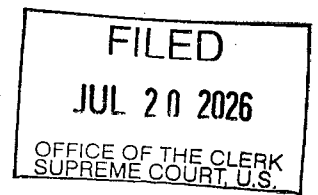


26-5708



IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

ANDREW A. AQUILA,

Petitioner,

v.

LORRIE SINCLAIR TAYLOR, et al.,

Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit

Petition For A Writ Of Certiorari

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Questions Presented

The questions presented are:

1. Whether, consistent with the party-presentation principle reaffirmed in *Margolin v. National Association of Immigration Judges*, 608 U.S. ____ (2026), and the functional notice principle reaffirmed in *Parrish v. United States*, 605 U.S. 376 (2025), a court of appeals may dismiss an appeal by substituting an antecedent nonfinal order for the later Rule 60(b)(4) order actually identified in the notice of appeal.
2. Whether an order denying timely relief under Federal Rule of Civil Procedure 60(b)(4) is an independently appealable final order under 28 U.S.C. § 1291, and whether a court of appeals may avoid review of that order by collapsing it into the earlier order alleged to be void.
3. Whether 28 U.S.C. § 455(e)'s requirement of "full disclosure on the record" is a mandatory precondition to any valid waiver of disqualification under § 455(a), and whether, in the absence of such disclosure, courts may treat disqualification objections as waived, forfeited, harmless, or curable without applying the retroactive-vacatur framework required by *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988).

Parties To The Proceeding

Petitioner is Andrew A. Aquila, appellant below.

Respondents, all appellees below, are: (1) Lorrie Sinclair Taylor, the Honorable, in her official capacity as Chief Judge of the Loudoun County General District Court; (2) Christina M. Heischmidt, individually; (3) Giovanna Rae Bonafede, individually; (4) Wilson Elser Moskowitz Edelman & Dicker LLP; (5) Sarah E. Lewis, individually; (6) HarrisLoftus, PLLC; (7) Carla M. Clark, in her official capacity as Clerk of the Loudoun County General District Court; (8) Michael L. Chapman, in his official capacity as Sheriff of Loudoun County; (9) County of Loudoun, Virginia; (10) Jay Jones, in his official capacity as Attorney General of the Commonwealth of Virginia; (11) TGM Moorefield LLC; (12) TGM Apartment Partners LP; and (13) Tricia Kane.

No party has a stock ticker symbol.

Corporate Disclosure Statement

Petitioner is an individual. No corporate disclosure statement is required of petitioner under Supreme Court Rule 29.6.

Respondent TGM Moorefield LLC is wholly owned by respondent TGM Apartment Partners LP, which is its sole parent and 100% owner. TGM Apartment Partners LP has no parent corporation, and no publicly held corporation owns 10% or more of its stock or equity.

Respondents Wilson Elser Moskowitz Edelman & Dicker LLP and HarrisLoftus, PLLC have no parent corporations, and no publicly held corporation owns 10% or more of either entity.

No respondent identified in this statement has a stock ticker symbol.

Related Proceedings

This petition arises from the following proceedings:

Aquila v. Taylor, et al., United States Court of Appeals for the Fourth Circuit, No. 25-2167. Judgment entered March 30, 2026; rehearing denied May 4, 2026.

Aquila v. Taylor, et al., United States District Court for the Eastern District of Virginia, No. 1:25-cv-01016-CMH-IDD. Order denying Rule 60(b)(4) relief entered September 24, 2025.

The court of appeals denied petitioner's motion for rehearing and rehearing en banc, filed at Docket Entry No. 39, and denied petitioner's motion to file supplemental briefs, filed at Docket Entry No. 41. The order was entered at Docket Entry No. 43. Petitioner then moved under Federal Rule of Appellate Procedure 41(d)(1) to stay issuance of the mandate pending the filing and disposition of this petition.

