

No. 26–159

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**In the Supreme Court of the United States**

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

v.

WHITTAKER CLARK & DANIELS INC., et al.  
*Respondents.*

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

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**REPLY BRIEF FOR THE PETITIONER**

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## REPLY

Respondents' federal bankruptcy presents an archetypal *Rooker-Feldman* problem: in lieu of appealing the receivership order through the South Carolina appellate system, Respondents initiated these proceedings specifically and explicitly to nullify the entire order. The Third Circuit rejected Petitioner's *Rooker-Feldman* objection and affirmed the lower courts' subject-matter jurisdiction in light of now-superseded circuit law restricting the *Rooker-Feldman* doctrine. A GVR will appropriately return this case to the Third Circuit for it to consider Petitioner's meritorious *Rooker-Feldman* objection in light of *T.M. v. Univ. of Md. Med. Sys. Corp.*, 146 S. Ct. 1739 (2026).

1. The brief in opposition fails to dispute the Petitioner's core points about *Rooker-Feldman*. Instead, Respondents conflate Petitioner's *Rooker-Feldman* objection with a related-yet-distinct objection Petitioner raised to the authority of Respondents' board of directors to approve their bankruptcy petitions. A quick recap should set the record straight.

Ever since the South Carolina state court appointed Petitioner as receiver for Whittaker Clark & Daniels, Respondents have complained about the *entire receivership order* and argued that the *entire receivership order* is null, void, without jurisdiction, wrong, and contrary to state law. Respondents raised these broadsides in state court. See, e.g., C.A. JA323–326. After that court denied their motion for reconsideration, Respondents re-raised these broadsides in the submissions initiating these bankruptcy proceedings. See Pet. 4–5 & n.2 (collecting the greatest hits). Respondents' case-opening filings in federal court are

soaked with evidence that these bankruptcy proceedings were “brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

Respondents’ brief in opposition ignores what they said in their own submissions to the bankruptcy court, as well as Petitioner’s contention that those submissions expose the *Rooker-Feldman* flaw in these proceedings. Petitioner highlighted Respondents’ submissions below and built his *Rooker-Feldman* objection upon them, from his motion in the bankruptcy court to his briefs in the court of appeals. See C.A. JA638, 643–644 (motion to dismiss); C.A. Appellants’ Opening Br. 16–17, 41–42. By consistently “turn[ing] a blind eye to evidence” refuting their preferred theory, *Ricci v. DeStefano*, 557 U.S. 557, 589 (2009), Respondents only reinforce the validity of Petitioner’s *Rooker-Feldman* objection.

2. Instead of confronting how their own submissions manifest a *Rooker-Feldman* problem, Respondents try to obscure Petitioner’s *Rooker-Feldman* objection by conflating it with another objection Petitioner raised. See Opp. 6–7. Below, in addition to arguing that the bankruptcy case must be dismissed because Respondents are using it to appeal and nullify the entire receivership order, Petitioner also argued that certain authority-stripping provisions within the receivership order delegated him exclusive authority to approve the filings necessary to initiate Whittaker

Clark & Daniels’s bankruptcy proceedings. Since Petitioner did not approve the filings, Petitioner argued that the bankruptcy case should be dismissed as unauthorized. See C.A. JA640–643 (motion to dismiss); C.A. Appellants’ Opening Br. 17–38.

