

ORIGINAL

No. 26-408

FILED

JUN 27 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

TIMOTHY L. MALDEN,

Petitioners,

v.

A CROWN ROOFING, INC.,

Respondents,

On Petition for a Writ of Certiorari to the
District Court of Appeal of Florida, Fifth District

PETITION FOR A WRIT OF CERTIORARI

/s/ Timothy L. Malden
Timothy L. Malden
12839 La Costa Court
Jacksonville, Florida 32225
timothymalden@comcast.net

I. Question Presented

1. Whether the Due Process Clause permits a state trial court to exclude or materially curtail critical expert and damages proof through mid-trial motion practice and ambiguous off-the-record instructions, without constitutionally adequate notice and a meaningful opportunity to respond, and then to enter a directed verdict for lack of proof.
2. Whether due process is violated when a state court directs a verdict against a pro se civil litigant after the record shows he attempted to offer photographs, permits, and repair invoices, but the court neither clearly clarified on the record what documentary damages proof could be admitted nor allowed a meaningful offer of proof or reopening before judgment.
3. Whether a state appellate court may leave such federal due-process claims effectively unreviewed through an unexplained per curiam affirmance after those claims were squarely presented as grounds for reversal.

Parties to the Proceeding

Petitioner Timothy L. Malden was the plaintiff in the Circuit Court for the Fourth Judicial Circuit, in and for Duval County, Florida, and the appellant in the District Court of Appeal of Florida, Fifth District.

Respondent A Crown Roofing, Inc. was the defendant in the trial court and the appellee in the District Court of Appeal of Florida, Fifth District.

II. Table of Contents

I. Question Presented	i
Parties to the Proceeding	ii
II. Table of Contents	iii
III. Table of Authorities	iv
List of Proceedings	1
Citations of Opinions and Orders	1
Basis for Jurisdiction	1
Constitutional Provisions Involved	2
Statement of the Case	2
Argument/Reason to Grant Writ	6
Conclusion	12
Appendix Table of Contents	1a
Appendix A - Order Granting Directed Verdict...	2a
Appendix B - Per Curiam Affirmance	7a
Appendix C - Order Denying Motion for Rehearing and Written Opinion	9a

III. Table of Authorities

Cases

<i>Alberty-Velez v. Corporacion de P.R. Para la Diffusion Publica</i> , 242 F.3d 418 (1st Cir. 2001)	10
<i>Armstrong v. Manzo</i> , 380 U.S. 545 (1965)	9, 10
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	10
<i>Mullane v. Cent. Hanover Bank & Tr. Co.</i> , 339 U.S. 306 (1950)	7, 10
<i>Nelson v. Adams USA, Inc.</i> , 529 U.S. 460 (2000)	7, 10
<i>Patterson v. Hughes Aircraft Co.</i> , 11 F.3d 948 (1993)	10
<i>Peralta v. Heights Medical Center, Inc.</i> , 485 U.S. 80 (1988)	7

Statutes

28 U.S.C. § 1257(a)	1
---------------------------	---

Rules

Sup. Ct. R. 10	8
----------------------	---

Constitutional Provisions

U.S. Const. amend. XIV	i, 1, 2, 6–12
------------------------------	---------------

List of Proceedings

- District Court of Appeal of Florida, Fifth District, Timothy L. Malden v. A Crown Roofing, Inc., No. 5D2025-0917. Per curiam affirmance entered April 2, 2026; rehearing denied April 21, 2026.
- Circuit Court of the Fourth Judicial Circuit, in and for Duval County, Florida, Timothy L. Malden v. A Crown Roofing, Inc., No. 2019-CA-007583 (also reflected in the trial caption as 16-2019-CA-007583-XXXX-MA). Order granting directed verdict entered December 10, 2024.
- There have been no proceedings in this Court.

Citations of Opinions and Orders

The decision below is an unpublished per curiam affirmance of the District Court of Appeal of Florida, Fifth District, entered April 2, 2026, in Timothy L. Malden v. A Crown Roofing, Inc., No. 5D2025-0917. A timely motion for rehearing and written opinion was denied by unpublished order entered April 21, 2026. The trial court's dispositive order is an unpublished order granting directed verdict entered by the Circuit Court for the Fourth Judicial Circuit, in and for Duval County, Florida, on December 10, 2024, in Case No. 2019-CA-007583.