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Opinions Below

Although not an opinion below, the Notice of Appeal is reproduced first at Pet. App. 1a because the first two questions presented turn on the order identified in that notice. The Notice of Appeal shows that petitioner appealed from the September 24, 2025 order denying Rule 60(b)(4) relief, whereas the court of appeals dismissed the case by treating the appeal as one from the antecedent disqualification ruling.

The unpublished per curiam opinion of the United States Court of Appeals dismissing the appeal is unreported and reproduced at Pet. App. 4a.

The order of the United States Court of Appeals denying rehearing and rehearing en banc is unreported and reproduced at Pet. App. 7a.

The district court's unreported September 24, 2025 order denying Rule 60(b)(4) relief is reproduced at Pet. App. 9a.

The district court's earlier unreported disqualification-related order is reproduced at Pet. App. 10a.

Jurisdiction

The court of appeals entered judgment on March 30, 2026, and denied rehearing and rehearing en banc on May 4, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition is timely under Supreme Court Rule 13 because rehearing was timely sought and denied.

Statutory And Rule Provisions Involved

28 U.S.C. § 1291 provides, in relevant part:

The courts of appeals . . . shall have jurisdiction of appeals from all final decisions of the district courts of the United States . . . except where a direct review may be had in the Supreme Court.

Federal Rule of Civil Procedure 60(b)(4) provides, in relevant part:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding [if] the judgment is void.

Federal Rule of Civil Procedure 60(c)(1) provides, in relevant part:

A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

Federal Rule of Appellate Procedure 3(c)(1) provides:

The notice of appeal must:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”;

(B) designate the judgment—or the appealable order—from which the appeal is taken; and

(C) name the court to which the appeal is taken.

28 U.S.C. § 455(a) provides:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

28 U.S.C. § 455(b) provides, in relevant part:

He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

...

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

28 U.S.C. § 455(e) provides:

No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

Statement Of The Case

This petition presents a narrow but important set of appellate and statutory questions arising from the intersection of the party-presentation principle, Federal Rule of Appellate Procedure 3, Federal Rule of Civil Procedure 60(b)(4), 28 U.S.C. § 1291, and 28 U.S.C. § 455(e).

Petitioner filed a notice of appeal identifying the district court's September 24, 2025 order denying relief under Federal Rule of Civil Procedure 60(b)(4). The court of appeals did not decide the appeal from that order. It instead dismissed for want of

jurisdiction by characterizing the appeal as one from an antecedent, nonfinal judicial-disqualification order. That recharacterization displaced the controversy petitioner presented, ignored the order designated in the notice of appeal, and prevented review of the timely Rule 60(b)(4) denial that preserved petitioner's statutory disqualification objection under § 455(e).

This Court's recent decision in *Margolin v. National Association of Immigration Judges*, 608 U.S. ____ (2026), is directly implicated. There, this Court reversed the Fourth Circuit for violating the party-presentation principle after it "vacated and remanded based on an issue the parties had not raised." The Court held that federal courts are not "roving commissions" licensed to reformulate cases around issues the parties did not present. Here, petitioner contends that the Fourth Circuit committed the same kind of error in jurisdictional form: it did not decide the appeal petitioner brought, but recast it as an appeal from a different order and dismissed on that basis.

A. The Petition Concerns Appellate Jurisdiction, Rule 60(b)(4), And Section 455(e)—Not Merits Review Of The Underlying Dispute

This petition does not ask the Court to decide petitioner's underlying fraud, civil-rights, landlord-tenant, or state-court-validity claims. Nor does it seek review of every ruling entered below. The question is narrower: whether the court of appeals may dismiss an appeal by treating it as an appeal from an antecedent nonfinal disqualification order when the notice of appeal identified a later order denying relief

under Rule 60(b)(4). The petition concerns the object of appellate review—Rule 3’s notice function, § 1291 finality, Rule 60(b)(4), and § 455(e)—not the ultimate merits of the underlying controversy.

