

IN THE SUPREME COURT OF THE UNITED STATES

No. _____

VENKY VENKATRAMAN,
Petitioner,

v.

BANK OF AMERICA, N.A.,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Venky Venkatraman
Counsel of Record for Petitioner
Supreme Court Bar No. 322428
450 S Denton Tap Road #1503
Coppell, Texas 75019
(469) 766-2875
venky@zenithlegalservices.com

QUESTION PRESENTED

Federal and state regulators require national banks to identify customers, monitor accounts, and report suspicious activity because bank accounts are frequently used to receive and move proceeds of fraud. This case concerns the civil consequence of a categorical no-duty rule applied at the pleading stage.

Petitioner alleged that scammers directed him to deposit \$94,345 into multiple accounts maintained by Respondent Bank of America, N.A.; that those accounts were used as instruments of fraud; that Bank of America later recovered and returned part of the proceeds; and that Petitioner had been a Bank of America customer for approximately twenty-five years.

The court of appeals nevertheless held that Bank of America owed Petitioner no duty because the deposits were made into accounts titled to third parties, and that Petitioner's own customer relationship and the bank's later recovery efforts did not affect the analysis.

The question presented is:

Whether a national bank may be categorically insulated from any duty-of-care inquiry when fraud proceeds are deposited into accounts titled to third parties, even where the injured person is the bank's own longstanding customer and alleges facts concerning the bank's control of the recipient accounts, warning signs, and subsequent recovery of part of the proceeds.

PARTIES TO THE PROCEEDING

Petitioner Venky Venkatraman was the plaintiff in the United States District Court for the Northern District of Texas and the appellant in the United States Court of Appeals for the Fifth Circuit.

Respondent Bank of America, N.A., was the defendant in the district court and the appellee in the court of appeals.

RELATED PROCEEDINGS

Venkatraman v. Bank of America, N.A., No. 3:24-cv-02821-K-BW, United States District Court for the Northern District of Texas. Final judgment entered August 13, 2025.

Venkatraman v. Bank of America, N.A., No. 25-10969, United States Court of Appeals for the Fifth Circuit. Opinion entered April 14, 2026.

TABLE OF CONTENTS

QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
RELATED PROCEEDINGS	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
OPINIONS BELOW	1
JURISDICTION	1
STATEMENT OF THE CASE	2
A. The Fraud and the Bank of America Accounts	2
B. Proceedings Below	2
REASONS FOR GRANTING THE PETITION	4
I. Fraud Conducted Through Financial Accounts Is a Large and Growing National Problem	4
II. Banks Occupy a Unique Gatekeeper Position in Preventing and Detecting Account-Based Fraud	5
III. The Decision Below Converts a Limited No-Duty Principle into a Categorical Barrier	6
IV. The Rule Applied Below Has Consequences Beyond This Case	7
V. This Case Cleanly Presents the Question	8
CONCLUSION	8
APPENDIX	10

TABLE OF AUTHORITIES

Cases

<i>Midwestern Cattle Marketing, L.L.C. v. Legend Bank, N.A.</i> , 800 F. App'x 239 (5th Cir. 2020)	2, 6
<i>Owens v. Comerica Bank</i> , 229 S.W.3d 544 (Tex. App.-Dallas 2007, no pet.) ...	2, 6
<i>Taya Agricultural Feed Mill Co. v. Byishimo</i> , No. 22-20239, 2022 WL 17716383 (5th Cir. Dec. 14, 2022)	2, 6

Statutes and Rules

12 C.F.R. § 21.11	5
28 U.S.C. § 1254(1)	1
Supreme Court Rule 10	7
Supreme Court Rule 13.1	1

Other Authorities

Federal Trade Commission, Consumer Sentinel Network Data Book 2024 (Mar. 2025)	4
Federal Trade Commission, New FTC Data Show a Big Jump in Reported Losses to Fraud to \$12.5 Billion in 2024 (Mar. 10, 2025)	4
Financial Crimes Enforcement Network, FinCEN Year in Review for Fiscal Year 2024 (2025)	5
Financial Crimes Enforcement Network, Alerts, Advisories, Notices, Bulletins, and Fact Sheets	5
Office of the Comptroller of the Currency, Bank Secrecy Act (BSA)	5
Office of the Comptroller of the Currency, Identity Theft	5
Office of the Comptroller of the Currency, Suspicious Activity Reports	5

