

No. 25-497

IN THE

Supreme Court of the United States

JACQUELINE STERLING,

Petitioner,

v.

SOUTHLAKE NAUTILUS HEALTH & RACQUET
CLUB, INC.,

Respondent.

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

**BRIEF IN OPPOSITION TO PETITION FOR
WRIT OF CERTIORARI**

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QUESTION PRESENTED FOR REVIEW

Should this Court grant certiorari to review the decision of the bankruptcy court to reduce the damages due to Jacqueline Sterling based upon the violation of the Northern District of Indiana bankruptcy court local rule requiring service of the notice of the filing of bankruptcy, when the case does not present an important question of federal law with broad application?

PARTIES TO THE PROCEEDING

Jacqueline Sterling (“Sterling”) was a debtor in a Chapter 7 bankruptcy filed in the Northern District of Indiana. Sterling filed an adversary proceeding against Southlake Nautilus Health & Racquet Club, Inc. (“Southlake”), an Indiana corporation, claiming a violation of the discharge injunction.

CORPORATE DISCLOSURE STATEMENT

Southlake Nautilus Health & Racquet Club, Inc. has no parent corporations nor does any publicly traded company own more than 10% of the corporation’s stock.

RELATED PROCEEDINGS

In re Jacqueline Sterling, Bankruptcy Court for the Northern District of Indiana, 09-24206, discharge date January 11, 2010

Jacqueline Sterling v. Southlake Nautilus Health and Racquet Club, Inc., Bankruptcy Court for the Northern District of Indiana, 12-02102, judgment dates August 25, 2016 and October 3, 2023

Jacqueline Sterling v. Southlake Nautilus Health and Racquet Club, Inc., United States District Court for the Northern District of Indiana, judgment dates August 2, 2018 and June 10, 2024

Jacqueline Sterling v. Southlake Nautilus Health and Racquet Club, Inc., United States Court of Appeals for the Seventh Circuit, opinion dates August 13, 2019 and June 20, 2025

TABLE OF CONTENTS

QUESTION PRESENTED FOR REVIEW i

PARTIES TO THE PROCEEDING ii

CORPORATE DISCLOSURE STATEMENT ii

RELATED PROCEEDINGS ii

TABLE OF AUTHORITIES iv

CITATIONS OF DECISIONS BELOW 1

STATEMENT OF THE CASE 1

REASONS CERTIORARI SHOULD BE DENIED . 4

I. Introduction 4

II. The bankruptcy court did not err in its
award of damages 5

1. The award is not unconscionable and was
supported by the evidence. 5

2. Damages for loss of reputation claim are
not recoverable in this case. 6

3. Wrongful detention damage claim is not
recoverable in this case. 7

III. The bankruptcy court did not err when it
reduced Sterling’s damage award by fifty
percent..... 8

IV. Conclusion 10

TABLE OF AUTHORITIES

Cases

<i>Arpin v. U.S.</i> , 521 F.3d 769 (7 th Cir. 2008).....	5
<i>Grieves v. Greenwood</i> , 550 N.E.2d 334 (Ind. Ct. App. 1990).....	6
<i>In re Sterling</i> , 933 F.3d 828 (7 th Cir. 2019)	3, 9
<i>In re Sterling</i> , 140 F.4 th 924 (7 th Cir. 2025).....	4
<i>In re Thomas</i> , 204 F.2d 788 (7 th Cir. 1953)	9
<i>Jutzi-Johnson v. United States</i> , 263 F.3d 753 (7 th Cir. 2001)	5
<i>Miller v. City of Anderson</i> , 777 N.E.2d 1100 (Ind. Ct. App. 2002).....	7
<i>Ratcliff v. Barnes</i> , 750 N.E.2d 433 (Ind. Ct. App. 2001)	7

Statutes

11 U.S.C. § 524	2
-----------------------	---

Rules

Fed.R.Civ.P. 52(a).....	5
Sup. Ct. R. 10.....	4, 11
N.D. Ind. L.R. B-4002-1(a)(2).....	2, 3, 8, 9, 10

CITATIONS OF DECISIONS BELOW

In re Sterling, 140 F.4th 924 (7th Cir. 2025)