The disqualification issue matters because it supplied the asserted voidness defect. Petitioner sought Rule 60(b)(4) relief on the ground that the district court had acted despite unresolved judicial-disqualification concerns under 28 U.S.C. § 455, including the absence of the full on-the-record disclosure required by § 455(e) before any waiver of a § 455(a) ground could be accepted. This petition does not ask the Court to decide whether disqualification was ultimately required. It asks whether, after the district court denied Rule 60(b)(4) relief and petitioner appealed from that denial, the court of appeals could avoid review by treating the appeal as one from the antecedent disqualification ruling.

The underlying dispute matters only to show that the procedural questions are concrete. Petitioner alleged that materially false representations induced him to enter into, remain bound by, and face enforcement of a residential lease transaction involving money and possessory housing interests. Federal and equitable law have long treated material misrepresentations inducing a transfer of money or property as legally consequential. See *Kousisis v. United States*, 605 U.S. 114, 118, 125–31 (2025); *Smith v. Richards*, 38 U.S. (13 Pet.) 26, 38–39 (1839). Those authorities are not offered to prove the merits. They explain only why this case arose from a real dispute involving recognized legal interests: assent, property, inducement, and judicial enforcement of an allegedly tainted transaction.

The petition remains procedural. Congress and the Rules supplied distinct safeguards: Rule 60(b)(4) permits relief from a void judgment or order; § 1291 provides appellate review of final decisions; Rule 3 identifies the judgment or order appealed; and § 455(e) governs when appearance-based disqualification under § 455(a) may be waived. The decision below allowed petitioner's appeal to fall between those provisions by recharacterizing the order appealed from. This petition asks only whether the appeal should have been treated as the appeal petitioner filed.

B. The District Court Denied Timely Rule 60(b)(4) Relief

Petitioner moved for relief under Federal Rule of Civil Procedure 60(b)(4), contending that the challenged order was void because the district court had acted despite unresolved judicial-disqualification defects under 28 U.S.C. § 455, including the absence of the "full disclosure on the record" required by § 455(e) before any waiver of § 455(a) disqualification could be accepted.

The motion was filed promptly. This case therefore does not present the delay problem addressed in *Coney Island Auto Parts Unlimited, Inc. v. Burton*, 607 U.S. 155 (2026), where this Court held that Rule 60(b)(4) motions remain subject to Rule 60(c)(1)'s reasonable-time requirement. The premise of *Coney Island* supports petitioner here: Rule 60(b)(4) operates within Rule 60's own procedural framework. When a litigant timely invokes that framework and appeals from the denial of relief, the appellate court must review the order denying Rule 60(b)(4) relief as such. It may affirm, reverse, or dismiss for a jurisdictional reason applicable to that order. It may not avoid the order by recasting the appeal as one from an earlier ruling.

The district court denied Rule 60(b)(4) relief by order dated September 24, 2025.

C. The Notice Of Appeal Identified The September 24, 2025 Rule 60(b)(4) Order

Petitioner filed a notice of appeal identifying the September 24, 2025 order denying Rule 60(b)(4) relief. Pet. App. 1a. The notice performed the function required by Federal Rule of Appellate Procedure 3: it identified the appealing party, the court to which review was sought, and the order appealed from.

The distinction matters. Petitioner did not merely attempt to appeal an interlocutory disqualification order. He appealed the later order denying relief from an order alleged to be void. A Rule 60(b)(4) denial is not merely a procedural echo of the underlying order. It is a distinct adjudication of whether the challenged judgment, order, or proceeding is void. Its denial has independent legal consequence because it leaves the challenged order in force despite a voidness attack.

D. The Fourth Circuit Dismissed The Appeal By Treating It As Something Else

The court of appeals dismissed the appeal for want of jurisdiction. Pet. App. 4a. In doing so, it treated the appeal as one from an antecedent disqualification order rather than as one from the September 24, 2025 order denying Rule 60(b)(4) relief. Pet. App. 4a–6a.

