

No. 26–

In the Supreme Court of the United States

PETER PROTOPAPAS,
in his capacity as court-appointed receiver,
Petitioner,

v.

WHITTAKER CLARK & DANIELS INC.,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Petitioner, a state-appointed receiver, objected to the bankruptcy court’s jurisdiction over Respondent’s Chapter 11 case: relying on the *Rooker-Feldman* doctrine, Petitioner argued that Respondent (the state-court loser) complains of injuries from a state-court order appointing Petitioner as receiver and invokes federal bankruptcy jurisdiction to overturn the receivership order. The Third Circuit rejected Petitioner’s objection, relying on circuit precedent that limits the *Rooker-Feldman* doctrine only to state-court orders that are either final or effectively final. Subsequently, in *T.M. v. University of Maryland Medical System Corp.*, 608 U.S. —, 146 S. Ct. 1739 (June 18, 2026), this Court held that the *Rooker-Feldman* doctrine bars district courts from exercising jurisdiction over cases brought by state-court losers complaining of state-court judgments, “regardless of whether those judgments are final trial-court judgments or those of a State’s highest court.”

The question presented is whether the Court should grant, vacate, and remand for reconsideration in light of *T.M.*

PARTIES TO THE PROCEEDING

Petitioner Peter Protopapas was appellant in the United States Court of Appeals for the Third Circuit, appellant in the United States District Court for the District of New Jersey, and interested party in the United States Bankruptcy Court for the District of New Jersey.

Respondents Whittaker, Clark & Daniels, Inc., Brilliant National Services, Inc., L.A. Terminals, Inc., and Soco West, Inc. were appellees in the court of appeals, appellees in the district court, and debtors in the bankruptcy court.

The Official Committee of Talc Claimants was a separate appellant in the consolidated proceedings before the court of appeals, an appellant in the district court, and the creditor committee in the bankruptcy court. The Official Committee of Talc Claimants is not a petitioner and is not participating in this petition for a writ of certiorari.

RELATED PROCEEDINGS

South Carolina Court of Common Pleas:

Sarah J. Plant & Parker Plaintiff v. AVON Products, Inc., et al., No. 2022-CP-40-01265

Kelly Payne Clark and Shannon Payne Lancaster, as Co-Executors of the Estate of Shelby Linville Payne, deceased v. 3M Company, et al., 2022-CP-40-01281

United States Bankruptcy Court (D.N.J.):

In re Whittaker, Clark & Daniels, Inc., No. 23-13533

United States District Court (D.N.J.):

Protopapas v. Whittaker, Clark & Daniels, Inc., No. 23-cv-4151

United States Court of Appeals (3d Cir.):

In re Whittaker, Clark & Daniels, Inc., No. 24-2210 (Apr. 27, 2026)

Related consolidated proceeding in United States Court of Appeals (3d Cir.):

Official Committee of Talc Claimants v. Whittaker, Clark & Daniels, Inc., No. 24-2211 (Apr. 27, 2026)

In re Whittaker, Clark & Daniels, Inc., No. 25-1044 (Apr. 27, 2026)

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INTRODUCTION

The *Rooker-Feldman* doctrine is a rule of subject-matter jurisdiction that bars state-court losers from conscripting district courts to hear appeals of state-court orders and judgments. Until June, many courts restricted *Rooker-Feldman* to apply only after state proceedings are final. The Third Circuit was one of those courts. See *Malhan v. Sec’y U.S. Dep’t of State*, 938 F.3d 453, 458–461 (CA3 2019).

In *T.M. v. University of Maryland Medical System Corp.*, 608 U.S. —, 146 S. Ct. 1739 (June 18, 2026), this Court rejected that limitation: “Federalism principles are * * * best served by continuing to apply *Rooker-Feldman* to federal cases in which plaintiffs seek review of state-court judgments, regardless of whether those judgments are final trial-court judgments or those of a State’s highest court.” *Id.* at 1752. Citing *Malhan* twice, the Court recognized the Third Circuit’s contrary position as one that is now overruled. See *id.* at 1746 n.2; *id.* at 1751 n.8.