Sterling v. Southlake Nautilus Health & Racquet Club, Inc., 736 F.Supp.3d 626 (N.D. Ind. 2024)

Sterling v. Southlake Nautilus Health & Racquet Club, Inc., No. 12-02102, U.S. Bankruptcy Court for the Northern District of Indiana, judgment entered October 3, 2023

In re Sterling, 933 F.3d 828 (7th Cir. 2019)

Sterling v. Southlake Nautilus Health & Racquet Club, Inc., 2018 WL 3660058 (N.D. Ind. August 2, 2018)

Sterling v. Southlake Nautilus Health & Racquet Club, Inc., No. 12-02102, U.S. Bankruptcy Court for the Northern District of Indiana, judgment entered August 25, 2016

STATEMENT OF THE CASE

The facts of the case pertinent to the issue before the Court were provided by the Seventh Circuit in its opinion. It determined the following facts:

In March 2011, a flat tire stopped Sterling as she was driving. A police officer pulled over to assist her, then arrested her and took her to jail after he discovered a bench warrant for her arrest. She spent a Friday night to Sunday in jail. As a result, Sterling missed four shifts at her job as a poker dealer at Horseshoe Casino in Hammond, Indiana.

Her arrest and weekend in jail related to a proceeding initiated by Southlake in the Superior Court of Lake County, Indiana, to collect on \$518 in unpaid gym membership fees. In February 2002, Southlake obtained a default judgment against

Sterling for \$957 (the unpaid gym membership fees plus interest), and in December 2009, Southlake filed a motion for “proceedings supplemental” to enforce the judgment. The Lake County court held a hearing on the motion in April 2010, but Sterling failed to appear, so the court issued a bench warrant authorizing her arrest—the bench warrant the police officer discovered when he stopped to help her fix her tire.

The wrinkle central to this case is that a bankruptcy court discharged Sterling’s debt to Southlake in January 2010, before the Lake County court issued the bench warrant. Sterling filed for bankruptcy in the United States Bankruptcy Court for the Northern District of Indiana in September 2009. She listed Southlake as a creditor, so the Bankruptcy Noticing Center sent notice to Southlake of the bankruptcy and the January 2010 discharge order. But Southlake did not forward these notices to its outside attorneys, who continued to pursue Sterling’s debt to Southlake. And Sterling failed to give notice of the bankruptcy to the Lake County court, in contravention of a local bankruptcy rule. *See* N.D. Ind. L.R. B-4002-1(a)(2) (requiring a debtor to “give written notice of the bankruptcy to any court or tribunal where an action or other proceeding is being maintained against the debtor”).

After her release from jail, Sterling filed a complaint in the bankruptcy court, asking the court to hold Southlake in civil contempt for violating the discharge order. *See* 11 U.S.C. § 524. After a bench trial, the bankruptcy court ruled in favor of Southlake, and the district court affirmed. In an appeal from that decision, however, we concluded that Southlake had acted in civil contempt when its

attorneys pursued Sterling's debt in violation of the discharge order, and we remanded the case to the bankruptcy court for further proceedings. *In re Sterling*, 933 F.3d 828, 832–36 (7th Cir. 2019).

On remand, the bankruptcy court found \$18,000 in emotional distress (\$6,000 for each day in jail) and \$1,449 in lost wages from Sterling's arrest and incarceration. The court dismissed Sterling's evidence of loss of reputation—she has had to disclose her arrest to an employer and to state gaming commissions through the gaming licensure process—as insufficient, given that she has neither lost a job nor her gaming license because of these disclosures. In addition, the court denied her request for “false arrest” damages, reasoning that the bench warrant provided probable cause for her arrest.

The bankruptcy court further found that both Southlake's and Sterling's blameworthy conduct had contributed to cause Sterling's arrest and weekend in jail: Southlake's in prosecuting the collection action in violation of the discharge order, and Sterling's in failing to comply with Northern District of Indiana Local Bankruptcy Rule B-4002-1(a)(2). The court reasoned that if Sterling had notified the Lake County court of her bankruptcy, as required by the rule, “this entire unfortunate occurrence may have been avoided,” and “there is a chance that much of the litigation could have been avoided.” On this basis, the court allocated liability for the damage equally between Southlake and Sterling. In the end, the court awarded Sterling \$9,724.50 in compensatory damages, representing Southlake's share of liability for the emotional distress and lost wages from her arrest and confinement.

