Case No. 25-463

IN THE SUPREME COURT OF THE UNITED STATES

Clean Air Car Service & Parking Branch Three, LLC,

Petitioner,

v.

Clean Air Car Service & Parking Branch Two, LLC., et al.,

Respondents.

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

REPLY BRIEF OF THE PETITIONER

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RULE 29.6 STATEMENT

The corporate disclosure statement included in the petition[1] for a writ of certiorari remains accurate.

[1] The undersigned is currently working with the Clerk Office of this Court to finalize the title of this case. For the sole purpose of the Petition, the petitioners should also include Clean Air Car Service & Parking Corp, Inc., Operr Service Bureau, Inc., Operr Technologies, Inc., Kevin S. Wang. However, the current title is following the Clerk Office' instruction for compliance purpose with potential amendment to the title if permitted by this Court eventually.

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Respondents' opposition ("Opposition" or "Opp") devotes substantial effort to argue irrelevant facts without meaningfully disputing the central questions presented by the Petition ("Petition" or "Peti") filed by the Petitioners dated on September 19, 2025: "(1)

whether the Bankruptcy Court has subject matter jurisdiction over a bankruptcy petition under 28 U.S.C. § 157 and 28 U.S.C. § 1334, filed by an allegedly managing member on behalf of a bankruptcy debtor, while the petitioners raised an independent claim under the Rooker-Feldman doctrine and 28 U.S.C. § 1738 that the alleged managing member is a bad-faith transferee under U.C.C. § 9-617 and its Official Comments in a U.C.C. Article 9 sale; and (2) if so, whether the independent claim disputing the ownership of the bankruptcy debtor constitutes an adverse claim sufficient to defeat a buyer' good-faith purchaser status under 11 U.S.C. § 363(m) in a bankruptcy sale for the bankruptcy debtor's property." (Peti. pg. i)

When the Opposition failed to raise the meaningful dispute that the bankruptcy court lacks the jurisdiction tied to the bad faith transferee in U.C.C. Article 9 sale, the arguments in the Petition along with other undisputed petitioners' argument should deem to be unopposed as this Court held "we rely on the parties to frame the issues for decision and assign to courts the role of neutral

arbiter of matters the parties present." Greenlaw v. United States, 554 U.S. 237, 243, 128 S. Ct. 2559, 171 L. Ed. 2d 399 (2008). In other words, no matter the theories we might conjure up on a party's behalf, the longstanding party presentation rule confines us to considering only the arguments raised, not those we could imagine. See NASA v. Nelson, 562 U.S. 134, 147 n.10, 131 S. Ct. 746, 178 L. Ed. 2d 667 (2011).

Although the Opposition alleged that it did dispute certain arguments raised in the Petition, however it offers nothing more than conclusory statements unsupported by legal authorities or relevant facts. Especially, the entire Petition mainly related to bankruptcy jurisdiction and interpretation of "good faith" under 363(m), which is tied to U.C.C. 9-617 and its Official Comment (4), the Opposition failed to raise any meaningful argument at all. Considering the national significance of Bankruptcy jurisdiction, U.C.C. Article 9 sale, and interpretation of "good faith" purchaser in bankruptcy sale, this petition warrants this Court by favorable discretion to grant for review.

The Second Circuit's holding ignores this Court's long-standing position to close "the doors of a court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief "in refusing to aid the unclean litigant", which there is also no dispute from the Opposition. Therefore, nothing in the Respondent's Opposition undermines the foregoing points from the Petition or provides any legitimate basis to deny the review.

A. The Second Circuit disregarded state law and deemed the state court ruling as jurisdictional, thereby contravening the holdings from this Court's precedent, creating circuit conflicts and departing so far from "the accepted and usual course of judicial proceedings".

It is well established that state law governs whether a party has authority to file a bankruptcy petition. The Second Circuit erroneously treated the state court's determination upon U.C.C foreclosure as jurisdictional without any meaningful analysis of New York state law, and

conclusively and arbitrarily rejected Petitioner's independent claim for bankruptcy Court's lack of jurisdiction under this Court's holding in *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*

The Petitioners have never asked the federal court to initiate judicial review over the state court judgment. To the contrary, Petitioners acknowledged that the State Court judgment is correct under U.C.C. 9-617(a) for the sole purpose of foreclosure, but the Petitioners' independent claim is sought under U.C.C. 9-617(c), which is a subject matter under a different cause of action and/or claim. Petitioners asserted an injury not caused by the state-court judgment, but caused by Buyer 1, who was a bad-faith transferee in the U.C.C. Article 9 sale. The State Court held in its August 20 Order that "Plaintiffs' claims have nothing to do with the operating agreements and do not implicate the LLCs' internal affairs." (Peti. pg. 6). Without disputing these critical facts advanced by Petitioners, all arguments in the Opposition regarding Rooker-Feldman, res judicata, or collateral estoppel are entirely without merit.

