. v. Georgia*, 687 F.3d 1244, 1265 (11th Cir. 2012).

The importance of private property ownership, and the United States' commitment to its protection, is laid bare in the plain language of the Fifth Amendment's takings clause, which states that "nor shall private property be taken for public use, without just compensation." This language constitutes a two-fold guarantee on the part of the United States: (1) that private property will only be taken for a public purpose; and (2) that just compensation will be paid for any taking. This guarantee extends to the States, not only by the ratification of the Fourteenth Amendment, but also by virtue of a State's ratification of the Federal Constitution and Bill of Rights as a condition of their admission into the Union. *Ladd v. Marchbanks*, 971 F.3d 574, 577 (6th Cir. 2020). Likewise, this Court unequivocally held in *Knick*, that the Fifth Amendment's guarantee of payment and its creation of a constitutional cause of action, and remedy, for uncompensated takings applied with equal force to takings by political subdivisions, like the Village of Luckey:

> the same reasoning applies to takings by the States. The availability of any particular compensation remedy, such as an inverse condemnation claim under

> state law, cannot infringe or restrict the property owner's federal constitutional claim.

Knick, 588 U.S. at 191.

In failing to appropriately analyze the nature of the Petitioners' claims, the lower courts missed the opportunity to view this litigation through the analytical framework articulated by *Knick* and, in so doing, produced a result that is contrary to one of the bedrock principles of the judiciary, that "[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury.' *Marbury v. Madison*, 1 Cranch 137, 163, 2 L.Ed. 60 (1803).

It is well-established that real property and damages associated therewith are generally unique. *See K-Mart v. Oriental Plaza Inc.*, 875 F.2d 907, 915-16 (1st Cir.1989) ("Real estate has long been thought unique, and thus, injuries to real estate interests frequently come within the ken of the chancellor."); *J.C. Penney Co. v. Giant Eagle, Inc.*, 813 F.Supp. 360, 369 (W.D.Pa. 1992) ("damage to interests in real estate are generally viewed as unique"), *aff'd*, 955 F.2d 217 (3d Cir. 1993); *see also, Pelfresne v. Village of Williams Bay*, 865 F.2d 877, 883 (7th Cir. 1989); *United Church of Medical Center v. Medical Center Com.*, 689 F.2d 693, 701 (7th Cir. 1982). Indeed, these tenets of property law, coupled with the inviolate nature of property ownership, have led commentators to view uncompensated takings, as occurred in this case, as "The First Constitutional Tort." *See,* Robert Brauneis, *The First Constitutional Tort: The Remedial Revolution in Nineteenth-Century State Just Compensation Law*, 52 Vand. L. Rev. 57 (1999).

Accordingly, given the magnitude of property rights in the founding and organization of our Country, it has long been required that states provide "reasonable, certain, and adequate procedures" for seeking just compensation to individuals who have suffered an uncompensated taking or risk running afoul of the guarantees enshrined in the Fifth Amendment. *See, Williamson Cty.*, 473 U.S. at 194. *Accord*, *Knick:*

> As long as an adequate provision for obtaining just compensation exists, there is no basis to enjoin the government's action effecting a taking. But that is because, as the Court explained in [*First English Evangelical Lutheran Church of Glendale v. Los Angeles Cty., Cal.*, 482 U.S. 304, 107 S.Ct. 2378, 96 L.Ed.2d 250 (1987)], such a procedure is a remedy for a taking that violated the Constitution, not because the availability of the procedure somehow prevented the violation from occurring in the first place.

Knick, 588 U.S. at 201.

As such, the availability of a complete and appropriate remedy for an uncompensated taking is mandated by the Fifth Amendment. *Palazzolo v. Rhode Island,* 533 U.S. 606, 617, 121 S.Ct. 2448, 150 L.Ed.2d 592 (2001)). In essence, the current law regarding uncompensated takings in violation of the Fifth Amendment is simply a restatement of the maxim *ubi jus ibi remedium*---for every wrong, the law must provide a remedy.

Not surprisingly, Ohio's Supreme Court has also emphasized the essential nature of individual property rights:

> Ohio has always considered the right of property to be a fundamental right. There can be no doubt that the bundle of venerable rights associated with property is strongly protected in the Ohio Constitution and must be trod upon lightly, no matter how great the weight of other forces.

Norwood v. Horney, 110 Ohio St.3d 353, 361-62, 853 N.E.2d 1115 (Ohio 2006) (internal citations omitted). The Ohio Supreme Court further noted that, in addition to the actual property itself, it described the "rights related to property, i.e., to acquire, use, enjoy, and ***dispose*** of property" as "among the most revered in our law and traditions." *Id.* at 361 (emphasis added).