In the decision below, the Third Circuit relied solely on *Malhan* to dispose of Petitioner’s *Rooker-Feldman* objection. See App., *infra*, 20a n.7. Weeks later, *T.M.* repudiated *Malhan* and the Third Circuit’s approach to *Rooker-Feldman*. *T.M.* is a supervening, post-judgment decision that overrules the premise of the lower court’s *Rooker-Feldman* holding and, at a minimum, casts doubt on its judgment. The Court should therefore follow its usual GVR practice—grant the Petition, vacate the judgment, and remand—so that the Third Circuit can consider Petitioner’s *Rooker-Feldman* objection under a correct understanding of the law.

OPINIONS BELOW

The bankruptcy court order denying Petitioner’s motion to dismiss is unreported, available at 2023 WL 4111338, and reprinted at App., *infra*, 211a–233a. The district court’s affirmance is unreported, available at 2024 WL 2796449, and reprinted at App., *infra*, 189a-210a. The Third Circuit’s original opinion is reported at 152 F.4th 432 and reprinted at App., *infra*, 103a-188a. The panel granted rehearing (173 F.4th 490) and issued an amended opinion, which is reported at 176 F.4th 241 and reprinted at App., *infra*, 234a-236a.

JURISDICTION

The Third Circuit issued its original decision on September 10, 2025, App., *infra*, 103a-188a. The Third Circuit granted a timely petition for panel rehearing on April 27, 2026, and issued an amended opinion the same day. App., *infra*, 1a–102a, 235a–236a. This Court has jurisdiction under 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

No statutory provisions are involved.

STATEMENT

1. Respondent is a New Jersey corporation whose historic operations, shuttered in 2004, have generated substantial asbestos-related liabilities. See App., *infra*, 213a. In 2023, a South Carolina jury rendered a \$29 million verdict against Respondent in a single-plaintiff action. *Ibid.* The state trial court, presented with evidence of Respondent’s financial distress, appointed Petitioner as receiver and broadly charged him with preserving Respondent’s assets. See *id.* at 5a.

Respondent moved for reconsideration, contesting the state court’s statutory and constitutional authority and jurisdiction to appoint a receiver. See C.A. JA316. Among other things, Respondent contested the court’s power to appoint a receiver over an out-of-state corporation, and Respondent disputed that any of its property was subject to the state court’s jurisdiction.

During the hearing on the reconsideration motion, the prospect of a bankruptcy petition was discussed. From the bench, the judge explained that that prospect “was the main factor in my signing the order so quickly.” App., *infra*, 5a. She “wanted to be sure that something other than [a] kind of amorphous organization I wasn’t quite sure about in terms of asset picture, control[,] or anything else[,] would not simply declare bankruptcy and that entity would still be controlling things. I wanted a receiver that I knew would take it seriously, to look at the asset picture and see what was going on.” *Ibid.* The judge orally denied Respondent’s reconsideration motion and ordered the parties to submit proposed final orders consistent with her oral ruling. *Id.* at 194a.

On April 24, 2023, plaintiff’s counsel submitted a proposed order, which explicitly would have prohibited Respondent from unilaterally instituting bankruptcy proceedings. No order was finalized, however. The day before Respondent’s comments on the proposed order were due, Respondent filed a Chapter 11 petition in the District of New Jersey. See *ibid.* By operation of law, the state court proceedings were automatically stayed. See 11 U.S.C. 362(a).¹