The Opposition alleged that "Petitioners' contrived claim that the State Court only decided the foreclosure based on some subset of the UCC. If Petitioners could have raised their UCC 9-617 claims (surely, they could have) but did not, those claims are still precluded now." (Opp. pg. 31). While the Opposition did not dispute that res judicata, or claim preclusion, does not apply where "the initial forum did not have the power to award the full measure of relief sought in the later litigation" (Peti. pg. 19), nor does the Opposition meaningfully dispute the August 20 Order, which expressly defined the jurisdictional limits and the scope of Respondents' claims in that case, the Opposition's baseless allegation that Petitioners could have raised their UCC 9-617 claims, but did not, those claims are still precluded now should be rejected. Neither res judicata (claim preclusion) nor collateral estoppel (issue preclusion) applies to Petitioners' independent claim regarding managerial rights under U.C.C. § 9-617(c) and its Official Comment (4) because it was never "actually and necessarily decided" by the state

courts, and Petitioners had no "full and fair opportunity to litigate" the independent claim before the state court issuing the July 22 Order which acknowledged it lacked jurisdiction for adjudicating the claim related to managerial rights and LLC internal matters. Consequently, Petitioners could not and should not have raised a U.C.C. § 9-617(c) claim before that state court.

The Opposition baselessly asserts that Petitioners engaged in a "selective reading of August Order, without fully disclosing its full content…" (Opp. pg. 14). Regardless of how to read or how to characterize the reading of the August 20 Order, the dispositive fact remains unchanged: the August 20 Order was issued after the July 20 Order and unequivocally clarified that the court issuing the July 22 Order lacked jurisdiction over Respondents' LLC internal matters, including the determination of who holds managerial rights which must be adjudicated in Queens County pursuant to the forum-selection clause. In light of this explicit jurisdictional limitation, the Opposition's allegation that Petitioner

could raise the U.C.C. 9-617 claim is meaningless and not on point in its entirety.

Therefore, the Second Circuit's rulings not only conflict with the precedent of this Court but also create a direct circuit split regarding how to determine authorization to file a bankruptcy petition, which warrants this Court to grant the petition for review. Sup. Ct. R. 10 (a) and (c). (Peti. pg. 23).

B. The Second Circuit limited the adverse claim to solely dispute the property ownership, which conflicts with the holding from the Fifth Circuit citing this Court' precedent, such conflict regarding the interpretation of "good faith" under Section 363(m) has not been, but should be, resolved by this Court.

While the Second Circuit restricts adverse claims to disputes over the ownership of the property to be sold, the Fifth Circuit, consistent with this Court's long-standing precedent, clearly held that "adverse claims" with regard to good faith purchasers imply ownership must be disputed. In Boone v. Chiles, 35 U.S. 177, 210, 10 Pet. 177, 9 L.Ed.

388 (1836)]. "The threshold for an 'adverse claim' is a dispute in ownership interest." SR Constr., Inc. v. Hall Palm Springs, L.L.C. (In re RE Palm Springs II, L.L.C.), 65 F.4th 752, 760–61 (5th Cir. 2023). (Peti. pg. 25). Nothing from the Fifth Circuit citing this Court's precedent limits adverse claim solely to disputes over ownership of the property itself, excluding disputes over ownership of the entity that owns the property, which is precisely the circumstance presented here.

The Opposition admitted that "Petitioners' 'adverse claim' only relates to K. Wang's dispute over his equity interests in Debtors" (Opp. pg. 33) and "the Eastern District Court acknowledged that the ownership of the Respondents is under dispute." (Peti. pg. 26). The above admission and acknowledgement created a legal issue for how to interpret the "good faith" which have circuit conflict regarding what constitutes adverse claims which the Bankruptcy Code does not explicitly define "good faith" for purposes of determining a good-faith purchaser status. The unresolved legal issue for interpretation of the statutory language between different circuits warrants

this Court to grant certiorari under Sup. Ct. R. 10 (a) and (c).