Respondents now treat Petitioner’s *Rooker-Feldman* objection and his authority-to-approve objection as one and the same. Then, Respondents contend that the Third Circuit’s rejection of Petitioner’s authority-to-approve objection obviates GVR’ing for the Third Circuit to reconsider Petitioner’s *Rooker-Feldman* objection. See Opp. 8 (confusingly asserting that *Rooker-Feldman*, a doctrine of subject-matter jurisdiction, is somehow “relevant only to the merits question of whether the bankruptcy petition was properly filed, not to subject matter jurisdiction”). But as Respondents recognize on nearly every page of their brief in opposition, Petitioner’s *Rooker-Feldman* objection and his authority-to-approve objection are “independent” of one another. Opp. *i*, 1, 3, 4, 6, 7, 8, 10. The *Rooker-Feldman* objection focuses on Respondents’ submissions asking the federal courts to hold the *entire receivership order* “neither valid nor enforceable,” C.A. JA683 (¶ 36); by contrast, the authority-to-approve objection focuses on a disputed interpretation of *authority-stripping provisions* within that order. The *Rooker-Feldman* objection implicates subject-matter jurisdiction,<sup>1</sup> see *T.M.*, 146 S. Ct. at 1748; by contrast,

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<sup>1</sup> Respondents spotlight that Petitioner raised his *Rooker-Feldman* objection in a motion to dismiss for cause, as if that label establishes that Petitioner never moved to dismiss for lack of jurisdiction. See Opp. 7–8. Petitioner’s motion contained multiple bases for dismissal, including the board’s inability to approve

the authority-to-approve objection implicates nonjurisdictional requirements for properly initiating a corporate bankruptcy, see Pet. App. 12a–15a. Because the two objections are legally and logically distinct, the Third Circuit’s resolution of Petitioner’s authority-to-approve objection does not resolve or obviate Petitioner’s *Rooker-Feldman* objection.

In trying to meld Petitioner’s distinct objections, Respondents commit a classic blunder—confusing *Rooker-Feldman* with claim or issue preclusion. Time and again, this Court has cautioned against that error. See *Exxon Mobil*, 544 U.S. at 293 (“Preclusion, of course, is not a jurisdictional matter.”); *Lance v. Dennis*, 546 U.S. 459, 466 (2006) (“Incorporation of preclusion principles into *Rooker-Feldman* risks turning that limited doctrine into a uniform federal rule governing the preclusive effect of state-court judgments, contrary to the Full Faith and Credit Act.”); see also *T.M.*, 146 S. Ct. at 1752 (finding it “unclear \* \* \* if [preclusion] doctrines even apply \* \* \* where a plaintiff does not attempt to relitigate the same claims in state and federal forums but rather complains of injuries that stem directly from a state-court judgment”).

Respondents fail to heed the Court’s warnings. They posit that the lower court’s discussion of Full Faith and Credit (Pet. App. 20a–23a) “confirms that

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Respondents’ bankruptcy petitions (a nonjurisdictional objection) and *Rooker-Feldman* (a jurisdictional objection). See C.A. JA640–643 (board’s authority); C.A. JA643–644 (*Rooker-Feldman*); see also C.A. JA758 (Talc Committee’s Joinder) (“The *Rooker-Feldman* Doctrine Divests This Court of Jurisdiction to Review or Modify the Receivership Order.”). The caption on the document doesn’t change its substance.

there is zero chance that the Third Circuit would reach a different result on remand.” Opp. 7. But because *Rooker-Feldman* and res judicata are different doctrines, the Third Circuit’s rejection of Petitioner’s authority-to-approve objection on Full Faith and Credit grounds neither moots nor renders harmless the Third Circuit’s legally flawed rejection of Petitioner’s *Rooker-Feldman* objection. The lower court’s commentary on res judicata and Full Faith and Credit does not swallow its now-superseded reason for rejecting Petitioner’s *Rooker-Feldman* objection.

3. Respondents insinuate that the Third Circuit might not have relied on the overruled parts of *Malhan* because the court cited *Malhan* using only a “cf.” signal. Opp. i, 1, 5. A “cf.” signal connotes an analogous-though-not-quite-identical case, which legal writers are advised to explain. *The Bluebook: A Uniform System of Citation* R. 1.2(a), at 66 (Columbia L. Rev. Ass’n et al. eds., 22d ed. 2025). Here, the Third Circuit explained itself, and that explanation confirms that the court relied on the overruled parts of *Malhan*.

