25-1379

No. __________

In the Supreme Court of the United States

EVANGELOS SOULIOTIS,
Petitioner,

v.

DONALD C. DARNELL,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the *stare decisis* authority of a court's decision infringing on exclusive legislative power, permit that court's decision to perpetuate and broadly apply that decision against Petitioner and all subsequent litigants?

2. Does *stare decisis* require a court to uncritically and broadly apply against Petitioner that prior decision that unmistakably infringes upon the separation of powers, and upon the contract rights, agency, and self-determination of our citizenry - thereby undermining the right of millions of Americans to choose what they are, or are not, willing to agree to within a contract?

3. At the core, should the broadly applied *stare decisis* authority of the court be allowed to infringe on fundamental legislative power and thereby create a new class of contract law, a *non-consensual contract*?

PARTIES TO THE PROCEEDINGS

Petitioner, and plaintiff-appellant below is Evangelos Souliotis.

Respondent, debtor-defendant-appellee below is Donald C. Darnell.

RELATED PROCEEDINGS

United States Bankruptcy Court (EDMI):

In Re: Donald C. Darnell, Evangelos Souliotis v. *Donald C. Darnell*, No. 22-41803-mlo, No. 22-04103-mlo (May 9, 2023) (summary judgment granted for respondent)

United States District Court (EDMI):

In Re: Donald C. Darnell, Evangelos Souliotis v. *Donald C. Darnell*, No. 4:23-cv-11467-SDK-EAS (bankruptcy court affirmed) (Sep. 30, 2024)

United States Court of Appeals (CA6):

In Re: Donald C. Darnell, Evangelos Souliotis v. *Donald C. Darnell*, No. 24–1957 (bankruptcy and district courts affirmed) (Sep. 23, 2025)

In Re: Donald C. Darnell, Evangelos Souliotis v. *Donald C. Darnell*, No. 24–1957 (rehearing denied) (Nov. 19, 2025)

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JURISDICTION

The Sixth Circuit's decision was entered on September 23, 2025. The Sixth Circuit denied rehearing on November 19, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

This adversary proceeding sought a finding by the bankruptcy judge that the Respondents indebtedness to Petitioner was non dischargeable under 11 U.S.C. §523(a). It was determined by the bankruptcy court, that, under the Sixth Circuit's decision in *Capital Dredge*, 800 F. 2d 525 (CA6 1986), Petitioner's claim against Respondent was dischargeable.

11 U.S.C. §523(a):

(a) The debtor shall—

(1) file—

(A) a list of creditors; and

(B) unless the court orders otherwise—

(i) a schedule of assets and liabilities;

(ii) a schedule of current income and current expenditures;

(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;

11 U.S.C. §523(a).

STATEMENT OF THE CASE

A. Background

Petitioner, was represented in a state (MI) court civil matter by attorney Donald C. Darnell, Respondent. Respondent agreed to a settlement of the case without Petitioner's' knowledge or consent. Respondent secretly overrode Petitioner's objections, dismissed the state court defendant with prejudice, and concealed these actions from Petitioner. Petitioner then sued Respondent and the jury returned a verdict in Petitioner's favor for breach of fiduciary duty.

Immediately thereafter Respondent filed for bankruptcy in the United States Bankruptcy Court for the Eastern District of Michigan (chapter 11 converted to chapter 7). Petitioner filed a claim therein and commenced this adversary proceeding to prevent Respondent's discharge of Petitioner's claim from the state case against him under 28 U.S.C. §523(a)(6).

B. Facts and Procedural History

The bankruptcy court determined Petitioner's claim was dischargeable under the Sixth Circuit Court of Appeal's decision in *Capital Dredge and Dock* v. *City of Detroit*, 800 F. 2d 525 (CA6 1986). That case said the breach by the attorney of the client's trust and contractual right, by settling a case without the client's agreement or consent, could be remedied by way of yet another lawsuit - a malpractice lawsuit against the attorney. This was Capital Dredge's prescribed client recourse (which had in fact already happened and had been unsuccessful for the Capital Dredge client, unlike Petitioner's state case). In *Capital Dredge*, the prescribed recourse against its attorney did not reverse the wrongfully enforced release and settlement contract (and thereby created *non-consensual contract*) against the Capital Dredge Petitioner.

