25-7369

No. __________

ORIGINAL

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SUPREME COURT, U.S.

In the

Supreme Court of the United States

EDWARD LASSEVILLE,

Petitioner,

v.

THE LOS ANGELES COUNTY PUBLIC GUARDIAN

RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,

SECOND APPELLATE DISTRICT, DIVISION FIVE

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

A bankruptcy court's decision to abstain is not reviewable, even "by the Supreme Court of the United States under section 1254." 28 U.S.C. § 1334(d). The Los Angeles County Public Guardian procedurally secured the result that the debtor must defend itself in state court once the bankruptcy court abstained and the federal courts were divested of power to protect the debtor.

The circuits are deeply divided on the scope of trustee authority under 11 U.S.C. § 323—an issue that became outcome-determinative here.

The result was an estate with no debt—after the trustee declared it was not administering any real property—nor any assets, because the trustee agreed to trade the $740,000 parcel of real property owned by petitioner to the Public Guardian in exchange for "$38,756.34 for Chapter 7 bankruptcy administrative expenses." The Public Guardian's private law firm secured roughly $190,000 from that deal—all processed after the case had been dismissed with prejudice.

That void judgment was appealed. The Public Guardian and the trustee secured dismissal of the appeal by asserting that, under federal law, only the trustee could determine the outcome of this issue. Thus resolved not on merit but § 323 power—after abstention.

State review was cut off. Federal review was impossible.

Now a state case presents a clean Article III vehicle to review a federal issue—one Congress otherwise made unreviewable through the federal courts—arising only because of the decision to abstain. The openly divided circuit courts may now be settled.

The question presented is:

Whether due process permits a state actor to secure federal abstention and assert exclusive federal trustee power under "a case under this title" 11 U.S.C. § 323 to deny the Fourteenth Amendment right to defend in state court.

LIST OF PARTIES

In the interests of full disclosure, and also to explain the timing in the jurisdiction statement, all parties were previously named in the caption of the case on the cover page, including petitioner's closely held Chapter 7 debtor corporation API Properties, Inc. Which twice sought to join the petition under Rule 12.4 and accompanying motion under Rule 39.1, but was only permitted to proceed before this Court by the Clerk, if the debtor paid for private counsel that was a member of this Bar, paid the filing fee, and paid to have a Rule 33.1 petition prepared. However, the federal injury having caused pauper status for both petitioner and his closely held Chapter 7 debtor corporation rendered compliance not possible and that is the reason the indigent corporation was omitted from the cover.

Per the Clerk's April 21, 2026 letter, the following are listed: California Court of Appeal, Second Appellate District, Division Five; Los Angeles County Public Guardian; and Rene C. Purvis

CORPORATE DISCLOSURE STATEMENT

Because a corporation was just mentioned, in an overabundance of caution, API Properties, Inc. has no parent company and no publicly held company owns 10% or more of its stock. The sole stockholder is petitioner Edward Lasseville.

RELATED CASES

In re the Jozef and Johanna Rookmaaker Revocable Living Trust, No. 18STPB10242 Los Angeles County Superior Court, Judgment entered June 26, 2023 and August 29, 2023.

In re The Jozef And Johanna Rookmaaker Revocable Living Trust, Dated February 26, 1999, No. S289866 California Supreme Court, Review of Supersedeas Petition denied April 2, 2025

Los Angeles County Public Guardian v. API Properties, Inc., No. B335802 California Court of Appeal, Second District, Division Five, Judgment entered May 15, 2025.

API Properties, Inc. v. Court of Appeal, Second Appellate District, Division Five, No. S291914 California Supreme Court, Certiorari petition denied August 27, 2025.

In re API Properties, Inc., No. 2:21-bk-19474-BR United States Bankruptcy Court, Central District of California, pending.

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In the

Supreme Court of the United States

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The order of the California Second Appellate District Division Five intermediate court appears at Appendix A 3a attached to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided the case was August 27, 2025.

A copy of that order appears at Appendix A 2a.

Under the California Rules of Court, rule 8.532(b)(2)(C) the denial was final upon entry— no rehearing was possible. This petition was timely received for filing as it was postmarked November 25, 2025, as the 90th day, 28 U.S.C. § 2101(c). As briefly noted under List of Parties, the Clerk issued Rule 14.5 letters on December 4, 2025; February 13, 2026; and April 21, 2026, and corresponding postmarks rendered each submission timely. The current petition is timely if postmarked by June 20, 2026.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of the United States

Article I, Section 8, Clause 4:
[The Congress shall have Power . . .] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States

Article III 21a
Amendment V 21a
Amendment XIV 21a

Title 11

§ 101 (11) 22a

§ 323 **Role and capacity of trustee**

(a) The trustee in a case under this title is the representative of the estate.

(b) The trustee in a case under this title has capacity to sue and be sued.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2562) **SENATE REPORT NO. 95–989**

Subsection (a) of this section makes the trustee the representative of the estate. Subsection (b) grants the trustee the capacity to sue and to be sued. If the debtor remains in possession in a chapter 11 case, section 1107 gives the debtor in possession these rights of the trustee: the debtor in possession becomes the representative of the estate, and may sue and be sued. The same applies in a chapter 13 case.

§ 362 .... 22a
§ 543 .... 22a

Title 18

§ 155 .... 23a

Title 28

§ 1257(a) 23a
§ 1334(a) 23a
§ 1652 .... 24a
§ 1654 .... 24a
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California Civil Code

§ 2295 .... 26a
§ 2306 .... 26a
§ 2315 .... 26a
§ 2319 .... 26a
§ 2320 .... 26a
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§ 3412 .... 27a

California Code of Civil Procedure

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California Probate Code

§ 1300(a) 14
§ 2580 8
§ 4540 8
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California Rules of Court

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Rule 8.532(b) (2) The following Supreme Court decisions are final on filing:
(C) The denial of a petition for a writ within the court's original jurisdiction without issuance of an alternative writ or order to show cause;

STATEMENT OF THE CASE

Both the record and case history are very complex, spanning two sovereign jurisdictions and two intrastate jurisdictions, involving family members, third parties, extended third parties, government actors, government lawyers, private actors hired by government lawyers, built on concealed facts and known fabrications. Yet despite all of that, the result is simple and timeless—real property was taken by the government without a hearing, compensation, nor due process.

This petition recounts the extensive violations of state probate, trust, and property law as required. "In the absence of any controlling federal law, 'property' and 'interests in property' are creatures of state law." (*Barnhill v. Johnson*, 503 U.S. 393, 398, (1992)) But not to invite this Court to resolve them, only to illuminate that the injury became permanent—directly and exclusively—from a federal violation.

A. The Underlying Probate Dispute

René Purvis was the biological son of Johanna and although born of another father, Jozef Rookmaaker was his dad. Being a good son, from 2012 to 2016, Purvis served as caregiver to the Rookmaakers as their health declined and dementia manifested. However, Purvis' daughter, Megan pressed to take over the role and Purvis acquiesced. (R.224)

Under Megan's care, Adult Protective Services repeatedly documented severe neglect, their doctor's records noted starvation, living in soiled clothing, bed bug infestation, and weeklong periods of being left alone. (R.224-225; 2565-2588)

Starting January 2016, Purvis secured efforts to protect his parents, (R.224) first by notarized durable powers of attorney (DPOA), (R.874, 888) then a physician certification documenting the inability to handle financial affairs due to dementia—triggering his pre-existing authority as successor trustee since 1999. (R. 2556-57, 854) In short, Purvis was engaged in the Rookmaakers' exact intended plan.

Matters became worse under Megan's continued care. Los Angeles County social workers mandated the Rookmaakers be moved to a temporary care location for 100 days. On July 26, 2017, reported Jozef Rookmaaker "was asked if his stepson Rene was his DPOA and if he signed paperwork to that affect, which he acknowledged he had and that Rene is DPOA." (R.308)

Purvis began to seek permanent solutions for care facilities by selling the Rookmaakers' sole asset, (R.225) their home on the boundary of Los Angeles and Orange Counties, commonly known as 14516 Florita Road, La Mirada, CA 90638 (R.864)—the real property at the center of this case.

Facilities would not accept the Rookmaakers without money down. Efforts to sell the property were thwarted by Megan. Eventually, Purvis located Best Home Care in Orange County, who agreed to wait until the sale of the property was completed to receive payment. The Rookmaakers moved to Orange County on January 10, 2018. (R.915)

Internal billing statements showed the Los Angeles Office of the Public Guardian ("PG") knew on "01/24/18 Sr. Deputy was informed the P'ctee was discharged to be placed in the Orange County Facility." (R.1430) Nevertheless, on April 3, 2018, the PG moved for conservatorship in Los Angeles County, declaring under penalty of perjury (R.1844, 1909):

3. a. [X] **Jurisdictional facts** *(initial appointment only)* The proposed conservatee has no conservator in California and is a
(1) [X] resident of California and
(a) [X] a resident of this county.
(b) [ ] not a resident of this county, but commencement of the conservatorship in this county is in the best interests of the proposed conservatee for the reasons specified in Attachment 3a."