Petitioner sought rehearing and rehearing en banc. He argued that the court of appeals had not addressed the order actually identified in the notice of appeal. He

also sought leave to file supplemental briefing. The Fourth Circuit denied rehearing, rehearing en banc, and the motion to file supplemental briefs. Petitioner then moved under Federal Rule of Appellate Procedure 41(d)(1) to stay issuance of the mandate pending certiorari, explaining that the petition would present substantial questions concerning *Parrish*, the independent appealability of a Rule 60(b)(4) denial, and § 455(e)'s disclosure requirement.

E. Petitioner Previously Asked The Fourth Circuit To Certify The Section 455(e) Question

Before the mandate-stage proceedings, petitioner asked the court of appeals to certify a question of law to this Court concerning § 455(e). In a later motion to expedite disposition of that certification request, petitioner argued that the question was discrete, controlling, unopposed, and of exceptional national importance. The motion emphasized that the issue concerned the enforcement of mandatory judicial disclosure obligations and the validity of rulings already entered.

The certification motion framed the problem as a national division over whether § 455(e) violations are structural, waivable, subject to harmless-error analysis, or curable by later events. It stated that courts are divided over whether the absence of full on-the-record disclosure renders later judicial acts void from inception or merely voidable; whether disqualification may be waived by implication without the disclosure § 455(e) makes a statutory prerequisite; and whether reassignment or retirement moots review of orders already entered.

That unresolved question lies at the center of the third question presented here. The Fourth Circuit's dismissal prevented review of the Rule 60(b)(4) order and thus prevented meaningful consideration of the § 455(e) issue.

The court of appeals' jurisdictional disposition therefore had the practical effect of avoiding a substantial statutory question that petitioner had squarely presented: whether § 455(e)'s "full disclosure on the record" requirement is a mandatory precondition to waiver of § 455(a) disqualification. Whatever the reason for the court's disposition, the result was that the court did not address the operative Rule 60(b)(4) order and did not resolve the § 455(e) question petitioner had asked it to certify.

Reasons For Granting The Petition

I. The Fourth Circuit's Treatment Of The Notice Of Appeal Conflicts With The Functional Notice Principle Reaffirmed In *Parrish*

The first question is simple. Petitioner's notice of appeal identified the September 24, 2025 order denying Rule 60(b)(4) relief. The court of appeals did not analyze the appeal as an appeal from that order. It instead treated the appeal as if petitioner had appealed only an antecedent nonfinal disqualification order.

That disposition conflicts with the functional notice principle reaffirmed in *Parrish v. United States*. A notice of appeal is not a pleading trap. It exists to provide notice: who is appealing, what judgment or order is being appealed, and to which court. When those things are clear, appellate jurisdiction should not be defeated by

artificial recharacterization. The Federal Rules do not invite courts to replace the order designated by the appellant with a different order more susceptible to dismissal.

The error here was not a harmless description. It changed the jurisdictional object. An antecedent disqualification ruling may raise one finality question. A later order denying Rule 60(b)(4) relief raises another. The court of appeals could not answer the latter by deciding the former. Yet that is what happened: the appeal was dismissed on the premise that it concerned a nonfinal order, even though the notice identified a later order denying voidness relief.

That approach creates a recurring problem in post-judgment practice. Litigants often seek Rule 60 relief after an underlying order has already been entered. A notice of appeal from the denial of Rule 60 relief ordinarily does not merge into a direct appeal from the underlying order; it presents the denial of post-judgment relief for review. If a court of appeals may disregard that distinction and treat the appeal as one from the earlier order, then the right to appeal the Rule 60 denial becomes unstable. The later order exists only until it becomes inconvenient.

The practical consequences are serious. Rule 60(b)(4) concerns voidness. It addresses the small class of judgments and orders that lack legal force because the issuing court lacked jurisdiction or acted in a manner inconsistent with due process. An appellate rule that permits courts to avoid review of a timely Rule 60(b)(4) denial by recharacterizing the appeal as one from an antecedent order weakens the rule precisely where finality and legality most require careful distinction.

