No.

In the Supreme Court of the United States

JEANA ROXAS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ROGER ROXAS, GOLDEN BUDHA CORPORATION, PETITIONERS,

v.

UNITED STATES OF AMERICA, RESPONDENT.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether, in an enforcement action under 28 U.S.C. § 2467, (A) a claimant who presents direct and circumstantial evidence that assets were derived from property stolen from the claimant has Article III standing, or whether courts may dismiss for lack of standing absent precise forensic tracing of the assets, and (B) what state or nation's law applies in determining whether an interest in property exists.

Whether Federal Rules of Civil Procedure, Rule 24 permits denial of intervention to an non-party with its own claimed property interest in forfeited assets, on the basis that the non-entity is "affiliated" with another non-party, and where the affiliated non-party was dismissed for lack of standing.

PARTIES TO THE PROCEEDING

Petitioners Jeana Roxas, as the Personal Representative of the Estate of Roger Roxas, and Golden Budha Corporation were the appellants below. Jose Duran, on his behalf and as representative of a Class of Judgment Creditors of the Estate of Ferdinand E. Marcos ("Duran Class"), was also a separate appellant. Respondent United States of America was the appellee. Philippine National Bank was a respondent in the district court but did not participate in the proceedings in the court of appeals.

CORPORATE DISCLOSURE STATEMENT

Petitioner Golden Budha Corporation has no parent corporation, and no publicly held company owns 10% or more of the corporation's stock.

RELATED PROCEEDINGS

United States District Court (D.C.):

In Re: Enforcement of Philippine Forfeiture Judgment Against All Assets Of Arelma, S.A., Formerly Held At Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Including, But Not Limited To, Account Number 165-07312, And All Interest, Income Or Benefits Accruing Or Traceable Thereto, No. 16-1339-RJL (July 15, 2019) (denying Golden Budha Corporation's motion to intervene without prejudice)

United States District Court (S.D.N.Y.):

In Re: Enforcement of Philippine Forfeiture Judgment Against All Assets Of Arelma, S.A., Formerly Held At Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Including, But Not Limited To, Account Number 16, No. 1:19-mc-00412-LAK-GWG (Jan. 15, 2020) (denying Golden Budha Corporation's motion to intervene)

In Re: Enforcement of Philippine Forfeiture Judgment Against All Assets Of Arelma, S.A., Formerly Held At Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Including, But Not Limited To, Account Number 16, No. 1:19-mc-00412-LAK-GWG (Oct. 3, 2023) (report and recommendation on the United States' motions for summary judgment, and Jose Duran's motion for summary judgment)

In Re: Enforcement of Philippine Forfeiture Judgment Against All Assets Of Arelma, S.A., Formerly Held At Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Including, But Not Limited To, Account Number 16, No. 1:19-mc-00412-LAK-GWG (Jan. 11, 2024) (adopting report and recommendation on the United States' motions for summary judgment, and Jose Duran's motion for summary judgment)

United States Court of Appeals (2nd Cir.):

In Re: Enforcement of Philippine Forfeiture Judgment Against All Assets Of Arelma, S.A., Formerly Held At Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Including, But Not Limited To, Account Number 16, Nos. 24-185(L), 24-186(Con) (Aug. 18, 2025)

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PETITION FOR A WRIT OF CERTIORARI

Jeana Roxas, as Personal Representative of the Estate of Roger Roxas, and Golden Budha Corporation, respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, A1-A48) is reported at __ F.4th __. The district courts'

orders denying Golden Budha Corporation's motions to intervene (App., *infra*, A174-195); report and recommendation on the United States' motions for summary judgment, and Jose Duran's motion for summary judgment (App., *infra*, A54-A112); and ruling adopting the report and recommendation on the United States' motions for summary judgment, and Jose Duran's motion for summary judgment (App., *infra*, A49-A53) are unreported.