In the present case, Petitioner's state case was consistent with the Capital Dredge ruling, in respect to the unquestioned reliance upon the apparent authority of an attorney to settle on behalf of their client (*Capital Dredge* had ruled that the attorney is cloaked in the authority of the client). Actual authority was lacking in both cases, and the court's reliance on the apparent authority of the attorney allowed for the abuse seen in both cases. The *Capital Dredge* ruling mistakenly reasoned that such abuses perpetrated against a client could be remedied by suing the attorney. However, the bankruptcy court's decision that Petitioner's claim against Respondent was a dischargeable indebtedness under 28 U. S. C. § 523(a)(6), notwithstanding a jury's decision it was a fiduciary breach, illustrates why *Capital Dredge's* prescribed recourse is non-viable recourse at best, and a poor trade-off in exchange for undermining the contract rights of millions of Americans.[1] That decision, which was informed by *Capital Dredge*, is the basis of this Petition and appeal. On appeal, both the Eastern District of Michigan, and the Sixth Circuit, affirmed the bankruptcy court's decision, finding the *Capital Dredge* decision controlling, notwithstanding the

[1] *Capital Dredge's* restructuring of the laws related to apparent authority mistakenly created an avenue for the unscrupulous to judicially force litigants into non-consensual contracts, and has worked contrary to the objective of judicial efficiency. See App. 81, last paragraph, citation of ECF 183, 185, & 186; analysis and case research of related to apparent authority,

state jury finding that Respondent had breached his fiduciary duty to Petitioner.

REASONS FOR GRANTING THE PETITION

The courts have retained the common law's authority from the constitution's inception. The common law was fixed by the newly enacted constitution as being among those rights retained by its citizens. The common law often acts the same as statutory legislation to the parties in a dispute. It is, of course, not in Article I, section 1 of the constitution but it does 'make the law' for the litigants. The problem presented here, however, is not the common law. The problem is the judiciary's belief that its decisions must enforce through *stare decisis* its reasoning and the determination it made on everyone else. No matter that it may be under different facts and circumstances. No matter that it, in fact, "creates" law that no legislature would ever enact. No matter that its decision is well beyond the fundamental separation of powers. When the court so errs in its determination, there are far-reaching consequences to everyone, the court and judiciary not the least. The "common law" decision becomes legislation. It becomes legislation with none of the legislative process safeguards designed to protect affected citizens, e.g., legislative review, hearings, and debate. This case well illustrates that problem.

At issue here are the very principles at the heart of the American judicial system, and in the view of those principles so widely held by the American public– *"...liberty and justice for all."*

Most graduating American high school seniors venture into young adulthood with at least a basic understanding of our primary government institutions.

More specifically, there exists an expectation that the American judiciary will endeavor, within the realm of its remit, to protect and perpetuate liberty and justice for all.

For many, this seed of liberty was institutionally planted at a very young age by way of the pledge of allegiance.

This case touches this fundamental aspect of the civil justice system–specifically economic liberty, a just judiciary, fairness for all within the American civil judicial system. Even more specifically, the freedom to contract, so that all people have the right to choose what they are, or are not, willing to agree to, within a contract.

The question Petitioner has presented here is how can the judiciary retain that faith of the American public in "justice for all", if any federal circuit court starts creating laws that break the law–and/or enacts laws that are unequal and upset the law?

The precedent setting *Capital Dredge* ruling and the *stare decisis* command has breached that faith. This relatively new law says that a perpetrator, an attorney, regardless of having been found by a jury to have broken the law and to have violated their clients' trust, can have the object of their lawbreaking remain intact. The judicially created damage in Petitioner's case is compounded by *Capital Dredge's* errant prescription of recourse–a prescription which results in ever more lawsuits (the proceeds of which can easily be discharged in bankruptcy court). This was warned of by Judge Neff in his dissent to the publishing of *Nelson* v. *Consumers Power*, 497 N.W.2d 205 (Mich. 1993), which relied upon the *Capital Dredge* ruling (App. 78, ¶ 3).

That is the direct effect of the court(s) following the *stare decisis* of *Capital Dredge* in this case.

