26-5170

In the
Supreme Court of the United States

HARRIET NICHOLSON,
Petitioner,

v.

THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWMBS, INC., CWMBS REFORMING LOAN REMIC TRUST CERTIFICATES SERIES 2005-R2,
Respondent.

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

CORRECTED PETITION FOR A WRIT OF CERTIORARI

HARRIET NICHOLSON
Pro se Petitioner
2951 Santa Sabina Drive
Grand Prairie, Texas
June 27, 2026

QUESTIONS PRESENTED

Petitioner obtained a final Texas judgment voiding a foreclosure deed and restoring her rights in her homestead, but the judgment did not contain operative words of conveyance and required Respondent to execute a corrective instrument to "put title back into the plaintiff." Respondent never executed that instrument, and under Texas law the judgment therefore remains unsatisfied. Despite this, the federal courts below treated the incomplete judgment as fully preclusive under 28 U.S.C. § 1738, allowing Respondent to invoke an unsatisfied state judgment to bar Petitioner's federal claims—granting the judgment greater effect than Texas law itself would allow.

The question presented is:

Whether 28 U.S.C. § 1738 permits a federal court to give a state-court judgment greater preclusive effect than the rendering State would allow, by permitting a party to invoke that judgment to bar claims notwithstanding that the judgment remains unsatisfied under state law.

LIST OF PARTIES

Petitioner: Harriet Nicholson, judgment creditor in Texas state court proceedings.

Respondent: The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of CWMBS, Inc., CWMBS Reforming Loan REMIC Trust Certificates Series 2005-R2, a party and judgment debtor to the underlying Texas judgment and respondent below.

CORPORATE DISCLOSURE STATEMENT

Petitioner Harriet Nicholson is an individual. She has no parent corporation, and no publicly held corporation owns 10% or more of her stock.

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The opinion of the United States District Court for the Southern District of New York was entered on August 28, 2023, and is reproduced at App. 1a–17a. The district court's judgment was entered on January 17, 2024, and is reproduced at App. 18a.

The memorandum opinion of the Texas Court of Appeals, Second Appellate District, was entered on March 31, 2022, and is reproduced at App. 33a–71a. The judgment is reproduced at App. 72a–73a, and the mandate at App. 74a.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Second Circuit entered judgment on July 1, 2025, affirming the dismissal of petitioner's action. (App. 19a–21a). The court denied panel rehearing and rehearing en banc on September 4, 2025 (App. 22a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

The district court exercised jurisdiction under 28 U.S.C. § 1332(a). The court of appeals affirmed the dismissal on the ground that 28 U.S.C. § 1738 required federal courts to give preclusive effect to a Texas state-court judgment that petitioner alleges remains unsatisfied under Texas law. The petition presents a federal question concerning the scope of § 1738 and the constitutional limits imposed by the Full Faith and Credit Clause and the Due Process Clause.

This petition is timely under Supreme Court Rule 13.1 because it is filed within 90 days of the denial of rehearing.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. art. IV, § 1 — Full Faith and Credit Clause

Article IV, Section 1 provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." The Clause establishes a constitutional obligation of interstate respect, requiring States to recognize and enforce one another's final judgments with the same force and effect they would receive in the rendering State. Its purpose is to ensure national unity and prevent States from disregarding sister-State judgments based on policy disagreement.

U.S. Const. Amend. XIV, § 1 — Due Process Clause

The Fourteenth Amendment prohibits States from depriving any person of life, liberty, or property without due process of law. In the context of full faith and credit, the Due Process Clause limits the extraterritorial reach of State judgments by requiring that the rendering court possess proper personal and subject-matter jurisdiction and provide fundamentally fair procedures. A judgment entered without jurisdiction or in violation of basic fairness is not constitutionally entitled to enforcement in other States.

28 U.S.C. § 1738 — Full Faith and Credit Act

Section 1738 implements the Full Faith and Credit Clause by directing federal and state courts to give the same preclusive effect to State judicial proceedings that those proceedings would receive in the courts of the State of origin. The statute governs authentication of State records and codifies the obligation to honor out-of-state judgments, requiring courts to apply the rendering State's rules of finality, res judicata, and collateral estoppel unless doing so would violate constitutional due process.

STATEMENT OF THE CASE

I. Texas Judgment and Mandate

Petitioner obtained a final judgment in Tarrant County, Texas, Case No. 342-262692-12, on September 16, 2020, awarding title, possession, and costs. The Amended Final Judgment is reproduced at App. 28a–32a. The Texas Court of Appeals affirmed on March 31, 2022, and its memorandum opinion is reproduced at App. 33a–71a. The judgment is reproduced at App. 72a–73a, and the mandate issued June 30, 2022, is reproduced at App. 74a. The judgment is final.