This Court's intervention is warranted to make clear that *Parrish* applies not only to omitted forms or duplicative notices, but to recharacterization. Where a notice of appeal expressly identifies a later order denying Rule 60(b)(4) relief, the court of appeals must address appellate jurisdiction by reference to that order. It may not substitute an earlier order and dismiss on that basis.

That Rule 3 error also produced an adversarial-system error. Once the notice identified the September 24, 2025 Rule 60(b)(4) order, the court of appeals could not recast the appeal around a different order without departing from the party-presentation principle.

II. The Decision Below Violates The Party-Presentation Principle Reaffirmed In *Margolin* And Cannot Be Reconciled With *Parrish*

The Fourth Circuit's error was not only a Rule 3 error. It was also an adversarial-system error. Petitioner filed a notice of appeal identifying the September 24, 2025 order denying Rule 60(b)(4) relief. Pet. App. 1a. The petition therefore reproduces the Notice of Appeal first in the appendix because the first two questions presented turn on the order identified in that notice: petitioner appealed from the Rule 60(b)(4) denial, while the court of appeals dismissed the case by treating the appeal as one from the antecedent disqualification ruling. That substitution changed the case. Petitioner presented an appeal from a post-judgment order denying voidness relief. The court of appeals decided the appeal as though petitioner had sought direct review of an earlier nonfinal disqualification order.

That is precisely the kind of appellate reformulation this Court has recently rejected. In *Margolin v. National Association of Immigration Judges*, 608 U.S. ____ (2026), this Court reversed the Fourth Circuit because it “vacated and remanded based on an issue the parties had not raised.” The Court explained that federal courts adhere to the party-presentation principle: the rule that “points not argued will not be considered,” which distinguishes an adversarial system from an inquisitorial one. Because courts are “essentially passive instruments of government,” they rely on the parties to “frame the issues for decision” and decide “only the questions presented.”

The same principle applies here. Petitioner did not ask the Fourth Circuit to exercise jurisdiction over the antecedent disqualification ruling as a freestanding interlocutory appeal. He invoked Rule 60(b)(4), obtained an order denying that motion, and appealed from that denial. The jurisdictional question therefore had to begin with the September 24 order. If the Fourth Circuit believed that order was not appealable, it could have said so. If it believed the order was appealable but petitioner’s voidness theory failed, it could have affirmed. What it could not do, consistently with party presentation, Rule 3, and *Parrish*, was replace the order petitioner designated with another order and then dismiss the substituted appeal as nonfinal.

Margolin is especially probative because it corrected the same court of appeals for the same institutional tendency: deciding a different case from the one presented. There, the parties disputed whether the particular claims were channeled by the Civil

Service Reform Act. The Fourth Circuit instead transformed that dispute into a broader inquiry into whether the CSRA might not channel any claims under changed institutional conditions, and it did so “without giving either side a chance to address its theory.” This Court held that the Fourth Circuit’s transformation of the case was a “drasti[c]” departure from party presentation and an abuse of discretion. The error here is jurisdictional rather than merits-based, but the structure is the same: the court of appeals did not decide the controversy as framed by the litigant’s filing; it recast the controversy into a different one and disposed of that substituted case.

This Court’s earlier decisions confirm that the principle is not a matter of etiquette. In *Greenlaw v. United States*, 554 U.S. 237 (2008), the Court stated that, “in both civil and criminal cases, in the first instance and on appeal,” courts rely on the parties “to frame the issues for decision” and serve as “neutral arbiter[s] of matters the parties present.” The Court added the formulation later repeated in *Sineneng-Smith*: courts “do not, or should not, sally forth each day looking for wrongs to right”; they wait for cases to come to them and “normally decide only questions presented by the parties.” *Greenlaw* also tied party presentation to appellate notice. The Court warned that strict rules governing notices of appeal and cross-appeal protect “fair notice and finality” and would be undermined if appellate courts could alter the case in favor of a party who filed no notice. That reasoning applies with particular force where, as here, the appellant did file a notice of appeal and the court of appeals disregarded the order the notice identified.