Basis for Jurisdiction

This Court has jurisdiction under 28 U.S.C. § 1257(a) because the judgment under review is the final judgment of the highest court of a State in which a decision could be had on Petitioner's federal claims. The District Court of Appeal of Florida, Fifth District, entered judgment on April 2, 2026, and denied rehearing

on April 21, 2026. This petition is timely if filed on or before July 20, 2026. No extension of time has been granted. The federal issue presented is whether Petitioner was denied the notice and meaningful opportunity to be heard that the Fourteenth Amendment requires before his civil claims were extinguished by evidentiary rulings and a directed verdict.

Constitutional Provisions Involved

The Fourteenth Amendment to the United States Constitution provides, in relevant part: no state shall deprive any person of life, liberty, or property, without due process of law.

Statement of the Case

A. The underlying controversy.

Petitioner contracted with Respondent A Crown Roofing, Inc. to remove and replace the roof system on his home in Jacksonville, Florida. Petitioner's state-court claims alleged breach of contract, breach of warranty, and unfair or deceptive trade practices. In substance, Petitioner contended that Respondent's roof installation was defective, that the installation led to continuing water intrusion into the house, that Respondent charged for materials that were not used, and that Petitioner later incurred additional repair and remedial costs after Respondent and the manufacturer became involved.

At trial and on appeal, Petitioner asserted that the problems did not begin as a generalized, long-standing maintenance issue. Petitioner and his wife testified that the house had not experienced the same pattern of interior leaks before the new roof work, but that soon after installation they observed brown ceiling spots, water in upstairs lights and fans, widespread leakage,

and mold odor in portions of the home. Petitioner also asserted that city inspections remained open or disputed for an extended period and that the roofing manufacturer, GAF, ultimately became involved in repair efforts.

B. The trial evidence.

On the first day of trial, Petitioner presented roofing consultant Jodie Marchman. Marchman testified that he had decades of roofing and consulting experience. He described deficiencies he observed in the roof assembly, including shingle-application problems, insufficient membrane coverage at a valley detail, overdriven or angle-driven fasteners, and noncompliant decking observations in the attic. He explained that a fastener driven through or at an angle to a shingle can fracture the shingle and permit wind-blown water to breach the assembly.

Marchman also testified, however, under cross-examination, that he had not reviewed Respondent's contract before forming his opinions, and Respondent pressed the position that the principal water-entry problem involved flashing, stucco, or window interfaces rather than the shingled field itself. Marchman resisted the most sweeping form of that characterization and maintained that the assembly contained deficiencies and that water observed at flashing details could breach underneath the shingle assembly.

On the second day of trial, Petitioner presented testimony from his wife and other witnesses, together with photographs of interior and attic conditions. The trial court admitted Petitioner's Composite Exhibit 1, a set of photographs, after extended colloquy over predicate and authentication. The court also admitted city permit records as Petitioner's Exhibit 2. Later

that same day, the court admitted Petitioner's Exhibit 3—Fidus invoices relating to repair work—without objection. Petitioner attempted to explain that the invoices reflected work done to stop leaks and to address conditions that, in his view, were traceable to the defective roof installation. The trial court, however, sustained repeated objections when Petitioner attempted to explain causation through hearsay or by relaying what others had told him.

Petitioner also told the trial court, during the directed-verdict colloquy, that repairs and patching had come out of his own pocket and that he had an additional bill relating to stucco and structural remediation. He argued that the water damage was not speculative and that lights, ceilings, floor joists, and walls had been affected. He further contended that the contract called for valley metal and that the installed system did not match what he says was promised.

C. The procedural problems that form the federal issue.

Petitioner's federal due-process claim arises from the way the trial was conducted. In the state appellate briefs, Petitioner argued that Respondent's motion in limine excluding expert testimony was made and granted during trial without proper prior service or notice, that he did not appreciate the ruling until later review of the record, and that his due-process rights were violated because he was deprived of a fair opportunity to respond. Petitioner also argued on appeal that he misunderstood off-the-record comments from the trial court as preventing him from offering additional invoices and documentary proof of damages, and that the court never clearly clarified the matter on the record before entering judgment for lack of proof.

The transcripts reflect a trial in which the court repeatedly tried to guide Petitioner through evidentiary basics, but also a record in which Petitioner plainly struggled to understand what foundation or record-making steps were required. The state appellate briefs framed the core problem not as ordinary dissatisfaction with adverse rulings, but as a denial of a meaningful chance to present his case: he says that critical expert and damages evidence was limited through surprise motion practice, confusing off-the-record communications, and an absence of a clear opportunity to reopen or make a full offer of proof before a directed verdict was entered.