B. Sale of the Property and the Probate Litigation

Also in January 2018, Purvis met Edward Lasseville the sole shareholder and officer of API Properties, Inc. ("API"). The property suffered from extensive deferred maintenance ($150,000), (R.2280) but a deal was reached whereby after a short period of owner financing a full cash payout of $330,000 would be tendered. (R.897, 904) A grant deed was executed then recorded on June 14,

2018 in Los Angeles County. (R.909) The **PG was noticed that the sale occurred** on July 25, 2018 via court filings. (R. 1199, 1202)

By early September, the PG obtained letters of conservatorship—limited to exclusive medical control over both of the Rookmaakers. (R.1342, 1402)

On November 5, 2018, the PG petitioned to remove Purvis as trustee and revoke each DPOA and to have itself named as successor trustee. (R.27) The stated basis was that Purvis was the sole cause of the Rookmaakers maltreatment and "the residential **home** and its contents are believed to be the **only assets** which remain in the Trust." (R.30) That upon appointment the PG would move to sell the property to pay for their care. The theory to invalidate was that the doctor's note from January 2016 documenting dementia proved that the Rookmaakers did not know what they were signing a week earlier. (R.29) The PG also endorsed Megan as sole beneficiary of the trust because in March of 2016 she had the Rookmaakers sign an amendment replacing Purvis with Megan in the trust. (R.862)

The PG served Best Home Care with notice, and have served them with every filing since.

The PG did not serve its November 2018 petition on API as record title holder as mandated by Cal. Prob. Code § 17203(b). (R.105) The PG also incorrectly addressed its service on Purvis, (*id.*, subd. (a)). (R.105) The PG secured a default order on January 25, 2019 (R.121) and the resulting written order of February 25, 2019 named the PG as successor trustee and cancelled Purvis' powers of attorney. (App. A 5a)

On May 8, 2019, Best Home Care was cited by the State of California for neglecting the Rookmaakers because they had not seen a doctor since Purvis last had taken them in January of 2018. (R.1841) Despite exclusive control over the Rookmaakers medical care, the PG failed to take action.

On May 9, 2019, the PG filed its formal allegation against Purvis, claiming he was mistreating the Rookmaakers and sold the property for his own benefit. The suit also named API as co-defendant. (R.138)

On December 10, 2019 Mr. Jozef Rookmaaker passed away, the love of his life joined him on May 1, 2020 when Mrs. Johanna Rookmaaker passed and the Dutch immigrants were reunited. (R.1108)

On December 23, 2019, Los Angeles County Counsel, who had been representing the PG up to this point, hired an outside high-end law firm on the promise of a contingency fee of twenty-five percent of the sale proceeds from the immigrants' sole asset, the property. (R.342, 1541)

Between 2019 and 2021, the PG filed two additional amended petitions eventually joining Lasseville and his friend David Ross, alleging that minor variations in the spelling of "Jozef/Josef" and "Johanna/Jane" rendered the 2016 power of attorney void *ab initio*. The theory was that the 2018 grant deed was therefore signed without understanding, rendering it void *ab initio*. (R.831)

At no time did the PG allege that Purvis lacked capacity when he signed the 2018 deed, and under California law "where a trustee signs a contract of sale or deed without reference to his or her representative capacity, the contract or deed is enforceable against the trust." (*Galdjie v. Darwish* 113 Cal.App.4th 1331, 1349 (2003))

The PG alleged API was not a bona fide purchaser because Purvis received promised legal assistance relating to a personal matter—an expense expressly authorized by the trust. (R.829)

C. The Bankruptcy Proceedings and Exclusive Litigation Authority

Paying twice the attorney fees proved to be too much for Lasseville. He and API filed for Chapter 7 bankruptcy in December 2021. Lasseville's petition was dismissed for missing a creditors' meeting. Despite the Chapter 7 Trustee John Pringle ("Trustee Pringle") contesting the

motion, on March 23, 2022, the bankruptcy court granted the PG's motion for relief from the automatic stay, expressly ordering:

"4. As to Movant, its successors, transferees and assigns, the stay of 11 U.S.C. § 362(a) is:
a. ☒ Terminated as to the Debtor ***and*** the Debtor's bankruptcy estate."
5. "Limitations on Enforcement of Judgment: Movant may proceed in the **nonbankruptcy forum** to final judgment **(including any appeals)**[1] in accordance with applicable **nonbankruptcy** law. Movant is permitted to enforce its final judgment ***only by*** (specify all that apply):"
b. ☒ "Proceeding **against the Debtor** as to property or earnings that are **not** property of this bankruptcy estate." (R.1038) (App. A 17a)

Because the order only authorized the Debtor to defend itself, Trustee Pringle never once appeared in state court.

However, in November 2022, the PG, the Chapter 7 trustee Pringle, and Ross signed (R.2640-41) a settlement purportedly resolving the first and second causes of action alleged against only Purvis, Lasseville and API. (R.836-37) Co-defendant Ross was only named in the fourth cause of action; the bankruptcy estate was never joined, named, nor appeared.

The bargained for exchange for resolving matters unrelated to the signatories, entailed "Upon the sale of the Subject Property, Pringle shall receive from the proceeds of such sale $38,756.34 for Chapter 7 bankruptcy administrative expenses." And "will dismiss the Second Amended Petition as against Pringle and Ross with prejudice." (R.2634) In return each DPOA and the API grant deed would be canceled and deemed void *ab initio.*[2] (App. A 13a-14a)

API was not a party to the agreement and did not sign it as required by Cal. Code Civil Procedure § 664.6(b) ("a writing is signed by a party if it is signed by any of the following: (1) The **party**. (2) An attorney who represents the party. (3) ... an insurer... (c) Paragraphs (2) and (3) of

---

[1] The case was ultimately terminated on appeal because of Trustee Pringle's assertion that only he could authorize the appeal.

[2] It was necessary to cancel each DPOA as void *ab initio* because the documents created the unbreakable agency coupled with an interest. Cal. Civil Code § 2356; *Hunt* v. *Rousmanier* 21 U.S. (8 Wheat.) 174, 203 (1823); *O'Connell* v. *Superior Court* 2 Cal.2d 418, 422 (1935); *Boehm* v. *Spreckels* 183 Cal. 239, 248-249 (1920); *Pacific Landmark Hotel, Ltd.* v. *Marriott Hotels, Inc.* 19 Cal.App.4th 615, 624-625 (1993).

subdivision (b) do not apply in... an action brought pursuant to the Probate Code,") The settlement agreement did not agree to dismiss API, Purvis or Lasseville.

On December 1, 2022, Lasseville filed six motions with supporting exhibits that exposed the probate case was void. (R.1130-2432)

For example, the November 2018 petition was founded on Cal. Probate Code § 2580 and the Rookmaaker trust terms expressly prohibited a conservator from modifying the trust, necessary to remove Purvis as sole chosen successor trustee. (R.852, 2238, 2246)

> Cal. Probate Code § 2580(b)(11) "the court shall not authorize... the conservator to exercise the right to... modify a revocable trust if the instrument governing the trust (A) evidences an intent to reserve the right of revocation or modification exclusively to the conservatee, (B) provides expressly that a conservator may not revoke or modify the trust"

The November 2018 petition was also founded on Cal. Probate Code § 17200 and yet notice was not served on either API or Lasseville. (R.2260)

> Cal. Probate Code § 17203(b) "At least 30 days before the time set for hearing on the petition, the petitioner **shall cause notice** of the hearing and a copy of the petition to be served... on ***any person***, other than a trustee or beneficiary, **whose right, title, or interest would be affected by the petition**"

However, the November 2018 petition was **not** founded on the statute authorizing a petition to remove and contest a power of attorney:

Cal. Probate Code § 4540 "a petition may be filed under this part by any of the following persons: (g) The public guardian of the county where the power of attorney was executed or where the principal resides."

The PG's November 2018 petition showed that execution was before a notary public in Orange County and noted the Rookmaakers were living at Best Home Care in Cypress, California; located in Orange County. (R.874, 888, 1844, 1909)

In addition, many other fundamental aspects were raised including the validity of the sale under *Galdjie, supra*; that Megan's amendment was void due to her boyfriend signing the notary journal for Johanna; (R. 2389-92, 2402-03) and that since "02/26/2020" the PG had been in

possession of the medical records that proved Megan was the cause of harm to the Rookmaakers and not Purvis. (R.2565-2588) Yet he was denied a final chance to be with his mother before she died due to the known false accusations by the Public Guardian.

The settlement and Pringle's authority to enter any compromise was also challenged. (R.2436) The hiring of the private law firm was ex parte and unlawful. (R.1130) As well as one monumental aspect (R.2194, 2216) that will be proven further below.

D. Probate Court and Bankruptcy Court Proceedings in 2023

In January 2023, the PG reported on the mandatory settlement conference—requiring all persons with settlement authority to attend, yet Trustee Pringle was absent. (R.2466)

On January 19, 2023, the PG moved, and the probate court so ordered: "The Court denies without prejudice the petition as to the allegations/causes of action stated against Rene Purvis and Edward Lasseville and dismisses them as respondents/defendants to this petition." (R.2495.) Every factual allegation concerning Purvis and Lasseville—the sole actors alleged to have executed the documents at issue—was withdrawn from the case.[3]

The PG opposed on the claim that API lacked standing to oppose the settlement, asserting that only the Chapter 7 trustee had authority to resolve the matter in the nonbankruptcy forum. (R.2485) The probate court adopted that view and denied the objections, allowing the matter to return to bankruptcy court for approval of the settlement. (R.2511)

API then amended its schedules and removed the PG as a creditor and replaced it with Purvis as the true and only trustee of the *actual* Rookmaaker trust. (R.2974-2984, 2794)

The claims deadline was March 6, 2023. (R.2805) On March 9, 2023, API's former attorney submitted the only unsecured claim for $5,651. (R.2629) No claim was filed by the PG.