The next question is, how can the judicial system allow for this most unjust of precedential realities to continue–a reality that has given rise to a profoundly unfair creation: the *non-consensual contract*.

Finally, one must ask: is it wise to shred public faith in the judiciary by allowing lawbreakers, whose acts of betrayal undermine public faith in our judiciary, to escape justice by way of *Capital Dredge's* severely flawed prescription of recourse? (A judicially enacted prescription for recourse, which fully replaces peoples otherwise ironclad right to contract, in exchange for the onerous burden (*"recourse"*) of an entirely new malpractice lawsuit). In a practical sense, this is a barrier to recourse; as this *remedy* implicitly carries a highly questionable judicial outcome–and is particularly unfair and unequal if the ultimately awarded recourse, even when successful, can be so easily discharged in bankruptcy court.

Prior to the precedent setting *Capital Dredge* ruling such violations of client rights, and trust, (by overriding a client's objections and secretly agreeing to a settlement), were much riskier, and far more difficult to pull-off by a disreputable attorney (earlier court or legislative requirements sought a power of attorney document, an open court agreement, or a direct client signature, any of which made *forcing* clients into contracts against their will quite difficult).

The detrimental effects of the *Capital Dredge* ruling are evident in this case – and the *"force"* involved in leaving objecting clients stuck with *non-consensual contracts* manifests itself in the form of confronting wronged clients with the prospect of a costly legal battle to defeat a motion to enforce a *non-consensual contract (virtually a lawsuit in itself)*; and then confronting already exhausted and victimized clients with the burden, risk, and cost of a second lawsuit (a legal malpractice case) potentially subject to a bankruptcy discharge, and in the event of an bankruptcy adversary proceeding, yet a third lawsuit – all related to a singular underlying lawsuit.

Petitioner asserts that the bankruptcy court erred because it followed the Sixth Circuit's precedent setting case, and found that an attorney's intentional fiduciary breach of the representation contract (even as so found by a jury) did not warrant non-dischargeability under 11 U.S.C. §523(a) In doing so, the court also ignored the attorney's intentional violation of Michigan Rules of Professional Conduct 1.2(a)

MRPC 1.2(a) states: A *lawyer shall abide by a client's decision whether to accept an offer of settlement.*

The bankruptcy court's determination–that it doesn't matter because of *Capital Dredge*–is not only wrong, it undermines the very foundation of the court and judiciary itself.

MRPC 1.2(a) purports to be absolute–settlement terms are subject to the discretion of the client, not the attorney. The precedent setting *Capital Dredge* ruling not only created a new law, it disregarded the American jury that had determined Respondent had violated fiduciary law and MRPC 1.2(a). In doing so *Capital Dredge* and its *stare decisis* power created a law that breaks the law, and dangerously undermined the rights of millions of Americans.

This worked an extreme deviation from America's cherished principles of justice, self-determination, and freedom of contract for all.

Further, what the bankruptcy court failed to assess was that in allowing Respondent's bankruptcy discharge, the recourse promised by the *Capital Dredge* judicial panel, a new lawsuit in exchange for violating everyone's contract rights, was proven to be a deeply flawed prescription for recourse, and it trivialized the detrimental impact of such attorney betrayals. It provides a false recourse that protects only the class of licensed attorneys. Thus, the question presented by Petitioner is:

> May the judiciary effectively create–by its published decision and the *stare decisis* effect thereof- "legislation" which violates established rules and revokes a *private citizen's contractual rights*, if such revocation of rights is accomplished by a member the bar? Does the court's decision thus protect (only) the class of state licensed attorneys?

I. The Foundational Importance of the Separation of Powers

"In applying the principle of separated powers in our jurisprudence, we have sought to give life to Madison's view of the appropriate relationship among the three coequal Branches. Accordingly, we have recognized, as Madison admonished at the founding, that while our Constitution mandates that "each of the three general departments of government [must remain] entirely free from the control or coercive influence, direct or indirect, of either of the others," *Humphrey's Executor* v. *United States,* 295 U. S. 602, 629 (1935). This Court consistently has given voice to, and has reaffirmed, the central judgment of the Framers of the Constitution that, within our political scheme, the separation of governmental powers into three coordinate Branches is essential to the preservation of liberty. See, *e. g., Morrison* v. *Olson,* 487 U. S. 654, 685-696 (1988); *Bowsher* v. *Synar,* 478 U. S., at 725. Madison, in writing about the principle of separated powers, said: 'No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty.' The Federalist No. 47, p. 324 (J. Cooke ed. 1961)." *Mistretta v. United States,* 488 US 361, 380 (1989).