JURISDICTION

The judgment of the court of appeals was entered on August 18, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUORY PROVISIONS INVOLVED

Title 28, Section 2467(d) of the United States Code provides:

> (d) Entry and enforcement of judgment.—
> (1) In general.--The district court shall enter such orders as may be necessary to enforce the judgment on behalf of the foreign nation unless the court finds that—
> (A) the judgment was rendered under a system that provides tribunals or procedures incompatible with the requirements of due process of law;
> (B) the foreign court lacked personal jurisdiction over the defendant;
> (C) the foreign court lacked jurisdiction over the subject matter;

(D) the foreign nation did not take steps, in accordance with the principles of due process, to give notice of the proceedings to a person with an interest in the property of the proceedings2 in sufficient time to enable him or her to defend; or

(E) the judgment was obtained by fraud.

Federal Rules of Civil Procedure, Rule 24(a) and (b)(1) provide:

(a) Intervention of Right. On timely motion, the court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by a federal statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) Permissive Intervention.

(1) In General. On timely motion, the court may permit anyone to intervene who:

(A) is given a conditional right to intervene by a federal statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

STATEMENT

A. Background

This case arises out of a now infamous story that many have heard of Roger Roxas's discovery in 1971 of the World War II Yamashita Treasure below the Baguio Hospital on the northern island of Luzon in the Philippine Islands, followed by Ferdinand Marcos's abuse of his power as President to torture Roxas and steal it. The treasure consisted of, among other things, a solid gold Buddha statue, more than two handfuls of uncut diamonds, 17 gold bars, and an entire storage room filled with boxes of gold bars. Roxas and his heirs have sought justice against Marcos for multiple decades and, after obtaining a judgment in their favor, are now pursuing Marcos's various hidden assets to recover on that judgment. *Roxas v. Marcos*, 89 Haw. 91 (1998); *see, e.g., Dist. Att'y of New York Cnty.*, 307 F. Supp. 3d 171 (S.D.N.Y. 2018). These proceedings concern the disputed ownership of over $40 million in Marcos money formerly held in a Merrill Lynch account in New York (the "Arelma Assets"). *Republic of Philippines v. Pimentel*, 553 U.S. 851, 857-858 (2008).

B. Facts And Procedural History

1. The United States Government initiated this forfeiture proceeding based on 28 U.S.C. section 2467 in the United States District Court for the District of Columbia on June 27, 2016. It sought to enforce a forfeiture judgment (the Philippine Judgment) entered by a Philippine anti-corruption court (the Sandiganbayan) against the Arelma Assets for the

benefit of the Government of the Republic of the Philippines.

2. In November 2016, Roxas filed a notice of opposition to enforcement of the Philippine judgment, which was denied by the District Court for the District of Columbia, and then Roxas and GBC filed a motion to intervene in October 2017 that was also denied without prejudice. App., *infra*, A175-A195.

3. In the District of Columbia, Judge Richard J. Leon ruled that "[t]he Roxas motion to intervene . . . is DENIED without prejudice so that the judge assigned in the Southern District of New York can decide its virtue." App., *infra*, A176.

4. The district court then transferred these proceedings to the Southern District of New York, at which point Roxas and GBC obtained permission to file and did file a motion to intervene. The district court denied the motion, allowing Roxas to intervene but not GBC. App., *infra*, A113-A173.

5. Magistrate Judge Gabriel W. Gorenstein's reasoning was that Roxas had filed a timely response to the court's request for opposition to the enforcement of the Philippine Judgment but GBC had not. The court further held that the response's use of the word "claimants" was insufficient to include GBC in Roxas' response. It also denied GBC's motion to intervene because (a) it believed GBC lacked statutory standing, (b) "a general unsecured creditor does not possess a legal right, title, or interest in the property that is forfeited as required for standing[,]" and (c) Roxas would adequately represent GBC's interests. App., *infra*, A170-A172.

6. On June 30, 2022, Ferdinand Marcos, Jr. became president of the Philippines.

7. On September 8, 2022, the United States filed two motions for summary judgment, one of which challenged Roxas's standing to claim any portion of the Arelma Assets, and one opposing Roxas's defenses to the United States' ability to recover for the benefit of the Republic of the Philippines any of the Arelma Assets. Roxas opposed these motions while also acting on behalf of GBC.