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[3] California requires a cause of action and factual predicate to support cancellation of an instrument, (Cal. Civil Code §3412)

Trustee Pringle's motion seeking bankruptcy court approval advised that this settlement was advantageous for the estate. But was founded on matters not associated with *defending* a lawsuit. "**Collection** is both problematic and uncertain. The Estate will **need to prevail** in the Lawsuit and **reduced** the suit to **judgments** before **it can collect**", "associated with **prosecuting** the Lawsuit", "it will **preserve** assets and **enhance** the Estate." (R.2615)

Claim No. 2 was filed after the deadline, (R.2629) Trustee Pringle's affidavit advised:

> "There is a total of two (2) filed claims and the bar date has expired. Claim No. 1 is a secured property tax claim of $51,172.13. **The Estate is not administering any real property in this Bankruptcy Case.** Claim No. 2 is an unsecured claim of $5,651.19." (R.2618)

> "Plaintiff and I have reached an agreement whereby I will retain $38,756.34 on behalf of the Estate." (R.2619)

The motion did not advise that the exchange for debtor's $740,000 parcel of real property was for an estate with $0 debt. "Property that is scheduled but not administered is deemed abandoned. 11 U.S.C. § 554(c)." (*Ohio v. Kovacs* 469 U.S. 274, 285 fn. 12 (1985))

> "Based on the above, I believe that there is a strong likelihood that the Agreement will result in a *substantial* distribution on **allowed claims** in this case." (R.2619)

Over API's written objection, the bankruptcy court approved the compromise between the PG and the trustee and issued a written order on May 15, 2023. (App. A 18a)

E. Judgment in Favor of API and Issuance of a Void "Order After Hearing"

On June 16, 2023, Joseph Buchman as the PG's private law firm's lead counsel, filed an affidavit asking the probate court to dismiss the matter with prejudice and to process the attached proposed judgment as well as vacate the upcoming June 26, 2023 hearing and all other hearings, including the trial. (R.2605-06)

On June 26, 2023, the probate court rejected the proposed judgment per the minute order:

> "The following parties are present for the aforementioned proceeding:
> Joseph Paul Buchman, Attorney for Petitioner
> Edward Lasseville, Attorney
> Leslie Smith, Attorney

Parties appear via LACC
The matter is called for hearing.
The Petition - Trust/Pursuant Prob Code Sec 17200 (Subsequent) filed on May 20, 2021 by Los Angeles County Public Guardian is **denied with prejudice** pursuant to the settlement agreement. (App. A 8a)

Vacating all future dates, including the trial set for September 21, 2023.

No curative efforts were employed to correct the finality of the order, "when a court enters a minute order which does not call for the preparation and filing of a formal order, the minute order is final and all legal consequences ensue therefrom. [Citations.]" (*County of Nevada v. Superior Court* 183 Cal.App.3d 806, 808 (1986).)

California law is very clear, the probate court lost subject matter jurisdiction per Cal. Code Civil Procedure § 664.6 because the settlement agreement did not reserve jurisdiction. See *Wackeen v. Malis* 97 Cal.App.4th 429, 433 (2002) (failure to clearly request and reserve in the settlement document, at time of dismissal, denies, "both personal and subject matter jurisdiction.")

> "When a court has jurisdiction over the parties and subject matter of a suit, its jurisdiction continues until a final judgment is entered. (*Riley v. Superior Court* (1957) 49 Cal.2d 305, 309.) When there is a voluntary dismissal of an entire action, the court's jurisdiction over the parties and subject matter terminates." *Id.*, at 437

On July 17, 2023, Lasseville and API filed a joint objection to the resubmitted proposed order and judgment due to lack of subject matter jurisdiction. (R.2672)

But on August 9, 2023 the probate court signed the order *authorizing* the settlement, despite the prior "**denied with prejudice** pursuant to the settlement agreement."

> The Public Guardian, as Trustee of the Rookmaaker Trust is *authorized and instructed to compromise the claims* alleged in the Second Amended Petition **against API Properties, Inc.** ***<u>through</u>*** John P. Pringle, API's Chapter 7 Bankruptcy Trustee, and against David Ross, in accordance with the terms of the Settlement Agreement set forth in Exhibit A to the Petition For Instructions (the "**Settlement Agreement**").[4]

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[4] Imposing an agency relationship by operation of California law: "An agent is one who represents another, called the principal, in dealings with third persons. Such representation is called agency." (Cal. Civil Code § 2295.) An agent may not act contrary to the principal's interest (*id.*, §§ 2319, 2320), and "an agent has such authority as the principal, actually or ostensibly, confers upon him." (*Id.*, § 2315.) Barred from actions "known or suspected...to be a fraud upon the principal." (*Id.*, § 2306.) Under federal law the Trustee became an "insider" "*managing agent*" of the debtor. 11 U.S.C. § 101(31)(F). No longer a "*disinterested person,*" "*an interest materially adverse to the estate.*" 11 U.S.C. §

2. The Court *shall enter Judgment* on the Second Amended Petition in this Case No. 18STPB10242 using the form of Judgment attached as Exhibit 1 to the Settlement Agreement. (App. A 10a)

The probate court again rejected the proposed judgment. The PG changed its approach and submitted its: "Order After Hearing *Approving* Second Amended Petition" "Hearing Date June 26, 2023" (App. A 12a)

On August 29, 2023—the probate court signed the Order canceling both of the 2016 powers of attorney and the 2018 grant deed declaring all were "void *ab initio.*" (App. A 13a-14a)

Up to this point the PG had repeatedly claimed that the defendants lacked standing to object to the disposition of the case against them. The earlier noted monumental aspect is now revealed.

F. The Public Guardian Never had Standing to Sue, until After the Case was Dismissed with Prejudice

"Part 1. Trust Name

This revocable living trust shall be known as the JOZEF aka JOSEF ROOKMAAKER and JOHANNA aka JANE ROOKMAKER Revocable Living Trust." (R.851)

Every instance of Johanna's last name in the trust is spelled with a single 'a' and the 'aa' is used for Jozef's last name.

"[G]enerally the trustee is the real party in interest with legal title to any cause of action on behalf of or **in the name of the trust.**" (*Galdjie* at 1344, emphasis added)

The February 25, 2019 order:

"Rene C. Purvis current (successor) trustee of the Revocable Living Trust of Jozef and Johanna Rookmaaker dated February 26, 1999 is removed;

The Public Guardian is appointed as Successor Trustee of the Revocable Living Trust of Jozef and Johanna Rookmaaker dated February 26, 1999" (App. A 5a)

101(14)(A), (C); making the Trustee a custodian under 11 U.S.C. § 101(11)(C) prohibiting disbursement and administration 11 U.S.C. § 543(a). Because the order and state laws were at odds with the federal role, *"state laws are thus suspended only to the extent of actual conflict with the system provided by the Bankruptcy Act of Congress." (Butner v. United States,* 440 U.S. 48, 54 n.9 (1979)). **That voided out the authority to settle.**

The probate action was filed as:

"Los Angeles County Office of the Public Guardian as Trustee of THE JOZEF AND JOHANNA ROOKMAAKER REVOCABLE LIVING TRUST, DATED FEBRUARY 26, 1999" (App. A 12a)

The August 29, 2023 Order commenced with: "the Court determines they are each void *ab initio* and there is a reasonable apprehension that if left outstanding, these documents may cause serious injury to Petitioner *as the successor trustee* of the Jozef and Johanna Rookmaaker Revocable Living Trust, Dated February 26, 1999:" then the said instruments.[5] (App. A 13a)

And discussing the property "which they held in their revocable living trust known as The Jozef aka Josef Rookmaaker and Johanna aka Jane Rookmaaker Revocable Living Trust (the '**Rookmaaker Trust**' or the 'Trust')" (App. A 14a)

Then moved on to grant the PG standing (App. A 15a):

"The Court hereby finds, determines, and adjudges that fee title to the Subject Property has remained exclusively in the Rookmaaker Trust since February 26, 1999, ***and that since*** February 25, 2019, the Trustee of the **Rookmaaker Trust** ***has been*** and continues to be Petitioner."

After denial with prejudice, the PG finally obtained standing—albeit from a void order. Although the PG theory of the case is one letter off voids the matter, and the order contained the 'aa' for Johanna's last name.

There was no standing prior to the case being denied with prejudice.

G. Moving to Vacate, the Appeal, and Its Dismissal

API was not served the August 29 order. And timely moved to vacate the judgment as void, citing lack of notice, lack of jurisdiction, violation of the bankruptcy court's order, and the trustee's representation that he was not administering any real property. As well as reasserting all other aspects as noted above including regarding the third cause of action (R.2737):

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[5] In addition to the denial with prejudice divesting subject matter jurisdiction, the statute of limitations had run on June 14, 2023, *Robertson v. Superior Court* 90 Cal.App.4th 1319, 1329 (2001). (SP.17)

The Order of 8/29/23 failed to Quiet Title, which was denied with prejudice. "An action to cancel an instrument is distinct from an action to quiet title. (*Hyatt v. Colkins* (1917) 174 Cal. 580, 581.)" (*Deutsche Bank Nat'l Tr. Co. v. Pyle* 13 Cal.App.5th 513, 523 (2017))

As well as the settlement terms that protected API (R.3602):

"The Debtor's power to enter into this Agreement, however, is subject to approval of the Bankruptcy Court and should such approval not be obtained, the Agreement shall not be enforceable against the Debtor."

Attorney Buchman's affidavit of June 16, 2023 noted:

On March 28, 2023, the bankruptcy debtor, API Properties, Inc., filed an opposition to the Motion To Approve Compromise entitled "Opposition To Allowance Of Payout To Non-Creditor, Not Listed On Amended Schedules And With No Claim Filed; Whom Is Committing Bankruptcy Fraud Memorandum Of Law." (R.2605)

The probate court took no action on the motion filed per Cal. Code of Civil Procedure § 663a which by its terms rendered the matter denied and appealable.

API and Lasseville filed timely notices of appeal in January 2024.