In re Sterling, 140 F.4th 924, 930–31 (7th Cir. 2025).

**REASONS CERTIORARI SHOULD BE
DENIED**

I. Introduction

The Supreme Court has discretion over what writs of certiorari it will grant. The primary grounds for granting a petition for writ of certiorari are:

1. Conflicts between federal circuit courts or between federal and state courts on important matters;
2. Conflicts with Supreme Court precedent on important federal questions; and
3. Important questions of federal law that have not been settled by the Supreme Court.

Sup. Ct. R. 10. Further, the rule states: “A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.” *Sterling* states that the case involves a case of first impression on how tort principles of comparative negligence are applied in situations involving violation of the automatic stay. [Petition at p. 11.] The case presented concerns the narrow application of a local bankruptcy rule and is not worthy of granting certiorari.

II. The bankruptcy court did not err in its award of damages.

The bankruptcy court awarded Sterling \$1,449 for lost wages and \$18,000 for the emotional distress of being jailed. The bankruptcy court provided its factual and legal basis for the damage award. It was a well—reasoned decision that should not be reversed on appeal. Furthermore, the bankruptcy court determined that damages were unavailable to Sterling for loss of reputation and for wrongful detention. The bankruptcy court correctly decided those issues as well and should be affirmed.

1. The award is not unconscionable and was supported by the evidence.

In her Petition for Writ of Certiorari, Sterling argues that the damages awarded to her are unconscionable. From a legal perspective, Sterling’s argument is undeveloped and appears to be an attempt to sway this Court to substitute an award for Sterling different than that awarded by the bankruptcy court. This Court should resist that invitation. “When a federal judge is the trier of fact, he, unlike a jury, is required to explain the grounds of his decision. Fed.R.Civ.P. 52(a). “This means, when the issue is the amount of damages, that the judge must indicate the reasoning process that connects the evidence to the conclusion.” *Arpin v. U.S.*, 521 F.3d 769, 776 (7th Cir. 2008) (*citing Jutzi-Johnson v. United States*, 263 F.3d 753, 758 (7th Cir. 2001)).

In this case, the bankruptcy judge presented his detailed reasoning that connected the evidence to his conclusion regarding the damages recoverable by Sterling. The bankruptcy court calculated the

number of work hours Sterling testified as losing by the highest hourly rate that she testified to receiving. The court also looked at a case where there was an award for emotional distress in a situation like the case at bar. It used that case to support its decision on the per diem amount to award Sterling for her emotional distress of having been jailed. There is no coherent argument presented by Sterling that the damages were unconscionable. The methodology for the calculation of damages was fully explained in the bankruptcy court's decision and was supported by facts and law. The damages award was not unconscionable and does not present a reason to grant certiorari. The Petition for Writ of Certiorari should be denied.

2. Damages for loss of reputation claim are not recoverable in this case.

As discussed by the bankruptcy court, damages for loss of reputation are typically only available in actions for libel, slander, abuse of process, malicious prosecution, or interference with contract under Indiana law. *Grieves v. Greenwood*, 550 N.E.2d 334, 338 (Ind. Ct. App. 1990). Sterling asserted no claim that would provide for a loss of reputation recovery.

In her Petition for Writ of Certiorari, Sterling discusses alleged testimony concerning loss of reputation during the damages trial. The only testimony on remand was provided by Sterling's counsel concerning attorney's fees. There was no testimony provided by Sterling herself following remand on any topic. Sterling's attorney could not offer testimony concerning loss of reputation on her behalf (i.e., statements about things that happened after the original trial). Therefore, no evidence to

support the assertions about post—trial occurrences was offered by Sterling on remand.

Sterling cannot prevail on a claim for defamation *per se* for having to make statements concerning her arrest for two reasons. First, Sterling is the person making the statements, not Southlake. Second, the statement being made by Sterling is true and is thus not defamatory. *Ratcliff v. Barnes*, 750 N.E.2d 433, 436 (Ind. Ct. App. 2001) (a plaintiff must prove that a statement is false to show that the defamatory communication is actionable).