8. Magistrate Judge Gorenstein issued a report and recommendation granting the United States' motions, on October 3, 2023. In pertinent part, the court granted the motion on standing, effectively mooting the other motion on Roxas's defenses. In the court's opinion, Roxas was merely an unsecured judgment creditor and, therefore, did not possess a legal right, title, or interest in the Arelma Assets to meet Article III standing. Furthermore, the court ruled that the evidence presented by Roxas to show that the Arelma Assets were funded by the Yamashita Treasure was either inadmissible or speculative. App., *infra*, A54-A112.

9. On January 12, 2024, Judge Lewis A. Kaplan adopted the report and recommendation and judgment was entered. App., *infra*, A49-53.

10. Roxas timely appealed the District Court's decision to the Second Circuit Court of Appeals, which affirmed the decision. The appellate court disregarded Roxas's argument that she had an interest in the Arelma Assets pursuant to Philippine law. Under New York law and a relaxed tracing standard, the court found that the testimony of John Buckley (a forensic accountant) was inadmissible and speculative. It also found the testimony of Imelda Marcos's attorney in another criminal proceeding to be unpersuasive, and did not believe that the

circumstantial evidence presented established sufficient tracing. App., *infra*, A1-A48.

REASONS FOR GRANTING THE PETITION

This case presents recurring and nationally significant questions about Article III standing, property interests in forfeiture proceedings, and the scope of intervention under Federal Rules of Civil Procedure, Rule 24—questions that have divided the courts of appeals and have never been squarely addressed by this Court.

First, the circuits are openly split on the level of tracing necessary to establish Article III standing in civil forfeiture cases. Some require strict tracing, effectively compelling claimants to conduct forensic accounting decades after the underlying misconduct, while others allow more relaxed tracing. In kleptocracy cases such as this one, permitting a more relaxed tracing standard that can be based on circumstantial evidence is key to permitting victims/claimants to seek justice. Yet the decision below deepens this conflict by holding Petitioners to an even more exacting tracing burden than this Court's precedent in *Lujan v. Defenders of Wildlife* permits, effectively requiring tracing proof beyond a genuine factual dispute at the summary judgment stage. Only this Court can provide clarity on the showing required for standing in kleptocracy cases such as this.

Second, the decision below conflicts with this Court's repeated instruction that the existence and scope of a property interest must be determined by the law of the jurisdiction where the interest arose—including foreign law when applicable. Here, Petitioners' property interest arose under Philippine

law, which (as their unrefuted expert explained) entitles them to collect against all Marcos assets without tracing. The Second Circuit disregarded that governing law altogether, creating uncertainty for litigants whose property interests arise abroad. But even under New York law, Petitioners demonstrated sufficient evidence to establish their interest in the subject property to reach a jury.

Finally, this case presents an important, unresolved question about Rule 24: whether a non-party with its own claimed property interest may be denied intervention because of its "affiliation" with another non-party—especially when the supposed representative is dismissed for lack of standing. This Court has described the Rule 24 burden as minimal, yet the decision below effectively forecloses intervention for similarly situated claimants in forfeiture actions. This question has never been addressed by this Court and warrants review due to the risk that it could strip non-parties with valid interests in forfeiture proceedings of their opportunity to be heard.

The Second Circuit's decision squarely implicates each of the Rule 10 grounds for certiorari: it deepens acknowledged conflicts among the circuits, disregards this Court's controlling precedent, and addresses recurring questions of exceptional importance in forfeiture and intervention jurisprudence. This case is an ideal vehicle for resolving those questions and providing much-needed guidance and uniformity to the lower courts.

A. Article III Standing

Article III standing can be established by showing "a facially colorable interest in the proceedings sufficient to satisfy the case-or-controversy requirement and prudential considerations defining and limiting the role of the court." *United States v. $557,933.89, More or Less, in U.S. Funds*, 287 F.3d 66, 78 (2d Cir. 2002). Under this Court's precedent, the claimant must show: (1) that he or she "suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical"; (2) that there was a "causal connection between the injury and the conduct complained of"; and (3) that it is "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992) (internal quotation marks and citations omitted).