During the pendency of the appeal, the PG filed a new petition to sell the property, using the new and different trust name and despite the August 29, 2023 order containing an invalid legal description — after this was shown in the 663a motion — the PG now asserted the correct legal description and obtained an order to sell the actual property owned by API yet did not serve API with that motion. (R.3955-66)

The probate court denied API's motions to honor the stay in effect per Cal. Probate Code § 1300(a) ("an appeal ... stays the operation and effect of the judgment or order.")

"[T]he notice of appeal invested the District Court of Appeal with jurisdiction of the appeal divested the trial court of power to move in conflict with such jurisdiction." (*People v. Sonoqui*, (1934) 1 Cal.2d 364, 367) "The effect of an appeal is to remove from the jurisdiction of the trial court the subject matter of the judgment or order appealed from... and to suppress the exercise of such right amounts to denial of the equal protection of the law, because the Fourteenth Amendment of the Constitution of the United States prohibits any such suppression." (*Agnew v. Superior Court*, (1953) 118 Cal.App.2d 230, 234) (R.3961)

Without notice this was occurring, in August 2024, the PG sold API's property.

Upon being served notice that the PG was moving to pay its private attorneys from the sale proceeds, in response to a Probate Note soliciting the status of the appeal, Lasseville filed a response that also alerted the Probate Court that the sale and the proceeds derived from thirteen felony and misdemeanor violations of the Cal. Penal Code (SR.583) because of the switched legal descriptions (SR.581-82):

All three petitions, settlement, bankruptcy & Aug. 29, 2023 orders:	Book 8087 Page 4
Rookmaaker Deed 10/15/79; API Deed 6/14/18; 663a Notice 9/30/23:	Book 561 pages 1 to 3
PG Motions to Sell 12/26/23, 1/16/24, 8/14/24; Title Report 10/5/23:	Book 561 Pages 1 through 3

> Applied to judgments, the rule is that the description in a judgment affecting real property should be certain and specific, and that an impossible, wrong, or uncertain description, or no description at all, renders the judgment erroneous and void.
> *Newport* v. *Hatton*, 195 Cal. 132, 156 (1924)

The probate court responded with an order to show cause, *against* Lasseville for not paying the filing fee of $200 as it was deeming this an objection. Neither the trial court, the appellate court, nor the California Supreme Court took any action when the issue was filed before them seeking a writ of supersedeas. (SP.22)

After that writ petition's last denial by the California Supreme Court on April 2, 2025 (S289866), two days after, the PG moved to dismiss the appeal claiming the Chapter 7 trustee — not API — had authority to authorize the appeal. The Order secured by the PG from the bankruptcy court expressly authorized an appeal.

Fourteen months had elapsed since the notices of appeal were filed, the motion to dismiss the appeal was filed four months after the record was filed with the Court of Appeal.

California Rules of Court, Rule 8.244(c) "Request to dismiss
(1) After the record is filed in the Court of Appeal, **the *appellant*** may serve and file in that court a request or a stipulation to dismiss the appeal."

The PG, named *respondent* in the appeal, offered its reasoning for the motion:

> The **Public Guardian moves to dismiss** the portion of the Appeal advanced by API on the grounds that API is a corporation that is in bankruptcy and the Chapter 7 Trustee in the

bankruptcy case did not authorize the appeal and has demanded that the attorney who filed the notice of appeal withdraw it. However, the appeal has not been withdrawn but continues to be prosecuted. The **Public Guardian requests dismissal** of this part of the Appeal pursuant to Cal. Rules of Court 8.100(a)(1). (SR. 508)

California Rules of Court, Rule 8.100. Filing the appeal
(a) "Notice of appeal
(1) ... The appellant or the appellant's attorney must sign the notice."

"Consequently, it is clear that the API Appeal was filed and is being maintained without the consent and authorization of the appellant and must be dismissed." (SR.533)

Bankruptcy Specialist and "counsel for Pringle, Toan B. Chung, sent Mr. Tusken an email advising him that only Pringle, as the Chapter 7 Trustee in the API Bankruptcy could authorize filing an appeal *on behalf of API*." (SR.533)

API was served that motion care of its attorney, as noted in the proof of service:

API Properties
Michael Lewis Tusken
Law Office of Michael L. Tusken (SR.559)

California Rules of Court, rule 1.21. Service
(a) Service on a party or attorney
Whenever a document is required to be served on a party, the service **must** be made **on the party's attorney** if the party is represented. (SP.25)

"The API Appeal is subject to dismissal because it was filed by an attorney without the consent of the client with sole authority to provide such consent, i.e., Pringle, the Chapter 7 Trustee for API." (SR.536)

After making claims in the motion that Mr. Tusken would be disbarred for the above, (SR.529-30) the attorney, that filed the 663a Motion, without objection, engaged.

"The motion failed to cite a single location in the record where they objected to API being represented. If they did not care enough to object below, why is it suddenly so important that the Court must dismiss? (SR.616)

"The answer is found in the other omissions. When reading the motion to dismiss, it was observed that no disclosure was made that the author Attorney Joseph Buchman stands to profit $190,000—derived from said fraudulent transfer, if the appeal is dismissed. Also absent, bankruptcy trustee John Pringle and his law firm stand to profit $38,756.34 from the dismissal of the appeal—a direct result of obtaining a *Stern* claim order. (SR.616)

"Because counsel for Respondent had no objection to this attorney, Leticia T. Moreno, representing API Properties, Inc. at the trial level, it cannot have any objection to representing API at the appellate level. This is especially true since 'the bankruptcy trustee acts... as the representative of the bankruptcy estate, not as a representative of the debtor.' (*In re Raynard* 327 B.R. 623, 629 fn. 9 (Bankr. W.D. Mich. 2005)) (SR.619)

After citing and quoting *Mastro v. Rigby* 764 F.3d 1090, 1093-94, (9th Cir. 2014) explaining *Stern v. Marshall* 564 U.S. 462 (2011), (SR.632-33) then presenting the efforts involved as to the late filed claim, to establish the appearance of the only debt:

> "Timely filed unsecured claim(s) total $5,651.19" signed "Toan B. Chung, Esq." (See Doc 48 p.3:4, Ex. 4 to Moreno Decl.) Compare to Doc 27-1 "creditors must file proofs of claim on or before March 6, 2023" Ex. 5 to Moreno Decl. Then of course see "$ 5651.19" (CT2628) and "3/9/2023" (CT2629) as Exhibit A to Pringle Declaration Doc 39. The one used to obtain the bankruptcy court approval. (SR.633)

Under California law, the pleadings set out the material positions of the parties and a party may not proceed contrary to its theory and pleadings. Thus when the PG declared under penalty of perjury that Petitioner was its corporation and its corporation was Petitioner so that it could force Petitioner into the litigation, it secured the unity of interest. That position was never amended. Petitioner's injury is API's injury.

H. Federal Issue Preservation by the Dismissal Order

On May 15, 2025, the California Court of Appeal accepted the PG's argument and dismissed the appeal without stating a reason. (App. A 3a) Lasseville was not permitted to file his opening

brief. Both Lasseville and API enjoy the same rights under state and federal law (see Part II.C., post) and the only argument made against API by the PG was pursuant to federal law. Since only federal law was raised by respondent as to API, it was the only basis for the dismissal order for lack of authorization by the trustee—contrary to the bankruptcy court's order granting API exclusive litigation authority "including appeals."

The California Supreme Court denied a certiorari petition on August 27, 2025. (App. A 2a)

FEDERAL ISSUE PRESERVED

Both API and Lasseville timely submitted a joint petition under Rule 12.4 and both sought leave to proceed in forma pauperis. The motion for leave to file IFP provided case law to explain that 28 U.S.C. § 1915 was amended after *Rowland* and now only applies to prisoners.

That petition was returned by the case analyst citing 28 § 1915 and declaring API could not file such a motion. As well as declaring only a member of this Court's bar could file on behalf of a corporation.

Petitioner then filed "**Motion to Direct the Clerk** to Accept for Filing and to Docket a Timely Petition for Writ of Certiorari..." and motion for leave to file IFP. The letter dated Jan. 6, 2026, commenced with: "In reply to your submission, received January 2, 2026, I regret to inform you that the Court is unable to assist you in the matter you present." "In addition, please note that the Clerk has the authority to reject any filing that does not comply with the Rules of the Court. Rule 1.1. [¶] Your papers are herewith returned." Signed by a case analyst, not a member of this Court, and cited no Rule as the basis to reject.

A call was then placed to the first case analyst and it was explained that the law had since been amended and the request was to simply allow this Court to decide if the outdated issue of law should continue to deny litigants access. The analyst advised filing it with a cover letter explaining the filing.

The Joint Motion for Leave to File IFP and Petition for Certiorari was timely post marked February 2, 2026. The cover letter addressed to Mr. Harris, albeit tersely, set out the core points showing the motion was supported by a clear and legally grounded submission at the time of filing—presented here for the Court's efficient review:

Good cause exists for this closely held corporation to file a motion to proceed *in forma pauperis*:

Financial:

- The corporation is a debtor in Chapter 7 bankruptcy.
- The corporation's sole officer and shareholder is also a pauper.
- Denying the corporation, while granting its co-petitioner, creates a paradox where the human petitioner would still bear costs for the joint petition. Rule 12.4 ("any two or more may join in a petition.")

Change in law:

- In 1996, Congress materially amended 28 U.S.C. § 1915, three years *after Rowland v. California Men's Colony*, 506 U.S. 194 (1993).
- § 1915 now only applies to a "prisoner" (employing prisoner 21 times).
- "The Court has recognized that First Amendment protection extends to corporations." (*Citizens United v. Federal Election Comm.*, 558 U.S. 310, 342 (2010))
- The "right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances." (*Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731, 741 (1983)).