2. Petitioner moved to dismiss Respondent’s bankruptcy proceeding for lack of subject-matter jurisdiction. One of Petitioner’s objections was premised on *Rooker-Feldman*: Respondent is a state-court loser complaining about the receivership order, and instead of appealing that order through the state-court system, Respondent invoked federal jurisdiction to challenge the receivership order and the denial of its motion for reconsideration. Documents Respondent filed along with its Chapter 11 petition admit Respondent’s motivations and concerns. See, e.g., C.A. JA247 (¶¶ 8–9) (reciting the procedural history of the receivership order; contending that, despite losing its motion for

¹ Because Respondent opted to attack the receivership order in bankruptcy court, South Carolina appellate courts have not considered Respondent’s jurisdictional objections nor reviewed the scope of the receivership order. Recent state court decisions suggest that receivership orders like the one in this case are limited despite their superficial breadth. In 2025, the South Carolina Supreme Court reviewed a broadly worded receivership order over a foreign corporation and limited it only to assets and claims “in South Carolina’s jurisdiction,” not “every claim related to [the company’s] assets and business activities.” *Welch v. Advance Auto Parts, Inc.*, 916 S.E.2d 320, 334 (S.C. 2025), *cert. denied sub nom. Atlas Turner, Inc. v. Welch*, 146 S. Ct. 1497 (2026).

reconsideration, Respondent still “disputes the validity and enforceability of the receivership order”; and admitting that Respondent seeks bankruptcy relief “[i]n light of these recent developments”); C.A. JA257–258 (¶¶ 35–39) (acknowledging that the receivership order prompted Respondent’s “Decision to Commence These Chapter 11 Cases”); C.A. JA259 (¶ 42) (dealing with the receivership order is one of the “Objectives of the Debtors’ Chapter 11 Cases”).²

The bankruptcy court (Kaplan, J.) denied the motion to dismiss, holding that *Rooker-Feldman* was no barrier because “this Court is not reviewing or rejecting” the receivership order. See App., *infra*, 217a. On appeal, the district court (Quraishi, J.) affirmed. See *id.* at 210a. Petitioner timely appealed to the Third Circuit.³

² See also C.A. JA573 (stating that “the debtors question the validity of [the receivership] order in light of certain jurisdictional issues”); C.A. JA623 (“WCD disputes the validity and enforceability of the receivership order.”); C.A. JA683 (¶ 36) (“[T]he Receivership Order is neither valid nor enforceable.”).

³ In the bankruptcy court, the Official Committee of Talc Claimants joined in Petitioner’s motion to dismiss. Petitioner and the Official Committee separately appealed the bankruptcy court’s ruling on the motion. They also separately appealed the district court’s ruling. Petitioner’s Third Circuit appeal (No. 24-2210) was consolidated with the Official Committee’s separate appeal (No. 24-2211). See C.A. Doc. 4. Months later, the Official Committee filed a different Third Circuit appeal (No. 25-1044), arising out of a different bankruptcy-court order. The court of appeals consolidated the third appeal with the first two for purposes of disposition only, set an expedited briefing schedule, heard argument on all appeals the same day, and issued a single decision disposing of them all.

3. The Third Circuit (Ambro, J., joined by Krause and Matey, JJ.) affirmed. As relevant to this Petition, the court of appeals addressed Petitioner’s *Rooker-Feldman* objection in a short footnote. See App., *infra*, 20a n.7. The court began with its view of *Rooker-Feldman* as “prohibit[ing] federal courts” from reviewing only “final state court judgments” and “effectively final” state court orders. *Ibid.* (citing *Malhan*, 938 F.3d at 459). Finding the receivership order is neither final nor effectively final, the court held that *Rooker-Feldman* did not apply. See *ibid.*

REASONS FOR GRANTING THE PETITION

I. GVR is warranted because *T.M.* overruled the basis for the Third Circuit’s *Rooker-Feldman* ruling in the decision below.