In spite of these lofty ideals, the Village of Luckey was able to abuse the eminent domain authority afforded it under Ohio law. Its pretextual Resolution, and subsequent 'notice' to the Petitioners and interference with the September 18, 2024, auction evidence an intentional and callous disregard for the property interests of the Petitioners.

The Village's actions to prevent the Petitioners from even ascertaining the fair market value were swiftly implemented and bore immediate fruit, with the thwarting of the September auction. Petitioners suffered material, specific, and calculable injury to their respective property interests. However, the lower courts have concluded that no remedy exists under federal law for this constitutional injury. Such a conclusion must not be permitted to stand. *Ubi jus ibi remedium.*

II. The Sixth Circuit's Opinion Conflicts with its Own Prior Express Holding as Well the Express Precedent Established by this Court in *Knick.*

The holdings of the lower courts in this case offend the constitutional order by allowing the Village to violate its obligations under the Fifth Amendment without provision of a remedy to the Petitioners. These holdings are also directly contrary to previously established Sixth Circuit precedent in *Amen v. City of Dearborn*, 718 F.2d 789 (6th Cir. 1983). These failures mandate the Court's acceptance of the Petition.

In *Amen v. City of Dearborn*, the city wanted to redevelop a neighborhood it deemed blighted. 718 F.2d at 797. Aiming to eventually begin eminent domain proceedings if needed, the city first delayed and unreasonably denied permits to the neighborhood's residents, thereby encouraging them to relocate. *Id.* The city demanded maintenance and remodeling beyond what was required by applicable building codes. *Id.* At the same time, it allowed some properties to remain vacant and unprotected to encourage residents to sell nearby properties to the city. *Id.*

The Sixth Circuit concluded that these actions amounted to a "deliberate course of conduct [that] caused such substantial damage to plaintiffs' properties that the properties in effect were actually taken." *Id.* at 797-98. Put differently, the city in *Amen* used unconstitutional tactics to drive down the cost of just compensation and effectively force property owners to sell to the city at depressed values. The city did not take *title*, nor even a lesser formal interest in the property such as an easement, but the Sixth Circuit nonetheless held a "taking" had occurred within the meaning of the Fifth Amendment, and just compensation was required. *Id.*

The facts and holdings in *Amen* provided a ready---and controlling---analogue to the Village's attempts in the matter *sub judice* to "engage in a deliberate course of conduct to force the sale of private property at reduced value." *Id.* at 797.

First, the fact that the Village subsequently initiated appropriation proceedings against the Petitioner landowners in state court expressly supports the application of the holding in *Amen* to the facts of this case. As previously explained by the Sixth Circuit, the fact that the *Amen* plaintiff's property was targeted by the City of Dearborn for appropriation was a specific and dispositive consideration in finding that Dearborn's actions constituted an uncompensated taking. *Id.*

In this case, there is no dispute that, on or about August 4, 2021, and shortly after learning of the planned auction, the Village specifically and exclusively targeted the Petitioners' property for appropriation. However, the Village failed to enter a Resolution authorizing the appropriation of the property until September 21, 2022.

Instead, the Village:

1. Sent out a defective and ultra vires Notice of Intent to Acquire, affirmatively misstating its

authority under Ohio Revised Code Section 743.01, and under Chapter 163;

2. Demanded that Beth Rose notify all bidders of its intention to take the property from whomever bought it at auction;

3. Sent representatives to the September 18, 2021, auction---not to bid, but to dissuade others from bidding;

4. Erected 'No Parking' signage and placed barriers to accessing the property in a clear attempt to disrupt the September 18, 2021, auction; and

5. Waited an additional 18 months after its sabotage of the auction to initiate appropriation proceedings against the Petitioner landowners in the Wood County Court of Common Pleas, and only in response to the filing of this lawsuit in December 2022.

Under the facts of this case, and the *appropriate* application of this Court's holding in *Amen,* Petitioners' amended pleading presented valid claims under the Fifth and Fourteenth Amendments that the "'freezing' of plaintiff's land . . . amounted to an unconstitutional deprivation" and that the Village's "deliberate course of conduct caused such substantial damage to plaintiffs' properties that the properties in effect were actually taken . . . for which just compensation is due." *Urbanizadora Versalles, Inc. v. Rivera Rios*, 701 F.2d 993, 996 (1st Cir. 1983); *Amen*, 718 F.2d at 798.