Rules of the Supreme Court of the United States:

- 28 U.S.C. § 1911 was a grant of power to the Court to set its own fee schedule. Rule 38.
- No Rule of Court prohibits corporate IFP filings.

- Corporations are only noted in Rules 14.1(b), 24.1(b), 29.6 (disclosure statement).
- *Rowland* interpreted the word "person".
- Rule 39.1. "A party seeking to proceed *in forma pauperis* shall file a motion for leave".

Counsel is not necessary to join a petition:

- Petitioner Lasseville is proceeding *in propria persona,* 28 U.S.C. § 1654.
- The corporation joins its sole shareholder's filing, "any two or more may join in a petition." (Rule 12.4), its officer is the sole person with capacity to declare so, Fed. R. Civ. P. 17(b)(2).
- Any document may be "filed by or on behalf of" a corporation. (Rule 29.6)
- If the corporation had even two shareholders then Petitioner Lasseville would be representing another, but not here because he is the sole holder of interest and harm.
- There are no third-party interests being represented here.
- State law guides the matter, 28 U.S.C. § 1652; *Gottlieb v. Kest,* 141 Cal.App.4th 110, 151 (2006) ("no good reason why a closely held corporation and its owners should be ordinarily regarded as legally distinct.")
- *Rowland* at 202 n. 5 ("*In re Holliday's Tax Services, Inc.*, 417 F. Supp. 182 (EDNY 1976) (sole shareholder can appear for a closely held corporation)").

Request is made to allow the proper Article III entity to decide the merits:

The Rules require the Clerk to file upon conditions precedent being satisfied:

Rule 39.4. "When the documents required by paragraphs 1 and 2 of this Rule are presented to the Clerk, accompanied by proof of service as required by Rule 29, they will be placed on the docket without the payment of a docket fee or any other fee."

Thereafter, the Rules permit the Court to deny the motion, not the Clerk:

Rule 39.8. "If satisfied that a petition for a writ of certiorari, jurisdictional statement, or petition for an extraordinary writ is frivolous or malicious, the Court may deny leave to proceed *in forma pauperis.*"

Because the conditions precedent to ministerial docketing are satisfied, the Clerk should not deny the Court's discretion under Rule 39.8 to determine whether the filing is "frivolous or malicious."

The merits pertain to the abusive power of the Chapter 7 trustee, causing indigency after it gave away a $740,000 asset to a non-creditor to obtain a personal benefit of $38,000.

Abstention was abused and this state case is the only avenue that Congress would permit the Court to review the federal injury, 28 U.S.C. § 1334(d). Not a single merits hearing at any level was enjoyed in this case. Falling into an outdated crack and being overlooked, at the last chance to be heard, is the harm to be prevented here. [End.]

Yet was rejected again. "The court may only authorize a person to proceed in forma pauperis. 28 § 1915. A petition filed by API Properties, Inc. must be submitted in compliance with Rule 33.1."

Despite this Court's own Rules repeatedly reflect that § 1915 is not the source of authority by treating "inmate of an institution" as a subset of *in forma pauperis* filers, see Rule 39.2.

That is the sole reason API is not named on the cover. Yet API did join the timely submission, twice. Allowing this Court to lawfully direct the Clerk to accept it and reconsider if outdated law can stand after *Citizens United.* "So firm is the Court's practice in this respect that the Court will not even accept or entertain a motion by such an entity to proceed in forma pauperis." (Shapiro, Geller, et al. *Supreme Court Practice,* 11th ed., §8-10)

All avenues of review were sought, only a federal issue regarding state actors and Chapter 7 trustee powers permitted all of the above void issues under state law to become final and unchallengeable. The probate case was finalized on January 26, 2026.

REASONS FOR GRANTING REVIEW

To reiterate what was noted at the outset, the state law issues are not before this Court to resolve, they are only presented to highlight the injury sustained directly from the federal issue. "We did not grant certiorari to decide whether the Court of Appeals correctly applied North Carolina law. Our concern is with the proper interpretation of the federal statutes governing the administration of bankrupt estates." (*Butner v. United States*, 440 U.S. 48, 51 (1979))

This Court recently resolved the other half of the trustee-power puzzle. In *United States v. Miller*, the Court clarified the limits of a trustee's avoidance powers—those that "place the trustee 'in the shoes of' the creditor'" under 11 U.S.C. § 544 and grants only "power to recover assets from an invalid transfer." 604 U.S. ___, slip op. 11 & n.5 (2025). Those powers are strictly derivative of an actual creditor.

Outside those narrow contexts, only one provision is claimed to authorize a trustee to act beyond the bankruptcy forum: 11 U.S.C. § 323. Twice that section states "a case under this title," which is a finite constitutional realm, *Stern v. Marshall*, 564 U.S. 462, 482–85 (2011). Also § 323 defines the trustee as acting in a representative capacity with a grant of statutory standing "to sue and be sued" in "a case under this title."

This petition presents the deeply entrenched and widening divide amongst the circuit courts regarding interpretation of this statute. Some circuits confine that power to the Article I section 8 allocated sphere; others appear to extend it without a constitutional mooring. Granting review would allow the Court to complete the framework it began in *Stern*, and partially closed in *Miller*, and now may finally close the chapter on this unsettled area of law by defining the outer limits of trustee powers outside of bankruptcy jurisdiction.

A case has arrived for this Court to resolve this jurisdictional matter and determine if there should be any restraint on the bankruptcy trustee.

> We find nothing in the bankruptcy code or case law to support the conclusion that once a bankruptcy proceeding is commenced, the debtor's constitutional rights pass through to the estate along with the property and property rights that are traditionally considered part of the estate.
>
> "The trustee has standing only to represent the interests of the estate." 8A C.J.S. Bankruptcy § 28 at 45. Indeed, § 323(a) of the Code, relied upon by the state and the Trustee, provides that the trustee "is the representative of the *estate*. . . ." 11 U.S.C. § 323(a) (emphasis added). The Code does not purport to designate the trustee as the representative of the debtor.

JNC Companies v. Meehan 165 Ariz. 144, 146 (Ariz. Ct. App. 1990)

Citing *Louisville Joint Stock Land Bank v. Radford,* 295 U.S. 555, 589-90, 601-02 (1935)

(The Fifth Amendment prohibits the takings in violation of state property right laws.)

PART I — THE DEEPLY ENTRENCHED AND WIDENING DIVIDE BETWEEN THE CIRCUIT COURTS DEFINING THE ROLE AND CAPACITY OF THE TRUSTEE UNDER 11 U.S.C. § 323

A review of the legal landscape—viewed through the repeated assertion that a Chapter 7 trustee possesses *exclusive dominion* over every legal right of the debtor—reveals that the turbulence did not arise organically. The starting point and long term growth has now reached a point where courts routinely announce a power Congress never enacted.

A. The Plain Text of the Statute

This Court has long held that the "starting point for interpretation of a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." (*Kaiser Aluminum & Chemical Corp. v. Bonjorno,* 494 U.S. 827, 835 (1990)).

11 U.S.C. § 323. Role and capacity of trustee

(a) The trustee <u>in a case under this title</u> is the <u>representative</u> of the <u>estate</u>.

(b) The trustee <u>in a case under this title</u> has <u>capacity</u> <u>to sue</u> and <u>be sued</u>.

The Bankruptcy Reform Act of 1978 confirms that § 323 means precisely what Congress wrote—and no more. Its historical notes explain: "Subsection (a) of this section makes the trustee the **representative** of the estate. Subsection (b) **grants** the trustee **the capacity** to sue and to

be sued." (Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2562). Nothing in the enactment history suggests exclusivity, displacement of debtors, or expansion beyond "a case under this title."

The period legal lexicon reinforces the same point. Black's Law Dictionary (Rev. 4th ed. 1968 p.261)— defines "capacity" as "a word having many meanings, dependent on its relationship to the subject matter," the relevant one of seven definitions was, "'Capacity to sue' consists in right to come into court, Braden v. Neal, 132 Kan. 387, 295 P. 678, 680."

"Capacity to sue consists in the right to come into court for relief concerning the subject of the action." (*Braden v. Neal,* 132 Kan. 387, 390 (1931) citing *Howell v. Cement Co.*, 86 Kan. 450, 451–52 (1912) ("'There is a difference between capacity to sue, which is the right to come into court, and a cause of action, which is the right to relief in court.' (31 Cyc. 296.)"))

Early authorities emphasized the distinction Congress codified: "capacity to sue" is the grant of an ability to appear, whereas "the right to relief" arises from the substantive interest asserted.

Congressional text, drafting history, and the prevailing lexicon all point to the same ordinary meaning, § 323 grants the trustee a limited-in-scope ability to appear in court as a representative of the estate—not exclusive dominion over all litigation involving the debtor, and not displacement of any party's independent rights. Because "the statutory language controls its construction" (*Ford Motor Credit Co. v. Cenance,* 452 U.S. 155, 158 n.3 (1981).)