No admissible evidence was provided to the bankruptcy court concerning an impact to her reputation. Furthermore, no legal claims supporting an award of damages for loss of reputation were asserted in the case. Therefore, the bankruptcy court did not err in failing to award damages for loss of reputation. As a result, the Petition for Writ of Certiorari should be denied.

3. Wrongful detention damage claim is not recoverable in this case.

The bankruptcy court found that Sterling failed to adequately develop her claim that she was wrongfully detained. Under Indiana law, a defendant may be liable for false arrest if the plaintiff is arrested in the absence of probable cause. *Miller v. City of Anderson*, 777 N.E.2d 1100, 1104 (Ind. Ct. App. 2002). As found by the bankruptcy court in this matter, the Sterling warrant was based upon probable cause. [Petitioner's App. 68a.] Therefore, the Petition for Writ of Certiorari should be denied on the wrongful detention claim because probable cause existed for the arrest.

III. The bankruptcy court did not err when it reduced Sterling's damage award by fifty percent.

Sterling argues that the bankruptcy court erred by reducing the damages award made to her by fifty percent based upon her violation of Northern District of Indiana Local Bankruptcy Rule B-4002-1(a). The local rule states, in pertinent part:

In addition to the other duties imposed upon a debtor by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, the debtor under any chapter shall:

(2) Immediately upon the entry of an order for relief, give written notice of the bankruptcy to any court or other tribunal where an action or other proceeding is being maintained against the debtor, whether or not the matter has proceeded to final judgment, and to all the parties involved in any such action or proceeding.

It was undisputed that Sterling failed to provide the required notice. While there was conflicting testimony upon the impact the notice would have had, the bankruptcy court determined that the provision of the notice could have avoided the entire circumstance suffered by Sterling. Therefore, the bankruptcy court reduced Sterling's damages based upon the failure to comply with the local rule.

As stated by the Seventh Circuit in its original opinion in this case:

A final word of caution. Although we conclude that Southlake acted in contempt, we note that this regrettable event could have been avoided had Sterling complied with Northern District of Indiana Local Bankruptcy Rule B-4002-1(a). Like the bankruptcy court, we strongly advise debtors and their counsel to comply with this rule to avoid similar situations in the future. We leave to the bankruptcy court's discretion whether to factor this into the damages calculation.

In re Sterling, 933 F.3d at 836. The Seventh Circuit has stated, “a bankruptcy court is one of equity ... [and i]t is horn-book law ... that a person who seeks equity must do equity.” *In re Thomas*, 204 F.2d 788, 794 (7th Cir. 1953). The bankruptcy court, using its discretion and following the directive of the Seventh Circuit, determined that Sterling's damages should be reduced by fifty percent based upon the violation of Northern District of Indiana Local Bankruptcy Rule B-4002-1(a).

In this case, the Seventh Circuit originally remanded the case to the bankruptcy court for a determination by the bankruptcy court of the proper amount of damages and how the failure to abide by Northern District of Indiana Local Bankruptcy Rule B-4002-1(a) would factor into the damage award. The bankruptcy judge did so and determined that the violation of the rule would subject Sterling to a fifty percent reduction in the damages award and

the attorney fee award. Following that decision, Sterling appealed the matter to the Seventh Circuit again. The Seventh Circuit affirmed the damages for Sterling but remanded for further consideration of the attorney's fees recoverable. Regarding the damages for Sterling, she has petitioned the Supreme Court for a writ of certiorari seeking reconsideration of that decision.

Given the facts in this case, it was a fair assessment by the bankruptcy court regarding Sterling's damage award. Sterling failed to abide by the local rule thereby helping to create a situation where the damages award should be reduced. Sterling was negligent in complying with the local rules. The violation of the local rule played a role in allowing the situation to occur. Therefore, the bankruptcy court's decision to reduce Sterling's damages by fifty percent was well within its discretion given the failures of Sterling. The Court should deny the Petition for Writ of Certiorari because this is not a legal issue with broad application.

IV. Conclusion

Under Supreme Court Rule 10 there is no ground that warrants granting certiorari in this case. The case does not present an important question of federal law that has yet to be addressed by the Supreme Court. The issue concerns the application of a local bankruptcy rule and the impact that violating its rule will have upon damages for contempt. This Court should deny the Petition for Writ of Certiorari.

Respectfully submitted,

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