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No. 26-

IN THE

Supreme Court of the United States

W. A. GRIFFIN, M.D.,

Petitioner,

v.

TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA, AND UNITED STATES FIDELITY & GUARANTY INSURANCE COMPANY,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The underlying case presents novel questions of nationwide importance regarding the scope of property insurance coverage in the age of sophisticated electronic intrusion. These questions are currently on an expedited appeal before the United States Court of Appeals for the Second Circuit and are of such imperative public importance that they require immediate resolution by this Court under Supreme Court Rule 11:

1. Whether the physical embedding of hidden surveillance cameras and listening devices within commercial property, which renders the premises unusable for their intended medical purpose due to a fundamental violation of privacy and security, constitutes "**direct physical loss of or damage to property**" under a standard commercial property insurance policy.

2. Whether the ongoing, multi-jurisdictional disagreement among federal courts over the definition of "**physical loss or damage**"—particularly in the context of nontraditional, non-structural intrusions such as contamination, surveillance, and cyber events—is an issue of imperative national public importance warranting this Court's immediate and definitive resolution.

3. Whether a sole owner and member of a disregarded Limited Liability Company (LLC) is an "insured" with standing to sue under a commercial property policy that defines "insured" to include LLC members "with respect to the conduct of your business."

PARTIES TO THE PROCEEDING

Pursuant to Supreme Court Rule 14.1(b), the following is a list of all parties to the proceeding in the court whose judgment is sought to be reviewed:

- **Petitioner:** W. A. Griffin, M.D., who is the appellant in the United States Court of Appeals for the Second Circuit.

- **Respondents:** Travelers Property Casualty Company of America and United States Fidelity & Guaranty Insurance Company, who are the appellees in the United States Court of Appeals for the Second Circuit.

They each trade on the New York Stock Exchange as TRV and FG, respectively.

STATEMENT OF RELATED CASES

Pursuant to Supreme Court Rule 14.1(b)(iii), the following are the proceedings in state or federal trial or appellate courts directly related to this case:

- *W. A. Griffin, M.D. v. Travelers Property Casualty Company of America, et al.*, United States District Court for the District of Connecticut, Docket No. 3:24-cv-01298-VDO. The order granting the Respondents' motion to dismiss and entering final judgment was issued on May 14, 2025.

- *W. A. Griffin, M.D. v. Travelers Property Casualty Company of America, et al.*, United States Court of Appeals for the Second Circuit. The appeal is currently pending.

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The summary order of the United States Court of Appeals for the Second Circuit, entered on February 12, 2026, in Case No. 25-1272-cv, is attached hereto in the Appendix. The prior memorandum and order of the United States District Court for the District of Connecticut (Oliver, J.), entered on May 14, 2025, is unpublished but available at 2025 WL 1432766.

JURISDICTION

The judgment of the United States Court of Appeals for the Second Circuit was entered on February 12, 2026. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1), which permits review of cases in the courts of appeals by writ of certiorari granted upon the petition of any party thereto after the entry of judgment.

CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES INVOLVED

UNITED STATES SUPREME COURT RULE 11.

CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI BEFORE JUDGMENT

A petition for a writ of certiorari to review a case pending in a United States court of appeals, before judgment is given in that court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. See 28 U.S.C. § 1254(1).

GEORGIA CODE ANNOTATED § 33-4-6.

Liability of insurer for bad faith refusal to pay

In the event of a loss which is covered by a policy of insurance and a demand is made by the insured for payment of the loss and the insurer, in bad faith, shall refuse to pay within 60 days after a demand has been made, the insurer shall be liable to pay such policyholder, in addition to the loss, not more than 50 percent of the liability of the insurer for the loss or $5,000.00, whichever is greater, and all reasonable attorney's fees for the prosecution of the action.

STATEMENT OF THE CASE

Petitioner W. A. Griffin, M.D., is the sole physician and owner of Dermatology Boutique LLC, which operates from an insured medical office. In 2024, Dr. Griffin discovered that hidden surveillance cameras had been physically and covertly embedded into exit signs and other fixtures within the insured premises. This intrusion compromised the medical office's legal and ethical requirements for patient privacy and rendered the premises unusable for its intended purpose.

Dr. Griffin filed claims under the commercial property and umbrella policies issued by Respondents, Travelers Property Casualty Company of America and Fidelity & Guaranty Insurance Company. The policies require coverage for "direct physical loss of or damage to property." Respondents denied the claim, asserting the intrusion did not constitute "physical damage" and that Dr. Griffin, as the sole owner, lacked standing separate from the LLC.