II. The Texas Judgment Remains Unsatisfied Under Texas Law

Texas law provides that title to real property may be transferred only by a duly executed deed or by a judgment that itself contains operative words of conveyance. Diversified, Inc. v. Hall, 23 S.W.3d 403, 407 (Tex. App.—Houston [1st Dist.] 2000) ("A judgment affecting title must contain operative words of conveyance in order to transfer title."); Harris v. Hardeman, 27 Tex. 248, 253 (1863) ("A judgment declaring a deed void does not, by itself, operate as a conveyance."). Where a judgment lacks such language, Texas courts require the prevailing party to receive a corrective instrument to effectuate the adjudicated rights. Humble Oil & Ref. Co. v. Sun Oil Co., 191 S.W.2d 705, 714 (Tex. 1945).

The Texas judgment here did not contain operative conveyance language. The state court therefore directed Respondent's counsel to prepare "a single document that can be recorded to put title back into the plaintiff," confirming that the judgment was not self-executing and required a further ministerial act to satisfy it. (Texas Hr'g Tr. 65) (App. 77a). Respondent never executed or recorded the required instrument. Under Texas law, the judgment thus remains unsatisfied.

Federal proceedings confirmed this understanding. The United States Magistrate Judge observed that, notwithstanding the voiding of the foreclosure deed, "there also had to be a return or a recognition of quiet title," and that Petitioner "still is not considered to have quiet title such that she could sell the house if she needed to." (SDNY Hr'g Tr. 39–40) (App. 26a–27a). Respondent's counsel likewise acknowledged that no deed or order had restored title. These statements reflect a shared recognition across jurisdictions that the Texas judgment remains incomplete and unsatisfied.

III. Federal Proceedings

In the United States District Court for the Southern District of New York, Respondent invoked the Texas judgment as preclusive to bar Petitioner's federal claims. The district court accepted that argument and dismissed the action. The district court's opinion is reproduced at App. 1a–17a, and the judgment at App. 18a. The United States Court of Appeals for the Second Circuit affirmed in a summary order on July 1, 2025 (App. 19a–21a), and denied rehearing on September 4, 2025 (App. 22a).

IV. Relevant Facts

The Texas judgment is final and remains unsatisfied. The courts below nonetheless permitted Respondent to invoke that judgment to bar Petitioner's claims, giving the judgment greater preclusive effect than Texas law allows.

REASONS FOR GRANTING THE WRIT

I. THE DECISION BELOW CONFLICTS WITH THIS COURT'S FULL FAITH AND CREDIT PRECEDENTS

This Court has made clear that federal courts must apply the preclusion law of the State that rendered the judgment. Marrese v. Am. Acad. of Orthopaedic Surgeons, 470 U.S. 373 (1985). A federal court may not enlarge the preclusive effect of a state judgment beyond what the rendering State itself recognizes.

This Court's unanimous decision in Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc., 140 S. Ct. 1589 (2020) confirms that federal courts may not enlarge the preclusive effect of a prior judgment beyond the limits recognized by the rendering court. In reversing the Second Circuit, the Court emphasized that preclusion doctrines "are not governed by free-wheeling policy judgments" but by the specific contours of the judgment and the law that created it. Id. at 1594.

The decision below repeats the same error. Texas law requires operative words of conveyance or a corrective instrument to restore title, and the state court expressly ordered Respondent to prepare "a single document that can be recorded to put title back into the plaintiff." (Texas Hr'g Tr. 65) (App. 77a). Respondent never executed that instrument. Treating an unsatisfied judgment as fully preclusive gives it broader effect than Texas law allows — precisely what Lucky Brand forbids.

The decision below conflicts with that rule. Under Texas law, a judgment awarding title is not satisfied unless title is restored either by a deed or by a judgment containing operative words of conveyance. Diversified, Inc. v. Hall, 23 S.W.3d at 407; Harris v. Hardeman, 27 Tex. at 253. The Texas judgment here contained no such language, and the state court expressly required Respondent to prepare a corrective instrument to "put title back into the plaintiff." (App. 77a). Respondent never executed or recorded that instrument. The judgment therefore remains unsatisfied as a matter of Texas law.

Despite this, the courts below treated the judgment as fully preclusive. That approach cannot be reconciled with § 1738 or with this Court's precedents requiring federal courts to respect state-law limits on the effect of state judgments.