Again, the right "to sell or otherwise dispose of [property] according to the will of the owner, and without any diminution or control save only by the laws of the land," is an essential incident of ownership. *von Kerssenbrock-Praschma v. Saunders*, 48 F.3d 323, 325–26 (8th Cir. 1995) (quoting 73 C.J.S. Property § 27 (1983)); *see also Keyerleber v. Euclid Congregation of Jehovah's Witnesses*, 103 Ohio App. 423, 430, 143 N.E.2d 313, 317 (1957) ("This right—*jus disponendi*—is an incident of the ownership of property.") The Village's concerted efforts, taken under color of law, to interfere with the September 18, 2021, auction and to prevent the Petitioners from ascertaining the fair market value of their property, deprived them of this essential right.

The lower courts' attempts to distinguish the present case from the controlling precedent of *Amen*, rest entirely upon the fact that the actions of the City on *Dearborn* were undertaken over a period of years, while the scheme undertaken by the Village of Luckey, *in this case*, inflicted constitutional injury upon the Petitioners in a period of months. However, as noted by the dissent, the overall timeframe of the Village's "deliberate course of conduct" was immaterial in light of the "intentional wrongdoing and deliberate sabotage of the property's sale":

> But the Village did not provide only an announcement or simply express interest in the property. Nor did the Village follow the normal process of governmental decision making or take standard preliminary steps towards a condemnation. Rather, the Village carried out an intentional and concerted series of actions to undermine the sale of the property, devalue the property, and

> acquire ownership of the property at a cheaper price. The Village's course of conduct involving intentional wrongdoing and interference sets this case apart from those prior holdings.

(Pet.App. at 47a.).

The majority's failure to adhere to *Amen's* holding and the imposition of an additional pleading standards upon Petitioners in this case---such as a showing of physical degradation of the property, or that the offensive conduct occur for some years-long duration---are expressly *not part* of the holding in *Amen*.

The Sixth Circuit's inappropriate 'remix' of *Amen's* controlling precedent also places the November 24, 2025, Opinion in direct conflict with the express precedent of this Court. As held by *Knick*, the Fifth Amendment's Takings Clause is "self-executing" and "no matter what sort of procedures the government puts in place to remedy a taking, a property owner has a Fifth Amendment entitlement to compensation *as soon as* the government takes his property without paying for it." *Knick*, 588 U.S. at 190 (emphasis added). The immediate vesting of this right-to-remedy was the basis for this Court's overruling of *Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172, 105 S.Ct. 3108, 87 L.Ed.2d 126 (1985), and carries equal weight in its application here.

In *Knick*, use of a portion of the property owner's 90-acre parcel was impaired by the passage of a township cemetery ordinance. *Knick*, 588 U.S. at 180. In ruling in favor of the property owner, the

Supreme Court held that the property owner had stated a valid claim under 42 U.S.C. § 1983 and she was entitled to immediate relief. *Id*. The scope of the governmental action in *Knick* was also objectively less impactful on the subject property than the actions of the Village in this case.

The Village undertook express and concerted action to prevent the Petitioners from even participating in the marketplace. The actions of the village completely destroyed the fair market value of the subject property in order to arbitrarily keep the property at a reduced value for a potential later acquisition. These actions were performed under the color of State law, but without legal basis or the appropriate invocation of Chapter 163 of the Ohio Revised Code until *after* the auction had failed.

"It is the owner's loss, not the taker's gain, which is the measure of the value of the property taken." *United States v. Causby*, 328 U.S. 256, 261 (1946). The fair market value of what is taken, plus interest, is the normal measure of recovery. *Knick*, 588 U.S. at 190; *Seaboard Air Line Ry. v. United States*, 261 U.S. 299, 305 (1923). Fair market value has been described by the Supreme Court as what "a willing buyer would pay in cash to a willing seller." *United States v. 50 Acres of Land*, 469 U.S. 24, 25-26 (1984). Just compensation means the "full and perfect equivalent in money of the property taken [which is equal to what] 'it fairly may be believed that a purchaser in fair market conditions would have given.'" *United States v. Miller*, 317 U.S. 369, 374, 63 S. Ct. 276, 280, 87 L. Ed. 336 (1943) (quoting *New York v. Sage*, 239 U.S. 57, 61, 36 S.Ct. 25, 26, 60 L.Ed. 143 (1915).

It is well-established that an open and competitive "public auction . . . is the best possible determinant of the value of" assets. *In re Pursuit Cap. Mgmt., LLC*, 874 F.3d 124, 136 (3d Cir. 2017) (quoting *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 149 (3d Cir. 1986)). *Accord*, *Freed v. Thomas*, 81 F.4th 655, 659 (6th Cir. 2023) ("best evidence of a foreclosed property's value is the property's sales price"); *Case, Inc. v. United States*, 62 F.3d 1430 (Fed. Cir. 1995) ("auction price as the best evidence of fair market value").