Also, an ownership interest can legitimately be shown in a variety of ways, including "actual possession, control, title [or] financial stake" (*United States v. Eighty-Three Thousand One Hundred & Thirty-Two Dollars ($83,132.00) In U.S. Currency*, No. 95-CV-2844, 1996 WL 599725, at *1 (E.D.N.Y. Oct. 11, 1996)) and a claimant only has to show a colorable interest in "at least a portion of the defendant property" to have standing (*United States v. All Assets Held in Acct. No. XXXXXXXX*, 471 F. Supp. 3d 192, 201 (D.D.C. 2020)).

a. What is unclear, though, is what *level* of tracing is necessary to establish an interest for standing purposes. Must a claimant show precise forensic tracing, or are circumstantial evidence and

admissions sufficient? The Second Circuit recognized that, under New York law, it was ambiguous what kinds of circumstances qualified as "exceptional" warranting relaxed tracing, although it ultimately applied a "relaxed" tracing requirement based on the circumstances of this case. App., *infra*, A41-A42. As explained further below, the Second Circuit's analysis, even under its version of a "relaxed" tracing requirement, was too restrictive and narrow. This case warrants guidance from this Court on the important question of the tracing requirement in kleptocracy[1] cases, as the circuits are split.

For example, in this case, the Second Circuit stated that it applied a relaxed tracing requirement based on this case having exceptional circumstances, specifically "[t]he Assets have passed through several people, corporations, countries, and decades, and are undoubtedly the proceeds of malfeasance." *Id.* citing *Dist. Att'y of New York Cnty. v. Republic of the Philippines*, 307 F. Supp. 3d 171, 208 (S.D.N.Y. 2018) ("*DANY*"); *see United States v. Parness*, 503 F.2d 430, 436 (2d Cir. 1974) (given the complex nature of the criminal enterprise involved, specific tracing was not required); *see also United States v. McNary*, 620 F.2d 621, 629 (7th Cir. 1980) (same).

By contrast, in *United States v. One Gulfstream G-V Jet Aircraft*, 941 F. Supp. 2d 1, 16 (D.D.C. 2013) for example, the United States District Court for the District of Columbia required a "specific indication" that the forfeiture proceeds were traceable to illicit

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[1] "Kleptocracy" is defined as "government by those who seek chiefly status and personal gain at the expense of the governed." Merriam-Webster's Dictionary (11th ed. 2025), https://www.merriam-webster.com/dictionary/kleptocracy.

activity under the Civil Asset Forfeiture Reform Act of 2000. *See also United States v. Erker*, 129 F.4th 966, 977 (6th Cir. 2025) (rejecting what it perceived as a "strict tracing rule" by the Ninth Circuit in *United States v. Rutgard*, 116 F.3d 1270, 1292–93 (9th Cir. 1997)).

In sum, the circuits are divided on the tracing required to establish standing in forfeiture cases involving kleptocracy: while some utilize a relaxed tracing standard, others use a more rigid tracing standard. This conflict highlights the need for this Court's guidance to resolve the uncertainty.

b. The Second Circuit's ruling in this case also conflicts with this Court's precedent on Article III standing. In *Lujan*, this Court ruled that, in order to show that the plaintiff suffered an injury in fact, it just had to be concrete and not hypothetical. 504 U.S. at 560. *Lujan* did not require proof beyond a genuine factual dispute at the summary judgment stage. *See id.* at 561.

In contrast to *Lujan*, the Second Circuit treated Roxas's showing on this requirement as inadmissible and too speculative, essentially requiring forensic tracing of the Yamashita Treasure to the Arelma Assets. But Roxas alleged a legally protected interest (ownership of treasure stolen by Marcos and used to fund the Arelma account) and produced evidence to support that claim at least to the level of creating a genuine dispute of material fact to survive summary judgment. Under *Lujan*, that is sufficient to create an "actual or imminent" injury.

For example, in *DANY*, the Southern District of New York recognized that Roxas and GBC have sufficient evidence to connect the Yamashita Treasure to the Marcoses' assets. 307 F. Supp. 3d 171. It was an

interpleader case over cash, paintings, and "sundry personal items" seized from the Marcoses by the District Attorney of New York during a criminal investigation. *Id.* at 179. Roxas and GBC were claimants in that case. *Id.* at 180.