And yet **§ 323(b)**—a two-line statute—has been expanded through judicial repetition into a doctrine Congress never wrote. While Congress certainly could have, it did not write:

- to act in *other courts* or *other cases* beyond "a case under this title";
- the debtor loses capacity to preserve constitutional rights;
- "the only party with standing" (*Parker v. Wendy's Intern., Inc.*, 365 F. 3d 1268, 1272 (11th Cir. 2004))

- "Chapter 7 trustee has exclusive right to represent debtor in court. 11 U.S.C. § 323(a)" (*In re New Era, Inc.*, 135 F.3d 1206, 1209 (7th Cir.1998))

"Judicial perception that a particular result would be unreasonable may enter into the construction of ambiguous provisions, but cannot justify disregard of what Congress has plainly and intentionally provided." (*Commissioner v. Asphalt Products Co., Inc.* 482 U.S. 117, 121 (1987))

Violation of the above manifested from the *New Era.*

B. The Hidden Text of the Statute that Courts Have Inserted

A significant departure began with a sentence of dicta from the Seventh Circuit, citing *New Era*: "In liquidation proceedings, *only* the trustee has standing to prosecute or **defend** a claim belonging to the estate." (*Cable v. Ivy Tech State Coll.*, 200 F.3d 467, 472 (7th Cir. 1999)).

The *Cable* court did not involve a defendant's right to defend or appeal, nor did it analyze "capacity," the statement was **unnecessary to the disposition**, because the case was about a plaintiff. Quoted in passing in *In re DiSalvo,* 219 F. 3d 1035, 1039 (9th Cir. 2000); and *Cook v. Baca,* 10th Cir. 2013 No. 12-2023; *In Re White,* Bankr. Court, SD Indiana 2011 Case No. 09-10289-AJM-7, Adversary No. 09-50511 (quoted three times, from *Cable* & *New Era*; and *West v. H&R Block Tax Servs.*, 2003 U.S. Dist. LEXIS 22778 at *9-*10 (N.D. Ill. Dec. 15, 2003); and *Stone v. Stenz,* 2008 U.S. Dist. LEXIS 119235 at *3-*5 (S.D. Ind. May 21, 2008))

Eventually it was simply quoted in *Lightspeed Media Corp. v. Smith,* 830 F.3d 500, 505 (7th Cir. 2016). After that point it has been declared a holding. See, e.g., twice claimed a holding in *In re Heyer*, 583 B.R. 141, 148–49 (Bankr. N.D. Ill. 2018); then once in *In The Matter Of Gorokhovsky,* Bankr. Court, ED Wis. 2018 Case No. 17-28901-beh, Adv. No. 17-2360; and *In re Miles,* 652 BR 512, 521 (Bankr. Court, ND Ill. 2023).

Exclusivity to defend is '"an odd result"' *(Public Citizen v. Department of Justice* 491 U.S. 440, 454 (1989)); because it is possible that a trustee may never appear in court but "absurd results

are to be avoided" (*United States v. Turkette* 452 U.S. 576, 580 (1981)). See e.g., "It is clear from the record that the trustee was aware of this litigation yet did not attempt to be made a party." (*Smith v. State Farm Fire and Casualty Co.*, 633 F.2d 401, 405 (5th Cir.1980)) Forcing a default when the trustee is absent disregards the necessity to avoid "unreasonable results whenever possible." *(American Tobacco Co. v. Patterson* 456 U.S. 63, 71 (1982))

C. Courts Reading § 323 Correctly Demonstrate the Simplicity Congress Intended

Other courts—applying interpretive tools—have read § 323(b) "be sued" as Congress wrote it:

> Upon the filing of a bankruptcy petition under Chapter 7, the debtor's estate became the successor to certain legal and equitable property interests of Swift. The trustee became the representative of the estate with the power to deal with its property for the benefit the estate. The bankruptcy estate of Swift is, represented by the trustee, a new legal entity distinct from the debtor Swift Aire Lines, Inc. E.g., 11 U.S.C. §§ 323, 363, 541, 704, and 721.

In re Swift Aire Lines, Inc., 30 BR 490, 495 (Bankr. Appellate Panel, 9th Cir. 1983)

"[T]he trustee has the explicit power to sue and be sued." (*In re STN Enters.*, 779 F.2d 901, 904 (2d Cir. 1985)) "It is equally clear that the trustee in bankruptcy acts as representative of the estate. It is the trustee who 'has capacity to sue and be sued.' 11 U.S.C. § 323(b)." (*Bauer v. Commerce Union Bank, Clarksville, Tenn.*, 859 F. 2d 438, 440-41 (6th Cir. 1988)) "Thus, a trustee, as the representative of the bankruptcy estate, is the proper party in interest." (*Parker, supra,* 365 F. 3d at 1272) "[T]he bankruptcy trustee acts... as the representative of the bankruptcy estate, not as a representative of the debtor." (*In re Raynard* 327 B.R. 623, 629 n. 9 (Bankr. W.D. Mich. 2005))

"The answer is that until a trustee in bankruptcy intervenes and substitutes himself in, he is not the real party in interest. (*American Foods v. Dezauche* (W.D.N.Y. 1947) 74 F. Supp. 681, 682-683.)" (*Kaley v. Catalina Yachts* 187 Cal.App.3d 1187, 1194-95 (1986))

See also *Bostanian v. Liberty Savings Bank* 52 Cal.App.4th 1075, 1082 (1997) (citing nine state cases permitting debtors to pursue when Chapter 7 trustee is absent and many others that did not permit.) And importantly noted the correct state rule of California procedure: "'the court may allow the person to whom the transfer is made to be substituted in the action or proceeding.'

Section 368.5 ... A chapter 7 trustee may be able to continue to prosecute an action in the name of the debtor pursuant to Code of Civil Procedure section 368.5." (*Id.*, at 1083)

Despite the clear procedural path to become a party to the suit and gain standing to control its disposition the trustee never appeared in state court—not at trial, not even when the PG moved to dismiss the appeal. The PG explicitly admitted their failure: "Pringle as the Chapter 7 Trustee is the real party in interest with exclusive standing to assert, enforce, or settle these legal interests." (SR.531) Because as will be established later below, the PG extinguished federal jurisdiction over the lawsuit. As reflected in the stay-relief order:

> 5. Limitations on Enforcement of Judgment: Movant may proceed in the nonbankruptcy forum to final judgment (**including any appeals**) in accordance with applicable nonbankruptcy law. Movant is permitted to enforce its final judgment ***only*** by (specify all that apply):
> b. Proceeding **against the Debtor** as to property or earnings that **are not property** of this bankruptcy **estate**. (R. 1038) (App. A 17a)

§ 323(a) "The trustee in a case under this title is the representative *of the estate*."

This doctrinal divergence cannot converge without this Court's guidance.

Yet the Court's guidance to date, is sparce:

"Upon the commencement of a case in bankruptcy, all corporate property passes to an estate represented by the trustee. 11 U. S. C. §§ 323, 541. The trustee is 'accountable for all property received,' §§ 704(2), 1106(a)(1), and has the duty to maximize the value of the estate, see § 704(1)" (*Commodity Futures Trading Comm'n v. Weintraub*, 471 U.S. 343, 352 (1985))

"The bankruptcy trustee is 'the representative of the estate [of the debtor],' 11 U. S. C. § 323(a); cf. *Commodity Futures Trading Comm'n v. Weintraub*, 471 U.S. 343 (1985), not 'an arm of the Government,'" (*Cal. State Bd. of Equalization v. Sierra Summit* 490 U.S. 844, 849-850 (1989))

That lack of tethering to public accountability is causing harm.

D. The Most Important Aspect is the Overlooked Jurisdictional Limitation

Congress twice repeated the phrase **"in a case under this title"** in both subsections (a) and (b), that cannot be dismissed as stylistic. "We do not, however, construe statutory phrases in isolation; we read statutes as a whole." (*United States v. Morton* 467 U.S. 822, 828 (1984))

When viewed within the architecture of Title 11, the repetition points to a structural limit: the trustee's status as "representative of the estate" and the trustee's "capacity to sue and be sued" both exist **only within the jurisdictional confines of a bankruptcy case**. Congress could have written "in any case involving the debtor," or "in all related actions," or "in any proceeding concerning estate property." However, it is clear, Congress did not.

Reading § 323 to extend beyond the Title's jurisdictional boundaries rewrites Congress's scheme and disregards the very words this Court has held must control. See *Griffin v. Oceanic Contractors*, 458 U.S. 564, 571 (1982) ("no more persuasive evidence... than the words Congress used"). The statute's plain language ties trustee authority to the boundaries of a bankruptcy case—not beyond it.

This is consistent with the plain text "in a case under this title" and also when we "look to the provisions of the whole law, and to its object and policy."' (*Philbrook v. Glodgett* 421 U.S. 707, 713 (1975)) The consistent theme in *United States v. Miller* 604 U. S. ___ (2025) was Congress intended specified powers. Yet the instant statute is being used to extend very far beyond what Congress provided. It must be confined within the intended scope of bankruptcy.

PART II — UNDEFINED TRUSTEE POWER CANNOT BE RECONCILED WITH THE JURISDICTIONAL LIMITS CONGRESS IMPOSED

The structural problem becomes unmistakable once § 323's expansion is placed alongside the jurisdictional framework Congress enacted. Trustee authority cannot exceed federal jurisdiction. And when federal courts have no jurisdiction over the underlying subject matter, a trustee cannot derive authority the court itself lacks—that paradox is now exposed.

A. Congress Limited Federal Jurisdiction in Bankruptcy; Trustees Cannot Exceed What Courts Do Not Possess

Federal jurisdiction is defined, "in a case under this title," by 28 U.S.C. § 1334:

- **§ 1334(a)** — exclusive jurisdiction in all cases under Title 11, except in (b);
- **§ 1334(b)** —arising under, arising in a case, or related to a case under Title 11;
- **§ 1334(c)(2)** — mandatory abstention in state-law proceedings that can be timely adjudicated in state court;
- **§ 1334(d)** — decisions to abstain or not abstain are unreviewable in federal courts, except a decision to *not* abstain under (c)(2).