D. The directed verdict.

At the close of Petitioner's case, Respondent moved for directed verdict on all counts. The trial court granted the motion. The written order held that Petitioner had presented no competent evidence of contractual damages for breach of contract or warranty, no competent evidence of actual damages on the FDUTPA claim because he acknowledged that the challenged plywood charge had been waived or not collected, and no competent evidence causally linking the roof defects described by Marchman to the water-damaged areas in the home. The order reasoned that Petitioner's causation theory rested at most on temporal sequence and amounted to impermissible post hoc reasoning.

That ruling is central to the petition because, by the time the order was entered, the court had already admitted photo exhibits, city permits, and Fidus repair invoices. Petitioner also had testified that he had paid for additional repair and stucco work. Yet the court concluded that there was no competent cost evidence

and no competent causal evidence sufficient to allow any claim to go to the jury.

E. The appeal.

Petitioner appealed to the District Court of Appeal of Florida, Fifth District. His initial and reply briefs challenged the directed verdict, the handling of damages evidence, the mid-trial motion in limine, the lack of due process and adequate notice, the failure to give meaningful latitude to an unrepresented litigant, the contract and warranty issues, the FDUTPA claim regarding unused plywood, and the subsequent repair costs he says he incurred. The Fifth District affirmed per curiam without opinion on April 2, 2026, and denied rehearing and a request for written opinion on April 21, 2026.

This petition does not ask the Court to review the Florida courts merely because Petitioner disagrees with how they viewed the evidence. The petition presents a prior and more basic question: whether a State may extinguish civil claims through procedures that, taken together, denied Petitioner adequate notice of dispositive evidentiary rulings and a meaningful opportunity to present or explain his damages proof before judgment was entered.

Argument/Reason to Grant Writ

A. This case presents a substantial and recurring federal question: whether a State may extinguish civil claims through procedures that deny constitutionally adequate notice and a meaningful opportunity to be heard

The Due Process Clause is not satisfied by the mere formality of a hearing; it requires notice and a meaningful opportunity to be heard “at a meaningful time and in a

meaningful manner.” . This Court has repeatedly held that due process demands procedures that are fair in practical operation, not merely in theory. And it has long been settled that notice must be “reasonably calculated” to apprise a party of what is at stake and to afford an opportunity to present objections. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

This case implicates those first principles in a concrete trial setting. Petitioner’s claims sought compensation for alleged defective construction work and resulting property damage-interests that, once recognized by state law, cannot be terminated through procedures that fail to satisfy due process. The federal question is not whether Florida’s directed-verdict standard is correct as a matter of state law; it is whether the State’s procedure, as applied, denied Petitioner a fair chance to present and connect his proof before his claims were extinguished.

This Court has rejected state-court procedures that impose liability or terminate rights without giving the affected party a fair opportunity to respond. In **Nelson v. Adams USA, Inc.*, 529 U.S. 460, the Court held that due process was violated where a party was made liable without being afforded an opportunity to respond and defend. 529 U.S. 460, 466-69 (2000). In **Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80, the Court held that a judgment entered without constitutionally adequate notice violates due process, and the absence of notice itself is the constitutional injury. 485 U.S. 80, 84-86 (1988). The same constitutional defect is presented here: Petitioner alleges that the trial court’s mid-trial handling of evidentiary restrictions and its failure to provide clear, on-the-record guidance deprived him of a meaningful opportunity to

present competent damages and causation proof, and the court then relied on that absence of "competent" proof to direct a verdict.

B. The procedure below departed from the accepted and usual course of judicial proceedings by converting evidentiary confusion into a dispositive forfeiture

Supreme Court Rule 10 recognizes that certiorari is warranted where a state court "has so far departed from the accepted and usual course of judicial proceedings" as to call for this Court's intervention. This case fits that description because the directed verdict rested on asserted evidentiary deficiencies that Petitioner contends were produced by the court's own mid-trial restrictions and lack of clear record guidance.

The trial court's written order directed a verdict because Petitioner presented no competent evidence of contractual damages and no competent evidence linking the alleged roof defects to the water-damaged areas. Yet Petitioner's appellate presentation asserted that he attempted to introduce invoices and documentation of damages but refrained due to a misunderstanding of off-the-record comments, and that no formal on-the-record ruling clearly barred the evidence or explained what foundation was required. Petitioner also asserted that Respondent filed and obtained a motion in limine excluding expert testimony during trial without proper notice or service, leaving him unable to respond effectively. If those assertions are correct, the procedure is constitutionally problematic because it allowed the court to (1) restrict the proof, (2) fail to clarify what was required to make the proof "competent," and (3) terminate the case for lack of proof.