The Duran Class moved for summary judgment against Roxas because they claimed that "[Roxas] [had] no evidence the proceeds from the Roxas treasure were used to purchase the paintings at issue in this interpleader." *Id.* at 205-06. The court denied this motion, finding that Roxas' evidence (consisting of deposition transcripts from prior litigation) "suffice[d] to create a genuine dispute as to whether the vast majority of Mr. Marcos' wealth derived from the Yamashita Treasure, such that Roxas may meet the relaxed tracing standard that the Court discussed above." *Id.* at 211. In support of its ruling, the court pointed to the testimony of John W. Buckley, also proffered by Roxas and GBC to support their claim to the Arelma Assets in this case. *Id.* at 205-211.

Mr. Buckley, now deceased, was a forensic accountant who had been retained by the Philippine Commission for Good Government ("P.C.G.G.") to assist in investigating the assets of Ferdinand Marcos. Mr. Buckley reviewed the Marcoses' tax returns, income summaries, documents in the library located on the Malacañang presidential grounds, documents produced in Switzerland, and affidavits submitted to the P.C.G.G. in order to generate leads as to where the Marcoses' asserts were located. Importantly, Mr. Buckley determined that the assets in the Merrill Lynch Arelma account came from a Panama holding controlled by Marcos, were previously held in a Swiss account also controlled by Marcos, and originated from banks in the Philippines.

He concluded, "[t]he most likely source, the most probable source" of the funds in the Arelma account at Merrill Lynch was "the treasure that the Japanese left buried in [the Philippines] when they exited the country." When pressed as to why he believed this, Mr. Buckley stated that he knew Marcos "tried to sell gold . . . in excess of a trillion dollars" using brokers in Australia. He also testified to his conclusion that the Arelma account money must have come from the Treasure because the reparations the Japanese paid to the Philippines and the U.S. aid money "would be small in comparison to the treasure that became the source of [Marcoses'] wealth."

In addition to this testimony, Roxas presented unrefuted evidence that, in a prior criminal proceeding against Imelda Marcos, her attorney (the prominent Gerry Spence, now deceased) admitted in his opening statements that "part of [Ferdinand Marcos'] wealth came from the discovery of what is called the Yamashita gold hoard." Furthermore, the Marcos family and its associates have made similar assertions. Such statements amount to judicial admissions that can be relied upon in this case. *United States v. McKeon*, 738 F.2d 26, 33 (2d Cir. 1984).

Finally, other circumstantial evidence supports a finding that the Arelma Assets stemmed from the Yamashita Treasure. The jury in *Roxas*, 89 Haw. 91 found that Marcos stole several items from Roxas (ranging from seven gold bars and diamonds to a golden Buddha) that could easily generate all or a portion of the $2,000,000.00 that was used to fund the Arelma Assets (even though only a portion of that amount is sufficient for standing). Indeed, that case was the only judicial determination confirming that Marcos wrongfully took specific property of

substantial value from an identified victim before the November 1972 deposit into the Arelma account.

The close timing between the theft of the gold bars and the diamonds from Roxas in 1971 and the deposit into the Arelma account in 1972 provides a strong circumstantial link to Marcos's theft and at least a portion of funding for the Arelma account. This sequence of events, notably the first judicially confirmed instance of Marcos taking identified property holding substantial value, alongside the rapid conversion of a portion of the items stolen from Roxas's house into a significant deposit within nineteen months, is probative that the Arelma funds likely originated from at least a portion of the Treasure stolen from the Roxas home in April 1971. The martial law declaration by Marcos shortly before the 1972 deposit and the absence of evidence of substantial wealth in Marcos's tax returns prior to 1972 further reinforce the inference that the Arelma Assets were financed, at least in part, by a portion of the treasure stolen from Roxas's home, countering any notion that these funds could have been amassed lawfully or from any other identified source between the declaration of martial law and the November 1972 Arelma deposit.