Congress drew a narrow and structured map. Once the bankruptcy court abstains—or lacks jurisdiction over state-law matters in the first place—that court is divested of authority to adjudicate them. This Court emphasized the point in *Stern v. Marshall*, 564 U.S. 462, 482–85 (2011) when holding that even where Congress purports to confer broader power, Article III prevents a bankruptcy court from exercising authority it does not constitutionally possess.

If a bankruptcy court **cannot** exercise jurisdiction over the probate issues, then a bankruptcy trustee **cannot** supply it by declaration.

Federal jurisdiction is defined, not whimsical.

B. The Jurisdictional Ambiguity Congress Created in § 323

Congress enacted § 323 and § 1334 together. Yet § 1334 expressly identifies three distinct jurisdictional categories—proceedings "arising under," "arising in," and those "related to" title 11. Section 323 uses none of them. Instead, it limits trustee authority only to "*in* a case under this title." The choice of "in" is deliberate, and the omission of the broader jurisdictional categories cannot be dismissed as stylistic.

Petitioner cannot determine which reading is correct:

whether Congress intentionally confined trustee power to the bankruptcy case itself,

or whether omitting all three categories implies that § 323 silently incorporates them all.

That uncertainty sits at the core of the trustee's claimed authority and any courts' jurisdictional limits. The ambiguity is structural, not semantic—and in a jurisdictional statute, it must be resolved by this Court.

C. The Relief-from-Stay Order Here, Expressly Divested Federal Jurisdiction

The stay-relief order was not ambiguous. "The Motion is granted under § 362(d)(1)."

That subsection authorizes relief **for cause**, including lack of adequate protection.

In probate-law conflicts, "cause" is precisely the absence of federal jurisdiction. The PG recognized it, materially argued the point to the bankruptcy court, and obtained release from the stay with:

> Next, there is no jurisdictional basis for this Court to adjudicate the Probate Action as it involves the Debtor outside of 28 U.S.C. §1334. This Court has no basis for jurisdiction over the Probate Action as to the other defendants named in the case. Where a suit involves exclusively questions of state law or much of the litigation has already taken place in state court, the bankruptcy court should lift the stay to let the state action proceed to judgment. *In re Castlerock Properties* (9th Cir. 1986) 781 F.2d 159, 163; see also *In re Tucson Estates, Inc.* (9th Cir. 1990) 912 F2d 1162, 1169. Additionally, forcing the Public Guardian to proceed against the Debtor in the bankruptcy proceeding and then against the other codefendants in the Probate Action would wreak a great injustice to the Public Guardian. See *In re Hoffman* (Bktrcy. WD OK 1983) 33 B.R. 937, 941. (R.1513; BK Doc 20 p.11)

The bankruptcy court agreed. It did not retain jurisdiction, nor carve out estate authority. Accordingly, it expressly returned the matter to the state court.

Under 42 U.S.C. § 1334(c)(2), abstention is mandatory where state law governs entirely and adjudication can be timely completed in state court. Once the stay was lifted on that basis, **federal jurisdiction ended.**

But then, the PG returned to state court claiming federal law controlled.

D. The Entrenched Divide is Revealed as a Jurisdictional Failure; Without Defining § 323, Trustee Power Will Continue Beyond the Constitutional Boundaries of Federal Bankruptcy Jurisdiction

If, subject to each trustees' personal interpretation, they may one or all exercise "exclusive" authority outside the jurisdictional boundaries of Title 11, then the statutory limitations Congress

enacted—§ 1334, § 362, abstention, division of authority, and Article III—become arbitrary and whimsical. A bankruptcy trustee presently, without defined restraints, wields more power than the bankruptcy court itself.

Under the Code, "[s]ubject to court approval, he may use, sell, or lease property of the estate. § 363(b)." (*Commodity Futures, supra,* 471 U.S. at 353) The Trustee did not afford the court much discretion in weighing the truth. From the Trustee's Motion: "The compromise approval process does not contemplate that a bankruptcy court will substitute its business judgment for that of a Chapter 7 Trustee. To the contrary, a settlement that has been negotiated by a trustee, as representative of the estate, is entitled to deference." (R.2616)

Without a defined outer limit, the deepening divide from § 323 does more than erode public trust in the bankruptcy system—it forces courts themselves to follow the trustee beyond the boundaries Congress set. When trustee authority is expanded beyond the jurisdictional confines of § 1334 and § 362, courts are being pushed into approvals they have no constitutional power to give. That structural distortion is widening.

Fiction is now a holding; boundaries have dissolved; and conduct Congress criminalized now appears in the open, unreviewed and unrestrained, openly taking from a highly vulnerable class.

The following cannot coexist under any coherent interpretation of the Code (R.2618-2619):

"Plaintiff and I have reached an agreement whereby I will retain $38,756.34 on behalf of the Estate." (R.2619) "The Estate is not administering any real property in this Bankruptcy Case." (R.2618) "Upon the sale of the Subject Property, Pringle shall receive from the proceeds of such sale $38,756.34 for Chapter 7 bankruptcy administrative expenses." (R.2634)

This cannot be the meaning Congress intended.

PART III — STANDING AND CONSTITUTIONAL INJURY

A. The Core of the Federal Issue Bringing This Case Within This Court's Jurisdiction

This petition now reaches the federal injury that brings the case squarely within this Court's authority to review, which would otherwise be foreclosed. As proven above, the state actor Public Guardian postured the matter to expressly foreclose relief in federal court.

> 28 U.S.C. § 1334(c)(2) Upon timely motion of a party in a proceeding *based upon a State law* claim or State law cause of action, related to a case under title 11 *but not arising under* title 11 or arising in a case under title 11, with respect to which an action *could not have been* commenced in a court of the United States absent jurisdiction under this section, the district court **shall abstain** from hearing such proceeding if an action is commenced, and can be *timely adjudicated*, in a *State forum* of appropriate jurisdiction.

On March 8, 2022 the PG represented to the bankruptcy court: "Assuming the Court grants the Public Guardian's Motion, the Probate Action **will be set for trial on March 29, 2022** and a **trial will be held** on the date set." (R.1512:16-17; BK Doc 20 p.9, 3/8/22)

The bankruptcy court was left with no choice based on that representation of trial occurring in three weeks' time—abstention was mandatory. That representation invoked the rule that denied any review or relief in federal court.

> 28 U.S.C. § 1334 (d) Any decision to abstain or not to abstain made under subsection (c) (*other than* a decision ***not*** to abstain in a proceeding described in subsection (c)(2)) is **not reviewable** by appeal or otherwise by the court of appeals ... or by the Supreme Court of the United States under section 1254

The PG simultaneously filed its notice of order granting relief from stay and a notice of "continued trial setting conference date: April 14, 2022" (R.1034) and on that date, the matter was "continued to Friday, July 15, 2022" for a trial setting conference (R.1087) and "continued to Wednesday, January 18, 2023" for post mediation status. (R.1088) "The Court sets the above captioned matter **for trial** on Thursday, **September 21, 2023**" (R.1099)

The bankruptcy court granting stay relief under 11 U.S.C. § 362(d)(1) removed the probate matter from the bankruptcy estate and solely landing the case within state court jurisdiction.

> "Movant may proceed in the nonbankruptcy forum to final judgment (**including any appeals**) in accordance with applicable nonbankruptcy law. Movant is permitted to enforce its final judgment ***only*** by (specify all that apply):
> ☒Proceeding **against the Debtor** as to **property** or earnings that are not property of this **bankruptcy estate**. (R.1038 BK Doc 23) (App. A 17a)

In response to the objection opposing the settlement that resolved parties' rights that were not privy to it, the PG argued: "Pringle as the trustee is the real party in interest with **exclusive** standing to assert, enforce, or settle these legal interests." (R.2485) As to "the February 9, 2024 Notice of Appeal filed by attorney Michael L. Tusken purportedly on behalf of API, counsel for Pringle, Toan B. Chung, sent Mr. Tusken an email advising him that **only Pringle**, as the Chapter 7 Trustee in the API Bankruptcy could authorize filing an appeal **on behalf of API**. Mr. Chung's email also demanded that Mr. Tusken immediately withdraw the API Notice of Appeal." (Motion to Dismiss Appeal SR.527-28)

> "A. The API Appeal Was Filed By An Attorney **Without The Consent Of The Appellant**
> 1. An Appeal Cannot Be Filed Or Maintained By An Attorney **Without The Client's Consent**
> In order to be effective, a notice of appeal must be signed by the appellant or the appellant's attorney. Cal. Rules of Court 8.100(a)(1). If the notice of appeal has been signed by the appellant's attorney, the appeal will be dismissed if **the client has not actually consented thereto."** (*Id.*, SR 529)

> "When API filed its bankruptcy case, its **bankruptcy estate became the owner** of all its interests **in the Property** and **all matters involved in the litigation** with the Public Guardian. Because the bankruptcy estate is the **sole owner of these interests**, Pringle as the Chapter 7 Trustee is the real party in interest with **exclusive** standing to assert, enforce, or settle these legal interests. (SR.530)

Aside from the federal order authorizing only proceeding against the debtor as to property not part of the estate, including appeal, the above asserted ownership and exclusive standing as well as identity transfer does not conform to § 323:

(a) The trustee in a case under this title is the representative of the estate.

(b) The trustee in a case under this title has capacity to sue and be sued.

"The appeal filed January 12, 2024 by Lasseville and the appeal filed February 9, 2024 by API Properties, Inc. are hereby dismissed." (SR.5, App. A 3a)

The state actor, working in conjunction with the Trustee, blocked federal judicial review. Then after that, secured the denial of state judicial review. After obtaining a void order to take real property. This Court aptly described these events as "judicial usurpation and oppression, and never can be upheld where justice is justly administered."(*Galpin v. Page* 85 U.S. 350, 369 (1873).)