This Court has been vigilant in striking one branch's "tasks that are more properly accomplished by [other] branches," *Morrison* v. *Olson,* 487 U. S., at 680-681. It has noted that Congress must be careful in delegating legislative power. ".... we long have insisted that 'the integrity and maintenance of the system of government ordained by the Constitution' mandate that Congress generally cannot delegate its legislative power to another Branch. *Field* v. *Clark,* 143 U. S. 649, 692 (1892)." *Mistretta v. United States,* 488 US 361, 372 (1989).

The Court has recognized the danger in "that that Branch [judiciary] is inevitably weakened by its participation in policymaking" *Mistretta,* Ibid, at p.395.

In Petitioner's case the Sixth Circuit's judiciary has employed the so-called "common law" of other (panel) judge's decisions, in different fact settings, as a "common law"; i.e., *Capital Dredge and Dock v. City of Detroit,* 800 F. 2d 525 (1986)("*Capital Dredge*") and through its publication, it became "the law." A law that the bankruptcy judge, the District Court and the Sixth Circuit Panel felt compelled to employ to ignore a citizen jury verdict on the question, in order to protect the fellow member of the bar. This newly discovered "law" entirely deprives a citizen of his right to enter into a contract with an expectation of remedy for breach. It replaces the certainty of a contract with the Sixth Circuit's *Capital Dredge* invitation to more (uncertain) litigation. This "judge made" law is purely a legislative enactment. An enactment that absolutely no state or federal legislature would even consider. – a "law" that exclusively promotes and protects only the class of the licensed lawyers – and no one else. It is not even consistent with the state bar's own professional standards. MRPC 1.2(a) says "*A lawyer shall abide by a client's decision whether to accept an offer of settlement.*" *Capital Dredge* undermines this rule and violates the very direction and spirit of the rule (allowing clients the final say on accepting or rejecting the terms of settlement).

"*The Framers recognized that, in the long term, structural protections against abuse of power were critical to preserving liberty. Bowsher,* 478 U.S., at 730, 106 S.Ct. 3181. ...*They then divided the 'powers of the new Federal Government into three defined categories, Legislative, Executive, and Judicial.' Chadha,* 462 U.S., at 951, 103 S. Ct. 2764" *Seila Law LLC v. Consumer Fin. Protection Bureau,* 140 S. Ct. 2183, 2202 (2020). And, "*When a party seeks to assert an implied cause of action under the Constitution, separation-of-powers principles should be central to the analysis.*" *Ziglar v. Abbasi,* 137 S. Ct. 1843, 1848 (2017).

MRPC 1.2(a) is clear: "*A lawyer shall abide by a client's decision whether to accept an offer of settlement.*" Because *Capital Dredge* undermines this rule, - and violates the spirit of the rule - protection of the public interest, and maintenance of the public's faith in the judiciary, requires that the ongoing damage caused by the flawed *Capital Dredge* ruling be brought to an end.

The Court has been vigilant in striking one branch's "tasks that are more properly accomplished by [other] branches," *Morrison* v. *Olson,* 487 U. S., at 680-681. The Court should do so now. Reverse the Sixth Circuit decision.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this honorable Court grant the petition for a writ of certiorari; that it make a determination that *Capital Dredge's* application of its *stare decisis* authority infringed upon exclusive legislative power, that *Capital Dredge's* reliance on apparent authority created a dangerous opening for the abuse of client rights, that *Capital Dredge's* prescription of recourse was severely flawed, and finally, that this honorable court make a determination that Petitioner's claim is non-dischargeable under 11 U.S.C. §523(a).

This document was drafted or partially drafted with the assistance of a lawyer licensed to practice in the State of Michigan, pursuant to Michigan Rule of Professional Conduct 1.2(b).

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