In sum, the Buckley testimony, the judicial admissions, and the circumstantial evidence all created a genuine dispute of material fact warranting the denial of summary judgment. *See United States v. $174,206.00 in U.S. Currency*, 320 F.3d 658, 662 (6th Cir. 2003) (drug dealer's lack of legitimate income combined with information on his federal tax returns showed that over $100,000 in his safe deposit box was traceable to drug offenses). The district court's grant of the United States' motion and the Second Circuit's

affirmance held Petitioners to different standards than were required by *Lujan*.

c. The Second Circuit's decision also conflicts with this Court's precedent regarding what law applies in determining whether a cognizable property interest exists. This Court has held, in various contexts, that the nature of one's property interest is defined by the law of the place in which the interest arose, including foreign law for foreign property. *See, e.g., Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 413 (1964) superseded by statute on other grounds (propriety of Cuba expropriated sugar was governed by Cuban law); *United States v. Nat'l Bank of Com.*, 472 U.S. 713, 722–23 (1985) ("'[I]n the application of a federal revenue act, state law controls in determining the nature of the legal interest which the taxpayer had in the property.'"); *United States v. Bess*, 357 U.S. 51, 55 (1958) ("Since s 3670 creates no property rights but merely attaches consequences, federally defined, to rights created under state law, [citation] we must look first to Mr. Bess' right in the policies as defined by state law.").

Indeed, the federal courts of appeals have adhered to these principles. *See, e.g., United States v. One-Sixth Share Of James J. Bulger In All Present And Future Proceeds Of Mass Millions Lottery Ticket No. M246233*, 326 F.3d 36, 45 (1st Cir. 2003) ("In federal civil forfeiture proceedings, the definition of ownership interests is governed by state law."); *United States v. One Lincoln Navigator 1998*, 328 F.3d 1011, 1013 (8th Cir. 2003) ("Ownership interests are defined by the law of the State in which the interest arose . . . ."); *United States v. $100,348.00 in U.S. Currency*, 354 F.3d 1110, 1119 (9th Cir. 2004) ("In a forfeiture action, we look to state law to determine the

'existence and extent' of a claimant's property interest.").

Here, Petitioners' interest in the Arelma Assets arose in the Philippines where the Yamashita Treasure was stolen from Roxas, thus making Philippine law applicable to the issue of Petitioners' interest in the Assets. *See Roxas*, 89 Haw. at 117 n. 16 (applying Philippine law). But the Second Circuit simply "disregarded" Philippine law in this case, claiming that Petitioners did "not allege any link to the Assets . . . ." App., *infra*, A41.

However, as explained by Petitioners' expert on Philippine law, Professor Diane Desierto (and uncontradicted by the United States), Roxas, as a victim of Marcos' conversion, had a right to collect against *all* of the Marcoses' assets, *regardless of tracing*. Accordingly, the Second Circuit violated this Court's precedent on what law should be applied in determining a claimant's interest in property for purposes of Article III standing, and the decision should be reversed. Under Philippine law, Petitioners have a legitimate interest in the Arelma Assets without the need for specific tracing as their interest lies in all of the Marcoses' assets, which indisputably includes the Arelma Assets.

B. Intervention

Federal Rules of Civil Procedure, Rule 24:

> provides that a "court must permit anyone to intervene" who, (1) "[o]n timely motion," (2) "claims an interest relating to the property or transaction that is the subject of the action, and

> is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest," (3) "unless existing parties adequately represent that interest."

Berger v. N. Carolina State Conf. of the NAACP, 597 U.S. 179, 190 (2022).

a. Here, the United States initiated this forfeiture proceeding in the United States District Court for the District of Columbia in June 2016. App., *infra*, A167.

On November 18, 2016, Roxas filed a timely notice of opposition, which did not expressly name GBC but implied its inclusion by using the word "claimants" and due to the fact that Roxas and GBC share counsel. The district court denied the opposition on November 25, 2016. Thereafter, on October 20, 2017, Roxas and GBC filed a motion to intervene, which was denied without prejudice by the court while the matter was transferred to the Southern District of New York. App., *infra*, A175-A195.

Not long after the transfer, Roxas and GBC obtained permission to file and did file a motion to intervene, which was denied by the court, but Roxas was nonetheless made a respondent in these proceedings. App., *infra*, A113-A174. The court ruled that the use of the word "claimants" in the opposition filed by Roxas was not "sufficient to make clear that [GBC] was part of that opposition." App., *infra*, A169-A170. It also ruled that GBC could not intervene because (a) GBC's motion to intervene was untimely, therefore, GBC lacked statutory standing; (b) GBC was a general unsecured creditor that has no interest in the Arelma Assets as required for standing; and (c)

Roxas would adequately represent GBC in the proceedings. App., *infra*, A170-A172. The Second Circuit Court of Appeals affirmed the district court's decision on the grounds that Roxas would adequately represent GBC's interest and GBC lacked standing for the same reasons as Roxas. App., *infra*, A47-A48.