Due process requires more before the State may impose the ultimate civil sanction of terminating claims mid-trial. At minimum, when a trial court is poised to grant judgment as a matter of law based on perceived foundational deficiencies, due process requires a meaningful opportunity to be heard on the deficiency itself. *Armstrong*,. That opportunity is not meaningful if the litigant is left to guess-especially off the record-what evidence is permitted, for what purpose, and what foundation is required to avoid dispositive failure.

C. The case is an appropriate vehicle because the federal issue was presented and the state courts' unexplained disposition leaves the constitutional question effectively unreviewed

Petitioner presented the due-process theory in the state appellate proceedings, including the claim that the motion in limine was granted during trial without adequate notice and that the trial court's off-the-record comments caused him to withhold damages documentation. The Fifth District affirmed per curiam without opinion and denied rehearing and a request for written opinion. That posture leaves no reasoned explanation addressing whether the federal claim was rejected on the merits, deemed unpreserved, or avoided on some other ground.

This Court has recognized that summary procedures can, in some circumstances, frustrate meaningful review of federal claims. Where a litigant has fairly presented a federal constitutional objection and the state court's disposition provides no explanation, this Court's review may be warranted to ensure that minimum federal protections are not nullified in practice. The absence of a written opinion is particularly

consequential here because the federal claim concerns the adequacy and transparency of the procedure itself.

D. Additional federal and persuasive authorities underscore that the opportunity to be heard must be real, not illusory, when dispositive rulings turn on evidentiary foundations

This Court has emphasized that due process is a practical guarantee. Mathews,.

It is violated when a party is deprived of a meaningful chance to present objections before a dispositive deprivation. Mullane, 339 U.S. at 314; Armstrong, 380 U.S. at 552; Nelson,.

Although this case arises from state civil litigation, the same core principles apply. Federal courts, too, recognize that motions in limine and other evidentiary rulings can shape the entire trial and must be handled in a manner consistent with fair notice and orderly procedure. And where a court's pretrial or trial-management orders control the course of trial, courts have held it improper to disregard those orders or decide issues not properly framed, underscoring the importance of clear, reliable procedural guardrails. See *Alberty-Vlez v. Corporacin de P.R. Para la Difusin Pblica*, *Alberty-Velez v. Corporacion de P.R. Para la Diffusion Publica*, 242 F.3d 418 (1st Cir. 2001); * *Patterson v. Hughes Aircraft Co.*, 11 F.3d 948*, *Patterson v. Hughes Aircraft Co.*, 11 F.3d 948 (1993).

Petitioner's claim is that the state trial court's process lacked those guardrails at the moment they mattered most-when evidentiary rulings and foundational requirements became dispositive and the court entered a directed verdict. That is a federal question about minimum constitutional procedure, not a request for this Court to reweigh evidence.

E. The underlying merits context confirms materiality: the directed verdict turned on proof issues that should have been resolved through fair procedure, not procedural surprise or ambiguity

The trial court's order reflects that the case was terminated because Petitioner did not present competent damages and causation evidence. Respondent's appellate presentation emphasized testimony that water testing did not show leaks when water was applied only to the shingle field and argued that Petitioner presented no damages evidence. Petitioner's appellate presentation, however, asserted that he had invoices and documentation of damages but withheld some evidence due to misunderstanding off-the-record comments and that the motion in limine excluding expert testimony was granted during trial without notice. Those competing positions underscore why the constitutional question matters: if the procedure denied Petitioner a fair chance to present and connect his proof, the directed verdict cannot be treated as a routine merits disposition.

F. At minimum, the Court should grant, vacate, and remand for reasoned consideration of the preserved federal due-process issue

If the Court concludes that plenary review is unnecessary, it should consider granting the petition, vacating the judgment, and remanding for reasoned consideration of the preserved federal due-process issue. The Fifth District affirmed without opinion and denied rehearing and a request for written opinion. A reasoned disposition would clarify whether the judgment rests on an adequate and independent state ground or on a

merits rejection of the federal due-process claim, and it would promote transparency and federalism by allowing the state court to articulate its understanding of what process was due.

Conclusion

The petition for a writ of certiorari should be granted. The judgment of the District Court of Appeal of Florida, Fifth District, should be reversed, or at minimum vacated and remanded for reasoned consideration of Petitioner's preserved federal due-process claims.

Respectfully Submitted,

/s/ Timothy L. Malden
Timothy L. Malden
12839 La Costa Court
Jacksonville, Florida 32225
timothymalden@comcast.net