1. This case presents a scenario in which the Court routinely grants a certiorari petition, vacates a lower court’s judgment, and remands for further consideration in light of a recent decision of this Court. See *Lawrence ex rel. Lawrence v. Chater*, 516 U.S. 163, 166 (1996) (per curiam) (“We have GVR’d in light of a wide range of developments, including our own decisions * * *.”). “A GVR is appropriate when ‘intervening developments,’” like one of this Court’s opinions, “reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration, and where it appears that such a redetermination may determine the ultimate outcome’ of the matter.” *Wellons v. Hall*, 558 U.S. 220, 225 (2010) (quoting *Lawrence*, 516 U.S. at 167); see Stephen M. Shapiro *et al.*, *Supreme Court Practice* § 5.12(b), at 5-38 (11th ed. 2019)

(collecting cases). When an intervening precedent reveals a possible flaw in the lower court’s reasoning, a GVR gives the lower court the opportunity to determine whether its original judgment remains sound, which in turn conserves this Court’s time and energy. See *Webster v. Cooper*, 558 U.S. 1039, 130 S. Ct. 456, 456 (2009) (Scalia, J., dissenting) (“The purpose of such an ‘intervening-factor’ GVR is to give the court to which we remand the first opportunity to consider the factor—in this case a new decision of ours.”).

2. This case clears the low bar for a GVR based on one of the Court’s own intervening—indeed, superseding—decisions.

First, it is more than *reasonably probable* the decision below rests on a premise the court of appeals would reject in light of *T.M.* It is *obvious*. The court of appeals’ sole stated basis for rejecting Petitioner’s *Rooker-Feldman* objection was the court’s now-proven-wrong assumption that *Rooker-Feldman* applies only to actually or effectively final state-court orders. See App., *infra*, 20a n.7. *T.M.* confirms that finality is irrelevant for *Rooker-Feldman*. See *T.M.*, 146 S. Ct. at 1744 (“This case asks whether this rule bars suit when the state-court judgment at issue is subject to further review in state appellate proceedings. A straightforward application of the logic and reasoning underlying *Rooker-Feldman* leads to one conclusion: It does.”). Not only that, the court of appeals’ sole cited authority for rejecting Petitioner’s *Rooker-Feldman* argument, *Malhan*, is one of the circuit decisions *T.M.* called out and overruled. Compare App., *infra*, 20a n.7, with *T.M.*, 146 S. Ct. at 1746 n.2 & 1751 n.8.

Next, vacating and remanding for the Third Circuit to take a fresh look at Petitioner’s *Rooker-Feldman* objection “may” change “the ultimate outcome”—on both the *Rooker-Feldman* issue and the entire proceeding. *Lawrence*, 516 U.S. at 167. As *Malhan* was the only ground the Third Circuit gave for rejecting Petitioner’s *Rooker-Feldman* argument, the court must revisit the argument on remand, and it is possible the court will reach a different decision after *T.M.* A different decision on *Rooker-Feldman* would, in turn, have repercussions for the entire bankruptcy proceeding. Because *Rooker-Feldman* goes to subject-matter jurisdiction, applying the doctrine here would, at a minimum, require the lower courts to determine whether and to what extent the bankruptcy court has jurisdiction over any part of the proceeding.

To be clear, the *Rooker-Feldman* problem here is not that Respondent invoked federal bankruptcy jurisdiction after suffering a \$29 million loss in state court. Many bankruptcies begin after the debtor suffers a large tort loss. The problem is that Respondent has mounted a direct federal-court attack on the receivership order. Instead of appealing the receivership appointment order in state court, Respondent filed a Chapter 11 petition complaining of injuries from the receivership order and asking the bankruptcy court to find that the receivership order exceeds the state court’s statutory and constitutional authority. See p. 4, *supra*. Thus, Respondent’s whole bankruptcy case is one to which *Rooker-Feldman* at least arguably applies—“cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings com-

menced and inviting district court review and rejection of those judgments.” *ExxonMobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

CONCLUSION

The Court should grant the petition, vacate the Third Circuit’s judgment, and remand for further consideration in light of *T.M.*

Respectfully submitted,

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