C. Both UCC sale and bankruptcy cases are recurring in their natures with "national significance" because the ruling from the Second Circuit technically rendered state law UCC 9-617(c) and its official comment (4) ineffective and meaningless without justification.

The Opposition falsely contends that the Bankruptcy Court found the secured lender had credit-bid $100,000 for collateral securing a $12.3 million debt is reasonable because the purchase price "represented the purchase of the equity interests in the Debtors" characterizing the transaction as "typical under these types of defaults and equity interest sales" (Opp. pg. 36). Such an allegation from the Opposition is misleading as a matter of both fact and law. It was not the lender who credit bid $100,000; rather, it was Buyer 1 who submitted a $100,000 bid and signed the Bill of Sale between the Lender and Buyer 1 upon the U.C.C. Article 9 sale. (Peti. pgs. 32–33).

Even if the lender had submitted a credit bid for $100,000 subject to the existing debts, such a practice would not be "typical," contrary to the Opposition's misleading assertion. For example, in the very case as in Atlas cited by the Opposition (Opp. pg. 35), the facts clearly demonstrate otherwise: Atlas MF Mezzanine Borrower, LLC (Atlas), the debtor, had borrowed a $71 million loan from Macquarie Texas Loan Holder LLC (Macquarie), the secured creditor. Following Atlas's default, Macquarie credit-bid $73.5 million in the U.C.C. Article 9 sale for the collateral, which consisted of the debtor's LLC membership interests. A third-party KKR submitted the winning bid of $76.75 million. Atlas MF Mezzanine Borrower, LLC v. Macquarie Tex. Loan Holder LLC, 2019 NY Slip Op 04495, ¶ 10, 174 A.D.3d 150, 165, 105 N.Y.S.3d 59, 70 (App. Div. 1st Dep't). Likewise, in Matter of Adobe Trucking, Inc., the Fifth Circuit held that a credit bid amounting to 67% of the collateral's alleged value was commercially reasonable. Matter of Adobe Trucking, Inc., 551 Fed. Appx. 167, 172–173 (5th Cir. 2014).

As the Petitioners correctly noted, which has no dispute from the Opposition, that "Respondents never alleged, either in the lower courts or in their Opposition, that Buyer 1 is a good-faith purchaser; there are no lower courts, including state courts or federal courts, to adjudicate or determine that Buyer 1 is a good-faith purchaser in the U.C.C. Article 9 sale." (Peti. pg. 11).

Furthermore, the Opposition falsely alleging that 'Petitioners' improper[ly] challenge to the reasonableness of the UCC Sale, which had already been adjudicated in State Court" (Opp. pg. 33), should be rejected because there is no denial from the Opposition that the case for determining whether the U.C.C sale in this case is commercial reasonable or not under Index No. 714973/2021 still pending before the Queens County Court for adjudication. (Peti. pg. 7).

Regardless of how the Opposition cited case law from the County Court or intermediate Court related to U.C.C sale, there is no ruling from the highest Court in New York State, the Court of Appeals has not ruled on the issue related to bad faith purchaser under U.C.C. 9-

617(c) and its Official Comment (4). When the PEB clearly disagreed with the position of the First Department's ruling in Atlas, it is unlikely that the Court of Appeals of New York State will not follow the PEB's position as it is consistent with the PEB's Official Comments to rule the U.C.C. dispute.

Both the Bankruptcy Court's jurisdiction and the validity of the bankruptcy sale, titled to U.C.C. Article 9 sale, are all having national significance because the U.C.C. has been called "the backbone of American commerce," promoting economic growth in our nation. The Bankruptcy Code is to afford the honest but unfortunate debtor "a new opportunity in life with a clear field for future effort". (Peti. pg. 30). If the Petition is denied, the Second Circuit's ruling will, as a practical matter, technically render relief to be sought after the U.C.C. Article 9 sale in state court becomes meaningless across the nation. (Peti. pg. 32). This is a serious and recurring matter in its nature, which will continue to arise until and unless this Court issues a new precedent to declare that such interference of state law is unwarranted.

D. Granting the petition will promote the public policy of "not rewarding those that do not act in good faith", which is consistent with the Court's long-standing position in the interest of fairness and justice.

While only this Court holds the ultimate authority to interpret statutory language governing Bankruptcy Court jurisdiction and of "good faith" under 11 U.S.C. § 363(m), both issues of bankruptcy court jurisdiction and the proper interpretation of the Bankruptcy Code are clearly presented as important federal questions in this case, by them alone, which warrant this Court exercises the favorable discretion to grant the Petition.