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit is unpublished and is reproduced at Appendix A. The district court's final judgment is reproduced at Appendix B. The district court's order accepting the magistrate judge's findings, conclusions, and recommendation is reproduced at Appendix C. The magistrate judge's findings, conclusions, and recommendation are reproduced at Appendix D.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit issued its opinion and entered judgment on April 14, 2026. No petition for rehearing was filed. This Court has jurisdiction under 28 U.S.C. § 1254(1), and the petition is timely under Supreme Court Rule 13.1.

STATEMENT OF THE CASE

A. The Fraud and the Bank of America Accounts

In January 2023, scammers persuaded Petitioner to obtain money orders and cashier's checks totaling \$94,345 and to deposit them into multiple accounts maintained by Bank of America. Petitioner alleged that the recipient accounts were fraudulent or sham accounts used to receive victim funds.

Bank of America later returned a portion of the deposited funds, but approximately \$68,000 remained unrecovered. Petitioner also alleged that he had maintained a banking relationship with Bank of America for approximately twenty-five years and that bank personnel communicated with him after the fraud was discovered regarding efforts to recover the proceeds.

The case therefore did not involve a person with no relationship to the bank attempting to impose liability for an ordinary customer's unforeseeable misuse of an account. Petitioner alleged an existing bank-customer relationship, multiple recipient accounts controlled by the same institution, use of those accounts as the mechanism of the fraud, and later recovery activity by the bank.

B. Proceedings Below

Petitioner filed suit in Texas state court. Bank of America removed the action to the United States District Court for the Northern District of Texas on diversity grounds and moved to dismiss. The district court dismissed the original complaint with leave to amend.

Petitioner filed an amended complaint asserting negligence, negligent enablement of fraud, breach of contract, breach of fiduciary duty, and consumer-protection claims. Bank of America again moved to dismiss. The magistrate judge recommended dismissal, the district court adopted that recommendation, and judgment was entered with prejudice.

The court of appeals affirmed in an unpublished summary-calendar opinion. It stated that banks do not owe duties to noncustomers under Texas law, citing *Taya Agricultural Feed Mill Co. v. Byishimo*, 2022 WL 17716383, at *2, and *Midwestern Cattle Marketing, L.L.C. v. Legend Bank, N.A.*, 800 F. App'x 239, 247-48 (5th Cir. 2020). It also relied on *Owens v. Comerica Bank*, 229 S.W.3d 544, 547 (Tex. App.-Dallas 2007, no pet.), which held on the facts before it that the bank

had no reason to anticipate injury when it opened and maintained accounts later used for a wrongful purpose.

The panel acknowledged Petitioner's longstanding Bank of America relationship but held that it did not matter because Petitioner was a customer only 'with respect to other transactions.' It likewise held that Bank of America's later communications with Petitioner and partial return of funds did not affect foreseeability. On that basis, it affirmed dismissal of the negligence and negligent-enablement claims at the pleading stage. The court separately affirmed dismissal of Petitioner's other theories and held that he had pleaded his 'best case.'

REASONS FOR GRANTING THE PETITION

This petition does not ask the Court to make banks insurers against fraud, to infer a private cause of action from federal banking regulations, or to determine that Bank of America was negligent. It asks a narrower threshold question: whether the presence of third-party recipient accounts can categorically end the duty inquiry even when the injured person is the bank's own customer and alleges facts concerning the bank's control of the accounts, the alleged use of those accounts as instruments of fraud, and the bank's later recovery of proceeds.

Review is warranted because account-based fraud is a large and recurring national problem; federal regulators recognize that financial institutions occupy a distinctive position in detecting suspicious account activity; and the decision below turns a limited rule protecting banks from boundless liability to strangers into a categorical barrier that may prevent any factual inquiry in a broad class of fraud cases.

I. Fraud Conducted Through Financial Accounts Is a Large and Growing National Problem.

Fraud involving the movement of money through financial accounts is not an isolated or local problem. The Federal Trade Commission reported that consumers lost more than \$12.5 billion to fraud in 2024, a 25 percent increase from 2023. Federal Trade Commission, New FTC Data Show a Big Jump in Reported Losses to Fraud to \$12.5 Billion in 2024 (Mar. 10, 2025).