In holding *Rooker-Feldman* applies only to final judgments, *Malhan* identified three categories of “effectively final” orders to which *Rooker-Feldman* applies. The second *Malhan* category covers situations where the state-court litigation was abandoned before final judgment. See *Malhan v. Sec’y U.S. Dept. of State*, 938 F.3d 453, 459 (CA3 2019). The Third Circuit’s “cf.” citation pin-cites the portion of *Malhan* discussing that second category; the Third Circuit then found it inapplicable “because state-court litigation over the Order is not abandoned.” Pet. App. 20a n.7. Thus the Third Circuit concluded that *Malhan*’s now-

overruled prohibition against applying *Rooker-Feldman* to nonfinal state court rulings defeated Petitioner’s *Rooker-Feldman* objection.

More generally, the entire footnote makes plain that the Third Circuit rejected Petitioner’s *Rooker-Feldman* objection solely because the receivership order is not a final state court judgment. See *ibid.* That would warrant a GVR in light of *T.M.* even if the court did not cite *Malhan*.

4. Respondents conclude their brief in opposition arguing that Petitioner’s *Rooker-Feldman* objection is meritless notwithstanding the Third Circuit’s since overturned basis for rejecting it. See Opp. 10–12. But Respondents’ main support for their argument—that their bankruptcy petitions do not seek “to overturn the receivership order,” Opp. 11—is demonstrably false, see Pet. 5 n.2. That fact separates Respondents’ unique bankruptcy proceedings from ordinary bankruptcy proceedings and avoids “a collision course with the Bankruptcy Code.” Opp. 10. There is a difference in kind between seeking federal bankruptcy relief to deal with debts occasioned by state-court damages judgments (ordinary bankruptcies), see Pet. 8, and filing bankruptcy petitions explicitly to “dispute[] the validity and enforceability of the receivership order” (this bankruptcy), C.A. JA623.

While no decision of this Court extends *Rooker-Feldman* “to the bankruptcy context,” Opp. 10, no decision holds that bankruptcy jurisdiction is immune to *Rooker-Feldman*, either. Parties running to federal court after losing in state court usually assert some federal right giving rise to federal subject-matter jurisdiction. Respondents propose no basis in the text of

federal statutes for distinguishing between plaintiffs asserting federal civil rights (many *Rooker-Feldman* cases) and federal bankruptcy rights (this case). No federal subject-matter jurisdiction statute gives district courts authority to exercise appellate jurisdiction over state courts.

Respondents hypothesize that *Rooker-Feldman* does not apply here because the receivership order is interlocutory. See Opp. 11. *T.M.* teaches, however, that *Rooker-Feldman* does not turn on formal notions of finality; the doctrine applies to state-court orders that are “subject to further review in state appellate proceedings.” *T.M.*, 146 S. Ct. at 1744. In South Carolina, as in most places, an order appointing a receiver is an interim equitable order subject to *immediate* appellate review when properly appealed by the entity in receivership. See S.C. Code Ann. § 14-3-330(4). Accord 28 U.S.C. § 1292 (a)(2). For *Rooker-Feldman* purposes, a state-court receivership order is on the same footing as a state-court preliminary injunction. See *Port Auth. Police Benev. Ass’n, Inc. v. Port Auth. of New York & New Jersey Police Dep’t*, 973 F.2d 169, 177 (CA3 1992) (“[T]he *Rooker-Feldman* doctrine \* \* \* instructs us that the only courts empowered to review for constitutional error the New York trial court’s preliminary injunction are the appellate New York courts and, ultimately, the Supreme Court of the United States.”).

A GVR will not waste the Third Circuit’s time and resources. See Opp. 12. Resolution of these questions of law is one of the many “potential benefits of further consideration by the lower court.” *Lawrence ex rel. Lawrence v. Chater*, 516 U.S. 163, 168 (1996).

**CONCLUSION**

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

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