"The State's obligations under the Fourteenth Amendment are not simply generalized ones; rather, the State owes to each individual that process which, in light of the values of a free society, can be characterized as due." (*Boddie v. Connecticut* 401 U.S. 371, 380 (1971))

The state actor merely presented the Trustee's affidavit that it controlled the state case—whereby the California Court of Appeal deferred not to the federal court's judgment, nor to federal law, but only to the trustee's assertion of sole dominion and control as the debtor itself. That result reflects a deeper systemic problem: lower courts, operating without guidance on § 323, assume trustee power continues even after the bankruptcy court has divested it at the state actor's urging.

A court holding a correct understanding of bankruptcy jurisdiction could not have given dispositive weight to an entity the bankruptcy court had already stripped of authority. Moreover, the **trustee** represented to different courts incompatible positions:

- To the bankruptcy court:
  "The Estate is ***not administering*** *any real property in this Bankruptcy Case." (R.2618)*
- To the Court of Appeal:
  "Amongst the legal and equitable interests subject to ***administration*** *by me as Trustee... are API's claims to the property... 14516 Florita... and issues related thereto in the probate matter...." (SR.540)*
- To the bankruptcy court again:
  "Amongst the property subject to administration by me... is the Estate's interest in that lawsuit...." (R.2618)

Advising the bankruptcy court that the estate was not administering real property, while advising the appellate court that he was administering real property, is irreconcilable. Representing the lawsuit as "property" in one forum and "issues related to" property in another is equally so. These contradictions are not the errors of a layperson; they are the inconsistent positions of a highly experienced trustee with an objective of using the property for its own benefit.

Critically, **Pringle did not object, intervene, or appear at the trial level.** Nor on appeal, when the PG asserted for him exclusive authority *fourteen months into the appeal,* should have earned the same response any other litigant would receive: **forfeiture**.

Instead, the appellate court treated the trustee's late-filed declaration as dispositive, extinguishing API's appellate rights and directly gave effect to a void judgment That extinguishment, and the inability of any litigant to be heard, is the constitutional injury, born exclusively from a federal issue, and it is Lasseville that suffers from it.

B. API Retained the Right to Appeal Because a Void Judgment Cannot Extinguish Appellate Rights

Under California law, the August 29, 2023 order was void for the reasons set forth in the Statement of the Case. And California is unambiguous that "if an order or judgment is void, an order denying a motion to vacate that order or judgment is also void and appealable because it gives effect to a void judgment." (*Doe v. Regents of the Univ. of Cal.*, 80 Cal.App.5th 282, 292 (2022)). API therefore retained the right to seek appellate review regardless of the trustee's later assertions. The right to appeal a void judgment exists because void judgments possess **no legal force**, and "is comparable to a blank piece of paper", '"[i]f a judgment is void it is not a judgment."' (*OC Interior Services, LLC v. Nationstar Mortgage, LLC*, 7 Cal. App. 5th 1318, 1332 (2017))

The trustee's statements could not change that. A litigant cannot by declaration eliminate another party's statutory right to direct review, particularly where the trustee had never intervened or been substituted as the party entitled to make litigation decisions on API's behalf.

C. Lasseville Had Standing to Protect His and API's Interests on Appeal

The trustee never substituted into the case nor appeared. He therefore never displaced API or Lasseville. Despite the state actor's failure to engage in any lawful state procedure, it suddenly asserted in support of its motion to dismiss: "API is a debtor in bankruptcy and only the Chapter 7 Trustee has the right to direct what actions a lawyer may take in the name of API." (SR.513) While noting: "It is clear from the record that Lasseville is the sole officer and shareholder of API" (SR.514) "A suit may be brought in the Federal courts by or against a corporation, but in such a case it is regarded as a suit brought by or against the stockholders of the corporation" (*Muller v. Dows* 94 U.S. 444, 445 (1876)).

> When the corporation is closely held, ... [the] interests of the corporation's management and stockholders and the corporation itself generally fully coincide. By definition, the stockholders are few in number and either themselves constitute the management or have direct personal control over it. ... For the purpose of affording opportunity for a day in court on issues contested in litigation, however, there is no good reason why a closely held corporation and its owners should be ordinarily regarded as legally distinct.
> *Gottlieb v. Kest* 141 Cal.App.4th 110, 151 (2006)

Lasseville, as API's sole officer and shareholder, was also permitted to appeal under third-party standing where "the party asserting the right has a 'close' relationship with the person who possesses the right... [and] there is a 'hindrance' to the possessor's ability to protect his own interests." (*Kowalski v. Tesmer*, 543 U.S. 125, 130 (2004) (quoting *Powers v. Ohio*, 499 U.S. 400, 411 (1991)); see *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017)).

That hindrance included the trustee squandering over $700,000 in shareholder value in order to personally extract "from the proceeds of such sale $38,756.34 for Chapter 7 bankruptcy administrative expenses." (R.2634) As this Court has held, "the fiduciary duty of the trustee runs to shareholders as well as to creditors." (*Commodity Futures Trading Com, supra,* 471 U.S. at 355) The very entity owing a fiduciary duty to Lasseville extinguished his ability to seek review of the illegality. It is a vivid example of why trustee authority must have judicially enforceable limits.

D. The Fifth and Fourteenth Amendments Forbid Any System Where Constitutional Rights Are Lost While Denying Judicial Oversight

In a case with far less judicial involvement than this matter, but equally devoid of a judicial hearing, this Court summarized *In re Summers*, 325 U.S. 561 (1945), as:

> "A case arises, within the meaning of the Constitution, when any question respecting the Constitution, treaties or laws of the United States has assumed 'such a form that the judicial power is capable of acting on it.' . . . A declaration on rights as they stand must be sought, not on rights which may arise in the future, and there must be an actual controversy over an issue, not a desire for an abstract declaration of the law. The form of the proceeding is not significant. It is the nature and effect which is controlling." *Id.*, at 566-567, quoting *Osborn v. Bank of United States*, 9 Wheat. 738, 819 (1824) (citations omitted).
> *D.C. Court of Appeals v. Feldman* 460 U.S. 462, 478 (1983)

The instant injury of being denied a state right of review after being denied the basic right to a hearing before being deprived of real property needs this Court to clarify the laws and to advise the state courts that what occurred here is impermissible under the Constitution. Any action to vindicate rights will simply be met by the exact fabricated claims that have already been shown to be controlling.

Thus despite "our repeated holdings that a property owner acquires a constitutional right to compensation at the time of the taking" (*Knick v. Township of Scott* 139 S. Ct. 2162, 2175 (2019)) the defense will be bankruptcy law controls. When petitioner retort, "The bankruptcy power is subject to the Fifth Amendment's prohibition against taking private property without compensation." (*United States v. Sec. Indus. Bank* 459 U.S. 70, 75 (1982).) The state actor will assert the bankruptcy trustee is API and owns its assets to liquidate for its own consumption.

Just as below, when petitioner declared that due process has as a "root requirement that an individual be given an opportunity for a hearing *before* he is deprived of any significant property interest," (*Boddie v. Connecticut* 401 U.S. 371, 379 (1971)) the state actor will declare the bankruptcy court heard the debtor. And when the debtor proclaims it was denied the "right to

equal protection secured by the Fifth Amendment." (*Weinberger v. Wiesenfeld* 420 U.S. 636, 643 (1975)) The state actor will argue it had the opportunity to defend in state court.

Yet, when petitioner cite that "'due process of law signifies a right to be heard in one's defence,'" (*Boddie, supra,* 401 U.S. at 377) the state actor "urges that the State was not required to afford any corrective judicial process to remedy the alleged wrong. The argument falls with the premise." (*Mooney v. Holohan,* 294 U.S. 103, 113 (1935)).

The genius of the state actor and trustee's plan is that it usurped a once thought steadfast rule. "Upon the state courts, equally with the courts of the Union, rests the obligation to guard and enforce every right secured by that Constitution." (*Id.*)

Ten words are repeated verbatim twice in the Constitution, "of life, liberty, or property, without due process of law" that "is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a [judgment] through the pretense of a [case] which in truth is but used as a means of depriving a defendant of [property] through a deliberate deception of court [sitting without] jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure [real property from] a defendant is... inconsistent with the rudimentary demands of justice" (*Mooney* at 112.)

The Fourteenth Amendment extends due process and equal protection to all state action, "whether through its legislature, through its courts, or through its executive or administrative officers." (*Id., at* 113). Deprivations predicated on fabricated or structurally impossible premise violate the core of due process.

Here, API and Lasseville were deprived of property and of access to the judiciary based on a legal premise that could not coexist with federal law: that a trustee who had no jurisdictional authority, no substitution, and no role under state procedure could unilaterally extinguish the right to appeal.

The state did not deny relief on the merits; it denied the ability to be heard at all.

Despite 18 U.S.C. § 155 criminalizing the fee-fixing agreements among such parties in interest in bankruptcy cases.

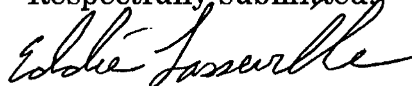
When the trustee and state actor extinguish the personal constitutional rights of individuals who were dismissed from the underlying case — while the courts accept the trustee's word as dispositive — the system has crossed the line from adjudication to administrative fiat. And that is precisely the boundary the Due Process Clause exists to prevent.

CONCLUSION

The Court should grant the petition.

In the alternative, the Court may grant, vacate, and remand under 28 U.S.C. § 2106 for reconsideration in light of *United States v. Miller*, and the constitutional deprivation arising from the trustee's assertion of exclusive federal authority after abstention—28 U.S.C. § 1334(d).

Respectfully submitted,



May 4, 2026

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