The FTC's Consumer Sentinel Network received 6.5 million consumer reports in 2024. Of approximately 2.6 million fraud reports, 38 percent indicated a monetary loss. The FTC further reported that bank transfers and bank payments accounted for approximately \$2.09 billion in aggregate reported losses, the largest aggregate loss associated with any payment method. Federal Trade Commission, Consumer Sentinel Network Data Book 2024, at 4-6 (Mar. 2025).

The concentration of losses in bank transfers and payments matters to the question presented. Fraudsters may initiate contact by telephone, email, text message, social media, or an online platform, but successful fraud ordinarily requires a destination for the victim's money. Recipient accounts give the transaction apparent legitimacy, provide access to payment networks, and allow proceeds to be moved or withdrawn.

FinCEN's own reporting confirms the volume of suspicious financial activity passing through the regulated financial system. In fiscal year 2024, financial institutions filed approximately 4.7 million Suspicious Activity Reports, an average of 12,870 per day. Financial Crimes Enforcement Network, FinCEN Year in Review for Fiscal Year 2024 (2025). Those filings do not establish civil liability in any particular case, but they show that suspicious account activity is neither rare nor beyond institutional detection.

The question presented therefore recurs against a national backdrop: fraud losses measured in billions of dollars, millions of consumer complaints, and millions of suspicious-activity reports generated by the financial institutions that hold and control the accounts through which funds move.

II. Banks Occupy a Unique Gatekeeper Position in Preventing and Detecting Account-Based Fraud.

Banks are not merely passive locations at which fraud proceeds happen to arrive. They open and maintain the recipient accounts, verify or collect identifying information, observe transactional activity, restrict or close accounts, and in appropriate circumstances report suspicious conduct.

The Office of the Comptroller of the Currency explains that, under the Bank Secrecy Act and related anti-money-laundering laws, banks must establish effective compliance programs, customer-due-diligence systems, monitoring programs, and suspicious-activity monitoring and reporting processes. Office of the Comptroller of the Currency, Bank Secrecy Act (BSA). National banks must also file Suspicious Activity Reports when they detect specified known or suspected criminal violations or suspicious transactions. 12 C.F.R. § 21.11; Office of the Comptroller of the Currency, Suspicious Activity Reports.

Federal law also requires covered financial institutions to maintain written identity-theft prevention programs designed to detect, prevent, and mitigate identity theft in connection with opening new accounts and operating existing accounts. Office of the Comptroller of the Currency, Identity Theft.

FinCEN likewise issues advisories containing illicit-finance typologies, red flags, and guidance that financial institutions may use to enhance anti-money-laundering monitoring and suspicious-activity reporting. Financial Crimes Enforcement Network, Alerts, Advisories, Notices, Bulletins, and Fact Sheets.

Petitioner does not contend that these regulatory obligations automatically create a private cause of action or establish negligence. Their relevance is more modest but important: they demonstrate that the legal and regulatory system already recognizes banks' distinct access to account-opening information, transaction data, suspicious patterns, and account controls. Those are matters unavailable to an individual victim.

A civil rule that ends the duty inquiry solely because the recipient account is titled to someone other than the victim disregards that institutional position. It makes legally irrelevant, at the threshold, allegations concerning the bank's relationship with the injured customer, control of the recipient accounts, knowledge or warning signs, and post-fraud recovery activity. The Court should decide whether account title alone may bear that categorical weight.

III. The Decision Below Converts a Limited No-Duty Principle into a Categorical Barrier.

The authorities cited by the court of appeals reflect a legitimate concern: a bank should not face unlimited liability to every person injured by a customer's unforeseeable conduct. *Taya and Midwestern Cattle* describe the general rule that a bank does not owe duties to noncustomers. *Owens* reasoned that the facts alleged there gave the bank no reason to anticipate injury when it opened and maintained the accounts at issue.

That principle does not necessarily answer the materially different question presented here. Petitioner was not a complete stranger to Bank of America. He alleged a twenty-five-year customer relationship with the same bank that maintained the recipient accounts. He also alleged that those accounts were the instrumentalities of the fraud and that Bank of America later recovered and returned part of the proceeds.