Nor does the court's authority to examine jurisdiction sua sponte justify the substitution. Jurisdiction may be raised by a court; the object of appellate review may not be rewritten. The distinction is elementary. A court may ask whether the order actually appealed is final, appealable, timely, or otherwise within its jurisdiction. But it may not manufacture a jurisdictional defect by treating the appeal as directed to a different order. Rule 3 required petitioner to designate the judgment or appealable order from which the appeal was taken. He did so. The petition states that petitioner filed a notice identifying the September 24, 2025 Rule 60(b)(4) order and that the notice performed Rule 3's function by identifying the appellant, the appellate court, and the order appealed. Under *Parrish v. United States*, 605 U.S. 376 (2025), that functional notice should not be defeated by judicial recharacterization.

United States v. Sineneng-Smith, 590 U.S. 371 (2020), reinforces the point. There, the Ninth Circuit ordered briefing from amici on issues framed by the panel rather than the parties, including a question the defendant had never raised; this Court held that the panel had "departed so drastically from the principle of party presentation as to constitute an abuse of discretion." The Court acknowledged that the party-presentation principle is "supple, not ironclad," but stressed that the exception is modest and does not permit an appellate panel to take over the appeal. The decision below crossed that same line. It did not merely refine petitioner's argument or identify an independent jurisdictional concern. It changed the appellate object from the Rule 60(b)(4) denial petitioner appealed to the antecedent disqualification ruling the court found nonfinal.

The recent decisions involving the Fourth Circuit make the need for review sharper, not weaker. In *Clark v. Sweeney*, 607 U.S. 7 (2025), this Court again reversed the Fourth Circuit for transgressing party presentation. The Court explained that the petitioner had asserted “one, and only one” habeas claim, but the Fourth Circuit granted relief on a different theory—a “combination of extraordinary failures from juror to judge to attorney”—that the State had no chance to address. The Court held that this “radical transformation” of the claim departed so drastically from party presentation as to constitute an abuse of discretion. *Margolin* then repeated the same correction, again reversing the Fourth Circuit for deciding “a case different from the one [the party] advanced.”

This case presents the same problem in a cleaner procedural posture. The notice of appeal is the controlling document. It identified the September 24, 2025 order denying Rule 60(b)(4) relief. Pet. App. 1a. The court of appeals’ opinion supplied the mischaracterization. No factual development is needed to see the mismatch. The party-presented appeal concerned the reviewability and correctness of a post-judgment Rule 60(b)(4) denial. The court decided instead that an antecedent disqualification order was nonfinal. The difference is dispositive because a Rule 60(b)(4) denial and the earlier order challenged as void raise different finality questions, different standards of review, and different consequences under § 1291.

The recharacterization also had substantive consequences. It prevented appellate review of the Rule 60(b)(4) order and thereby avoided the statutory question petitioner had preserved: whether § 455(e)’s “full disclosure on the record”

requirement is a mandatory precondition to waiver of § 455(a) disqualification. The petition already explains that the Fourth Circuit's dismissal prevented meaningful consideration of that § 455(e) question. A court's departure from party presentation is not harmless when the departure determines whether a preserved statutory-disclosure issue receives appellate review at all.

The point is modest but important. Petitioner does not contend that party presentation required the Fourth Circuit to accept his Rule 60(b)(4) theory. It required the court to decide the appeal he filed. *Parrish* protects the functional sufficiency of a notice of appeal. *Margolin*, *Clark*, *Greenlaw*, and *Sineneng-Smith* protect the party-framed controversy from judicial transformation. *Parrish* supplies the Rule 3 premise: the notice identified the September 24, 2025 Rule 60(b)(4) order. *Margolin* supplies the adversarial premise: once that notice framed the appeal, the court of appeals could not decide a different appeal by substituting an antecedent nonfinal order for the order petitioner actually designated. Together, those principles prohibit what occurred here: substituting an antecedent nonfinal order for the Rule 60(b)(4) order actually identified in the notice of appeal, and then dismissing the substituted appeal for lack of jurisdiction. The Court should grant review, or at minimum grant, vacate, and remand, so that the Fourth Circuit may decide the appeal from the September 24, 2025 Rule 60(b)(4) order as the appeal petitioner filed.