There is no dispute from the Opposition that the District Court found Respondents had no meaningful argument to challenge the Petitioners' position that the Bankruptcy Court has no jurisdiction in this case and the Bankruptcy petitions were filed frivolously and in bad faith, (Peti. pg. 31 footnote). The Respondents failed to raise any meaningful argument in their Opposition including but not limited to lack of cash flow with no

reasonable possibility of reorganization [2] under Section 1112(b), under the factors articulated in In re C-TC 9th Ave. Partnership, bankruptcy petitions should be deemed to be filed in bad faith [3], and the bankruptcy petition should be deemed to be filed in bad faith for litigation tactics [4]. It is

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[2] The Opposition admitted that Respondents did not seek to "reorganize" but filed the bankruptcy for the sole purpose of liquidation without any possibility of reorganization with negative cash flow (Opp. pg. 33-34). The Second Circuit held that "[a] Chapter 11 bankruptcy petition may be deemed frivolous if, as of the filing date, the debtor had no reasonable likelihood of reorganization with emerging from bankruptcy proceedings." Matter of Cohoes Indus. Terminal, Inc., 931 F.2d 222, 227 (2d Cir. 1991). " In any event, while a debtor may conclude Chapter 11 proceedings by liquidating and may even enter them with an intent to liquidate if necessary, there is no reason a debtor should be permitted to enter these proceedings without a possibility of reorganization". See C-TC 9th Avenue Partnership v Norton Co., 113 F3d 1304, 1309 [2d Cir 1997].

[3] There is no meaningful dispute from the Opposition that under the factors articulated in In re C-TC 9th Ave. Partnership, 113 F.3d 1304, 1311 (2d Cir. 1997), Two Debtors' filings met all of them without meaningful dispute, which the bankruptcy petition should be deemed for filing in bad faith.

[4] Since this dispute though the bankruptcy petition can be resolved in the non-bankruptcy forum in the state

frivolous for the Opposition to contend that a Chapter 11 bankruptcy filed solely for liquidation, with no possibility of reorganization, is permissible as a matter of law.[5]

There is no dispute from the Opposition that "[a]ny policy based on commercial certainty is subordinate to the policy of not rewarding those that do not act in good faith." (Peti. pg. 125a). This policy from the PEB is consistent with this Court's well-established position as this Court has repeatedly emphasized, equity courts have broad discretion to refuse relief to an unclean litigant. Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co., 324 U.S. 806, 814–15, 65 S. Ct. 993,

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court, as it is pending before the New York State Court which the Lender filed for Judicial Foreclosure with Index No. 727299/2021, (Peti. pg. 7). Filing bankruptcy petition for litigation tactics should be deemed for filing in bad faith. See C-TC 9th Ave. P'ship, 113 F.3d at 1312 (affirming dismissal of Chapter 11 case where debtor's "financial problems" involve only a two-party dispute with [litigation adversary] that can be resolved in the pending state court action"); See also In re Efron, 529 B.R. 396, 406 (1st Cir. 2015).

[5] The Appeal with case number 25-908 (Lead), 25-912 (Con.), 25-1507 (Con.) are pending before the Second Circuit for adjudication.

997–98 (1945). (Peti. pg. 35). Since there is no meaningful dispute that the bad faith transferee in the Article 9 sale filing the bankruptcy petitions for Respondents in bad faith and frivolously, this Court should hear this case by denying the bankruptcy relief to the "unclean litigant" Respondents.

The issues regarding bankruptcy jurisdiction and interpretation of statutory language of "good faith" under 363(m) tied to U.C.C. dispute are clearly presented, fully briefed, and were expressly decided by the Second Circuit. There are no factual or procedural obstacles that would prevent this Court from addressing the critical legal questions raised in the petition. A decision from this Court establishing clear precedent on these issues would have a far-reaching and positive impact on U.S. commerce, especially at the crucial intersection of the U.C.C. and bankruptcy law tied to U.C.C. Article 9 disputes, and there is no meaningful argument from the Opposition. Public interest also strongly favors this Court by equitable discretion to grant the petition.

CONCLUSION

For the foregoing reasons and those stated in the petition for a writ of certiorari, the petition should be granted.

Dated: November 30, 2025
Queens, New York

Respectfully submitted,

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