The decision below nevertheless treated customer status as transaction-specific and legally irrelevant. Because Petitioner deposited funds into accounts titled to third parties, he was deemed equivalent to a noncustomer for purposes of duty. The panel further held that the bank's later recovery-related dealings with Petitioner had no bearing on foreseeability.

That approach does more than reject the sufficiency of Petitioner's particular allegations. It establishes a threshold rule under which the account title controls before discovery can illuminate how the accounts were opened, how they were

used, whether activity generated warnings, what the bank knew, or what recovery efforts revealed.

The distinction is important. A fact-sensitive duty inquiry does not make banks insurers and does not guarantee recovery. A plaintiff would still have to establish a legally recognized duty under governing state law, breach, causation, damages, and a sufficient factual basis for liability. But a categorical rule prevents those questions from being examined whenever the fraud proceeds enter a third-party account—even though a third-party account is the ordinary destination in precisely the category of fraud at issue.

The rule thus risks allowing the mechanism of the fraud to become the basis for categorical immunity from inquiry. The account is indispensable to receiving the proceeds, yet the fact that it is titled to someone other than the victim eliminates consideration of the bank's relationship, control, knowledge, and foreseeability.

IV. The Rule Applied Below Has Consequences Beyond This Case.

The issue will recur in fraud involving impersonation schemes, fraudulent investments, business-email compromise, romance scams, check schemes, and other methods by which victims are directed to send funds into accounts controlled by persons or entities associated with the fraud.

The FTC's data show that bank transfers and payments produced the greatest aggregate reported fraud losses in 2024. FinCEN's reporting system receives millions of suspicious-activity reports each year, and federal regulators continually provide banks with typologies and red flags for identifying misuse of accounts. The practical interaction between fraud, recipient accounts, and institutional monitoring is therefore nationwide and ongoing.

The question presented is not whether federal regulatory policy should dictate state tort law. Nor is it whether every victim should be able to sue every receiving bank. It is whether a federal appellate court may apply a categorical no-duty rule that prevents ordinary state-law considerations—relationship, foreseeability, control, and alleged warning signs—from being considered merely because the proceeds were routed through accounts titled to third parties.

Supreme Court Rule 10 makes clear that certiorari is discretionary and requires compelling reasons, not merely an assertion that a lower court erred. The compelling consideration advanced here is the nationwide and recurring interaction

between regulated financial accounts, large-scale fraud losses, and a threshold rule that may foreclose any duty inquiry before facts concerning account control, warning signs, and foreseeability can be developed. A clear answer would inform banks, customers, victims, and courts confronting the same recurring structure.

V. This Case Cleanly Presents the Question.

The duty issue was expressly raised and expressly decided. The court of appeals acknowledged Petitioner's customer relationship and held that it made no difference because the loss involved deposits into third-party accounts. It also expressly rejected the relevance of Bank of America's later interactions with Petitioner and partial return of funds.

The case comes to the Court at the pleading stage. The Court need not decide whether Bank of America breached any duty, whether the recipient accounts displayed warning signs, or whether Petitioner can ultimately prove causation. It need decide only whether the duty inquiry may be categorically foreclosed on account-title grounds despite the pleaded customer relationship and allegations concerning accounts maintained and controlled by the same national bank.

The separate disposition of Petitioner's contract, fiduciary-duty, and consumer-protection claims does not prevent review. The negligence-based claims were independently rejected for lack of duty. Vacatur of that threshold ruling would require further proceedings regardless of the disposition of the other theories.

Nor does the unpublished status of the opinion diminish the importance of the issue. The decision remains the final federal appellate judgment in this case and may influence district courts confronting materially similar allegations. Review would permit the Court to determine whether the categorical rule applied below is consistent with the limited rationale that banks should not face boundless liability to strangers for unforeseeable account misuse.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Venky Venkatraman
Counsel of Record for Petitioner
Supreme Court Bar No. 322428
450 S Denton Tap Road #1503
Coppell, TX 75019
Tel: (469) 766-2875
Fax: (972) 535-4765
Email: venky@zenithlegalservices.com

By: /s/ Venky Venkatraman
Venky Venkatraman