The Village of Luckey, Ohio's intentional elimination of the Petitioners' right to determine the property's value via participation in the auction process---*or to participate in the market process at all*---"is inconsistent with the historical compact recorded in the Takings Clause that has become part of our constitutional culture." *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1028, 112 S. Ct. 2886, 2900, 120 L. Ed. 2d 798 (1992).

The Sixth Circuit's November 24, 2025, Opinion is contrary that Circuit's controlling precedent, as well as contrary to the express holding of this Court in *Knick*. Accordingly, the Court must accept this Petition and grant certiorari.

III. The Sixth Circuit's November 24, 2025, Opinion is Contrary to the Precedent of Other Circuit Courts of Appeal.

The panels' November 24, 2025, opinion is completely inconsistent with the law of other Circuits holding that targeted governmental action to render property unsaleable and deliberately depressing the price to be paid in subsequent eminent domain actions are considered "de facto" or constructive takings. *See, e.g., Thomas W. Garland, Inc. v. City of St. Louis*, 596 F.2d 784, 787 (8th Cir. 1979) ("governmental action short of acquisition or occupancy may constitute a constructive or de facto taking"); *Stueve Bros. Farms, LLC v. United States*, 737 F.3d 750, 759 (Fed. Cir. 2013) (collecting cases recognizing "de facto takings").

The Ninth Circuit has similarly held that when, as here, targeted precondemnation interference makes property unsaleable, the government has "taken" property within the meaning of the Fifth Amendment and, therefore, must pay just compensation. *Richmond Elks Hall Ass'n v. Richmond Redev. Agency*, 561 F.2d 1327 (9th Cir. 1977).

In that case, a local redevelopment agency included an Elks Hall in an area deemed "blighted." Id. at 1329. While redevelopment efforts were pending, the agency "severely limited" the Elks' ability to improve the property, rendering it "unsaleable in the open market." *Id*. at 1330-31. The agency later abandoned condemnation. *Id*. at 1329. Nevertheless, the agency's interference with the Elks' property rights "was direct and substantial" and "the result of this interference was a significant reduction in the value of the subject property." *Id*. at 1331. The Ninth Circuit held that "[w]hen a public entity acting in furtherance of a public project directly and substantially interferes with property rights and thereby significantly impairs the value of the property, the result is a taking in the constitutional sense and compensation must be paid." *Id*. at 1330.

These holdings all share the holding articulated by the Sixth Circuit in *Amen*---that a when an agency engages in precodemnation chicanery amounting to a "deliberate course of conduct [causing] substantial damage to plaintiffs' properties", a property owner has a valid claim for an uncompensated taking under the Fifth Amendment and 42 U.S.C. § 1983. *Amen*, 718 F.2d at 797.

Petitioners met their burden to state a claim upon which relief could, and should, be granted. Petitioners pray the Court grant certiorari.

CONCLUSION

The November 24, 2025, Opinion of the Sixth Circuit Court of Appeals has closed and locked the doors to the Courthouse on federal takings claims that this Court expressly reopened with its holding in *Knick*. Petitioners presented well-pleaded and valid claims that the district court was vested with subject matter jurisdiction to entertain.

Petitioners were denied the ability to ascertain the fair market value of the subject property, denied the ability to alienate the property according to their wishes, and were denied the ability to even fairly participate in the marketplace.

The arbitrary pleading standards imposed by the lower courts are contrary to the precedent of this Court, violative of the Sixth Circuit's own precedent, and defies common sense. The Village's misconduct did not take years precisely because it was able to inflict constitutional injury and destroy the market value of the subject property over the course of a month. Impairing the Petitioners' constitutional rights 'efficiently' is not a basis upon which the Village could avoid liability, but that is effectively what the lower courts have held.

Finally, the Village's perpetuation of its sham appropriation proceeding, undertaken solely to stymie the Petitioners' ability to obtain federal relief, evidences a callous and continuing effort to undermine the rule of law. It is the foundational wellspring of the federal judiciary that "constitutional provisions for the security of person and property should be liberally construed." *Mapp v. Ohio*, 367 U.S. 643, 647, 81 S. Ct. 1684, 1687, 6 L. Ed. 2d 1081 (1961) (quoting *Boyd v. United States*, 116 U.S. 616, 635, 6 S. Ct. 524, 535, 29 L. Ed. 746 (1886)).The judgments of the lower courts in this case represent an abdication of this principle.

Accordingly, Petitioners respectfully request that this Court train its vigilant eye upon the constitutional injury that they have suffered in this case and grant certiorari on all questions presented by and through this Petition.

Dated: May 25, 2026 Respectfully Submitted:

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