III. A Timely Order Denying Rule 60(b)(4) Relief Is Independently Appealable Under Section 1291

The Rule 60(b)(4) question follows from the first two errors, but it is not merely derivative of them. Once petitioner's notice of appeal identified the September 24, 2025 order, and once that order framed the appeal petitioner presented, the jurisdictional inquiry had to proceed from the legal character of that order—not from the antecedent disqualification ruling the Fourth Circuit substituted for it.

The September 24 order denied relief under Rule 60(b)(4). It ended the Rule 60 proceeding and resolved the only question that proceeding presented: whether petitioner was entitled to relief from an order alleged to be void. However the court of appeals might ultimately have answered that question, the denial itself was a distinct adjudication. It was not an interlocutory shadow cast by the earlier ruling; it was the final disposition of a separate Rule 60(b)(4) request.

That distinction matters because Rule 60(b)(4) is not a device for ordinary error correction. It serves a narrower function. It asks whether the challenged judgment, order, or proceeding has legal force at all. A district court may deny such a motion because the challenged order is not void, because the asserted defect does not rise to the level Rule 60(b)(4) requires, or because the motion fails to satisfy Rule 60's procedural conditions. But when the court denies the motion, it finally adjudicates the Rule 60(b)(4) request. The appealability of that denial therefore had to be assessed on its own terms.

This Court's recent decisions confirm that Rule 60(b) has its own procedural identity, including when the movant invokes Rule 60(b)(4). In *Coney Island*, the Court began from the premise that "[a] party seeking relief from an allegedly void judgment may file a motion under Federal Rule of Civil Procedure 60(b)(4)," but held that Rule 60(c)(1)'s reasonable-time requirement "applies to a motion alleging that a judgment is void." Id. at 157. The reasoning was textual. Rule 60 permits relief from a "final judgment, order, or proceeding," Rule 60(b)(4) specifically authorizes relief from a "void" judgment, and Rule 60(c)(1) provides that a "motion under Rule 60(b) must be made within a reasonable time." Id. at 158. Because a voidness motion remains a "motion under Rule 60(b)," the reasonable-time limit applies. Id.

That holding assists petitioner in a precise way. This case does not present the delay problem that defeated relief in *Coney Island*. There, the movant waited years after entry of a default judgment and did "not contend that it complied" with Rule 60(c)(1). Id. at 162. Petitioner, by contrast, invoked Rule 60(b)(4) promptly. The question is not whether litigants may keep judgments vulnerable forever by reciting the word "void." It is whether a litigant who timely invokes Rule 60(b)(4), receives an order denying that motion, and identifies that denial in a notice of appeal is entitled to have the appeal treated as an appeal from that order.

Coney Island also rejects the premise that allegations of voidness float outside Rule 60's procedural structure. The Court acknowledged the maxim that a "void judgment is a legal nullity," but held that the maxim could not override the Rule's text. Even if "the passage of time cannot cure voidness," the Court explained, legal

rights remain subject to procedural rules, and courts need not “keep their doors perpetually open to allegations of voidness.” *Id.* at 159. Rule 60(c)(1) accommodates genuine voidness concerns by imposing a reasonable-time requirement, not by abolishing procedure. *Id.* at 160.

That principle cuts in petitioner’s favor. If a Rule 60(b)(4) motion is governed by Rule 60’s text, structure, and timing requirements, then the order denying such a motion is not procedural residue from the earlier order attacked as void. It is the disposition of a distinct Rule 60(b)(4) proceeding. Petitioner complied with that framework by moving promptly and then appealed the September 24, 2025 order denying relief. The court of appeals therefore had to analyze that order as the operative order designated in the notice of appeal. It could not collapse the Rule 60(b)(4) proceeding into the antecedent disqualification ruling and dismiss on the nonfinality of a different order.