The District Court granted the Respondents' motion to dismiss, holding that: (1) Dr. Griffin lacked standing; (2) the embedding of surveillance devices did not constitute "direct physical loss or damage" because there was no structural alteration; and (3) the bad faith claims failed as a matter of law.

Petitioner filed a timely appeal to the Second Circuit, where the central question of "direct physical loss" in this novel context is now pending. Given the national importance of this core insurance coverage issue and the need for immediate, uniform guidance, this Petition for Certiorari Before Judgment under Rule 11 is appropriate.

REASONS FOR GRANTING THE PETITION

I. THE IMPERATIVE PUBLIC IMPORTANCE OF INTERPRETING "DIRECT PHYSICAL LOSS" IN THE MODERN ERA REQUIRES RULE 11 REVIEW.

This case is of **imperative public importance** and warrants the extraordinary remedy of Rule 11 certiorari. The core dispute is not merely a factual disagreement, but a purely legal question of national significance: **How should "direct physical loss of or damage to property" be interpreted when the loss arises from modern, non-traditional physical intrusions like hidden surveillance and cyber-contamination?**

The definition of "physical loss" has been a battleground in federal courts for years, most recently during the COVID-19 business interruption litigation. That litigation exposed deep, irreconcilable divisions among courts as to whether loss of use, loss of functionality, or physical alteration due to an invisible or non-structural agent (like a virus, ammonia, or, in this case, hidden cameras) satisfies the "physical damage" requirement.

This case presents the next evolution of this systemic coverage problem, moving the focus from disease to privacy and security. The rise of sophisticated electronic and cyber intrusions is a massive, nationwide threat to every commercial enterprise. If the installation of covert, embedded surveillance hardware—which fundamentally changes the character of a medical office from a safe, private space to an actively compromised one—is not deemed a "physical loss," it neuters a core promise of commercial property insurance in the 21st century.

This issue will not only recur but is already manifesting in other forms (e.g., cyberattacks rendering hardware unusable). Allowing the Second Circuit to rule, potentially adding another split to the existing circuit patchwork, is inefficient and detrimental to the insurance market. This Court should exercise its Rule 11 authority to provide a definitive, uniform answer now, setting a clear national standard for interpreting this ubiquitous policy language.

II. THE CASE PRESENTS CLEAN, RECURRING ISSUES OF INSURANCE LAW THAT ARE SYSTEMICALLY UNRESOLVED.

The lower court's finding that "direct physical loss or damage" requires tangible, structural alteration conflicts directly with several state court interpretations, including Georgia law cited by Petitioner, which recognized that physical loss includes tangible alterations that render property unsatisfactory for use (*AFLAC Inc. v. Chubb & Sons, Inc.*).

The question of whether an embedded device (a tangible physical object) that causes a *loss of use* (rendering the premises unusable for a medical practice) is a "physical loss" is a clean question of law that is ripe for a final, dispositive ruling.

Furthermore, the dismissal of the bad faith claims under O.C.G.A. § 33-4-6 was based on the District Court's restrictive reading of the policy. If this Court clarifies that the Petitioner's allegations of "physical loss" are viable, the standard for bad faith will be fundamentally altered. Immediate review will prevent the need for further costly litigation and a potential second appeal on the same underlying issue.

III. THE QUESTION OF STANDING FOR SOLE LLC MEMBERS WARRANTS UNIFORMITY.

The District Court's holding that Petitioner, as the sole owner and member of a single-member LLC, lacked standing to sue, directly contradicts the common-sense interpretation of commercial policies that often define "insured" to include LLC members "with respect to the conduct of your business."

Given the prevalence of single-member LLCs across the country, a clear ruling from this Court on the standing of an owner/operator of a disregarded entity to sue under a business policy is necessary to bring uniformity to this aspect of corporate insurance law, preventing the proliferation of conflicting rulings based on the formality of state corporate structures versus the substance of the policy's intent.

The case is purely a challenge to the legal sufficiency of the complaint under Fed. R. Civ. P. 12(b)(6), requiring the Court to accept all well-pleaded facts as true. (*Ashcroft v. Iqbal*). The record is fully developed for legal analysis, making it an ideal candidate for Rule 11 review.

CONCLUSION

The issues presented here—particularly the definition of "direct physical loss" in the context of emerging electronic security threats—are of imperative public importance, affecting the entire commercial property insurance market, the rights of policyholders nationwide, and the scope of corporate liability and privacy in the 21st century.

For these reasons, the Petitioner, W. A. Griffin, M.D., respectfully prays that a Writ of Certiorari Before Judgment be issued to the United States Court of Appeals for the Second Circuit, and that the judgment of the District Court be reversed.

Respectfully submitted,

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