II. THE CIRCUITS ARE DIVIDED ON WHETHER FEDERAL COURTS MUST ADHERE TO STATE-LAW LIMITS ON PRECLUSION

The Second Circuit has permitted broad application of preclusion principles without examining whether the rendering State would impose additional limits. Kelleran v. Andrijevic, 825 F.2d 692 (2d Cir. 1987); Saud v. Bank of New York, 929 F.2d 916 (2d Cir. 1991). Other circuits require strict adherence to state-law limits. FDIC v. Maxxam, Inc., 523 F.3d 566 (5th Cir. 2008); In re Teknek, LLC, 563 F.3d 639 (7th Cir. 2009); ClearOne Commc'ns, Inc. v. Bowers, 643 F.3d 735 (10th Cir. 2011). State courts likewise recognize that the effect of a judgment depends on the circumstances under which it is invoked. Ex parte Werblud, 536 S.W.2d 542 (Tex. 1976); Ex parte Pryor, 800 S.W.2d 511 (Tex. 1990).

This Court's decision in Lucky Brand underscores the depth of the conflict. The Second Circuit has repeatedly expanded preclusion beyond the limits recognized by the rendering court, and Lucky Brand reversed that approach unanimously. The decision below reflects the same pattern: it treated an incomplete Texas judgment as fully operative despite Texas law requiring a corrective instrument. The conflict is therefore not only horizontal among the circuits but vertical between the Second Circuit and this Court.

This conflict warrants review.

III. THE JUDGMENT AT ISSUE CANNOT BE GIVEN PRECLUSIVE EFFECT BECAUSE IT REMAINS UNSATISFIED UNDER TEXAS LAW

Texas law requires that a judgment awarding title be satisfied either by a deed executed pursuant to the judgment or by a judgment containing operative words of conveyance. Long v. Long, 252 S.W.2d 235, 238 (Tex. Civ. App.—Texarkana 1952, writ ref'd). The Texas judgment here did neither. The state court expressly required Respondent to prepare a corrective deed, and Respondent's counsel agreed to do so. (App. 77a). No deed was ever executed or recorded.

Federal proceedings confirmed the judgment's unsatisfied status. The United States Magistrate Judge observed that Petitioner "still is not considered to have quiet title such that she could sell the house if she needed to." (SDNY Hr'g Tr. 39–40) (App. 26a–27a). Respondent's counsel likewise acknowledged that no deed or order had restored title.

A judgment that remains unsatisfied under the rendering State's law cannot be invoked to bar claims in federal court. The decision below nevertheless treated the judgment as fully preclusive, in direct conflict with § 1738 and this Court's precedents.

IV. THE QUESTION PRESENTED IS RECURRING AND NATIONALLY IMPORTANT

The question presented arises frequently in cases involving the enforcement and recognition of state-court judgments in federal court. If federal courts may extend preclusive effect beyond what state law permits, the result is inconsistent treatment of state judgments and erosion of the uniformity required by § 1738.

V. THIS CASE IS AN IDEAL VEHICLE

This case cleanly presents a purely legal question concerning the interaction between § 1738 and state-law limits on the effect of judgments. The Texas judgment is final and undisputed. The only issue is whether the federal courts below properly determined its preclusive effect under § 1738. There are no procedural obstacles to review.

CONCLUSION

The petition presents an important question concerning the scope of 28 U.S.C. § 1738 and the role of federal courts in determining the preclusive effect of state-court judgments.

The decision below permits a federal court to give a state-court judgment greater effect than the rendering State would allow.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/Harriet Nicholson
Pro se
Grand Prairie, Texas
June 5, 2026

APPENDIX

(App. 1a–80a)

Certified Exemplified Amended Final Judgment, 342nd Judicial District Court, Tarrant County, Texas, Cause No. 342-262692-12, entered September 16, 2020 .... App. 28a–32a

Appendix H

Memorandum Opinion of the Second Court of Appeals of Texas, Fort Worth, No. 02-20-00379-CV, entered March 31, 2022 .... App. 33a–71a

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Appendix K

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Appendix L

Transcript Excerpt, Proceedings Before the 342nd Judicial District Court, Judge J. Wade Birdwell, August 18, 2017 (Bank of New York counsel represented in open court that a single recordable instrument would be prepared "to put title back into the plaintiff") .... App. 77a

Appendix M

The Bank of New York Mellon's Live Pleading in Cause No. 342-262692-12 at the time the Amended Final Judgment was entered on September 16, 2020 (demonstrating the absence of counterclaims or requests for affirmative relief) .... App. 78a–80a