The first point warrants reversal because it departs from this Court's precedent. As stated in *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 595 U.S. 267, 279 (2022): "Timeliness is an important consideration in deciding whether intervention should be allowed . . . but '[t]imeliness is to be determined from all the circumstances,' and 'the point to which [a] suit has progressed is ... not solely dispositive,' . . . ." (citations omitted). Here, the district court violated this rule by holding that GBC's Rule 24 motion had to be denied since GBC did not timely file an opposition to the United States' application. App., *infra*, A174, A169-A170. As an initial matter, Roxas' use of the word "claimants" in her opposition while sharing counsel should have been sufficient to include GBC. Regardless, this was an abuse of discretion because the court treated the opposition deadline as a categorical bar to intervention rather than considering all relevant circumstances. Indeed, there was no evidence of prejudice to any opposing party, which is a primary factor to be considered when timeliness is at stake. *See United Airlines, Inc. v. McDonald*, 432 U.S. 385, 394 n. 14 (1977).

Second, as explained above in the section on standing, for the same reasons that Roxas has standing under New York or Philippine law, the district court and Second Circuit Court of Appeals erred when it found that GBC lacked standing regarding the Arelma Assets.

Third, this Court should grant certiorari to answer an important question: Whether Rule 24 permits denial of intervention to a non-party with its own claimed property interest in forfeited assets, on the basis that the non-entity is "affiliated" with another non-party, and where the affiliated non-party was dismissed for lack of standing. To undersigned counsels' knowledge, this question has not been addressed by the Court before and would be valuable guidance to a broad swath of future litigants in situations involving Rule 24 intervention.

This Court has previously held that Rule 24 "promises intervention to those who bear an interest that may be practically impaired or impeded 'unless existing parties adequately represent that interest[,]" and this is a "minimal" burden. *Berger*, 597 U.S. at 195; *see also Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). Given this low bar, it is incongruent that GBC would not be permitted to intervene in this case simply because it shares counsel with Roxas and the two are "affiliated." App., *infra*, A47-A48.

First, the district court and Second Circuit Court of Appeals erred in comparing GBC to Roxas at all in this context. Rule 24 clearly states that it concerns "existing parties" not "potential parties." At the time the district court considered GBC's request to intervene, the only existing parties to the proceedings were the United States (which was clearly adverse as it sought to have the Arelma Assets given to the Republic of the Philippines) and the Duran Class (who also wanted the Arelma Assets). Roxas was not an existing party at the time GBC sought intervention, and the district court did not grant intervention to Roxas until it simultaneously denied intervention to

GBC. App., *infra*, A113-A173. If the court had properly compared GBC to the Duran Class and the United States, it would have found (as it did for Roxas) that those "existing parties" did not represent GBC's interests. Indeed, the district court would later rule that Roxas had no standing, thus taking away the only party "representing" GBC's interests in this case. App., *infra*, A51-A112.

Second, merely being "affiliated" with another non-party and sharing counsel is insufficient, especially given the minimal burden that applies to potential intervenors. ". . . Rule 24 requires that we look to the adequacy or inadequacy of representation by 'existing parties,' not counsel." *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 529 (9th Cir. 1983). The term "affiliated" just means "being in close formal or informal association; related." Dictionary.com, https://www.dictionary.com/browse/affiliated (last visited Sept. 16, 2025). It does not necessarily translate into representing the same interests, and ruling otherwise creates dangerous precedent for future cases where one non-party can speak for another, even though both non-parties sought their own separate place in the proceedings to protect their individual interests. In other words, it undercuts Rule 24's purpose to deny intervention to GBC based on Roxas representing GBC's interest only for the court to dismiss Roxas on standing grounds.

CONCLUSION

In light of the foregoing, Petitioners respectfully request that their petition for writ of certiorari be granted.

Respectfully submitted.

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