Waetzig v. Halliburton Energy Services, Inc., 604 U.S. 305 (2025), reinforces the same point from another angle. To be sure, *Waetzig* arose in a different procedural setting. The plaintiff voluntarily dismissed his federal action, lost in arbitration, and then returned to the dismissed case seeking Rule 60(b) relief. The Court did not decide the merits of the arbitration dispute. It addressed the antecedent question whether Rule 60(b) supplied a procedural vehicle at all. The Court began with Rule 60(b)’s basic function: it permits a court, “on motion and just terms,” to relieve a party from a “final judgment, order, or proceeding”; its “general purpose” is “to make an

exception to finality”; and it balances the principle that litigation must end against the principle “that justice should be done.” *Id.* at 309.

That limited holding matters here because petitioner likewise presented a threshold Rule 60 question before any merits review could occur. In *Waetzig*, the Court explained that Rule 60(b) becomes operative after a proceeding reaches a final procedural point, “permitting the court to look back at the ‘final’ act in a case and provide relief from that act when appropriate.” *Id.* at 313. Petitioner invoked the same remedial office when he timely sought Rule 60(b)(4) relief from an order alleged to be void. Whether that motion should have been granted is not the present point. The point is that the motion produced a distinct order—the September 24, 2025 denial—from which petitioner appealed.

Nor can *Waetzig* be dismissed as merely an arbitration or voluntary-dismissal case. Its reasoning rested on Rule 60(b)’s text, structure, and function. The Court rejected an interpretation that would place a litigant in a “procedural no man’s land,” neither able to proceed under the court’s continuing interlocutory authority nor able to invoke Rule 60(b). *Id.* at 313. The disposition below created the same kind of anomaly. The Fourth Circuit treated the antecedent disqualification ruling as nonfinal, but then refused to treat the later Rule 60(b)(4) denial as the operative order appealed from. Rule 60(b)(4) review thus existed in form but disappeared in operation.

The Court’s discussion of finality in *Waetzig* reinforces the point without overstating it. Petitioner does not contend that *Waetzig* itself establishes appellate

jurisdiction. Rather, *Waetzig* confirms that Rule 60(b) must be understood according to its own function and procedural setting. The Court declined to “import the understanding of finality that applies in the field of appellate jurisdiction” into Rule 60(b), because finality under Rule 60(b) serves a different role from finality under § 1291. *Id.* at 315. The lesson is modest but important: courts should not blur distinct procedural concepts in a way that disables Rule 60(b)’s operation. Once the district court denied timely Rule 60(b)(4) relief and petitioner appealed that denial, the court of appeals was required to address the September 24, 2025 order as the operative appellate object.

Finally, *Waetzig* construed “proceeding” broadly. The Court explained that “proceeding” encompasses “all steps in an action,” including formal docketed acts, and that Rule 60(b)’s sequence—“judgment, order, or proceeding”—moves in “an ascending order of generality,” with each term broader than the one before it. *Id.* at 316–18. That reasoning cuts against the Fourth Circuit’s narrowing move. A Rule 60(b)(4) proceeding is not an inert continuation of the order challenged as void. It is a recognized remedial step, governed by Rule 60, and resolved by its own order.

The court of appeals remained free to reject petitioner’s Rule 60(b)(4) theory. It could have held that the asserted § 455 defect did not render the challenged orders void. It could have held that the proper remedial framework was *Liljeberg* under Rule 60(b)(6), rather than Rule 60(b)(4). It could have affirmed on any ground properly addressed to the September 24, 2025 denial. But it first had to recognize the order

appealed from. Dismissal based on the nonfinality of a different order is not review. It is avoidance.

That avoidance produces a gap the Rules and § 1291 do not require. Rule 60(b)(4) supplies a mechanism to challenge void orders. Rule 60(c)(1), as *Coney Island* confirms, imposes a reasonable-time condition on that mechanism. Petitioner satisfied that condition by moving promptly. Section 1291 supplies appellate review of final decisions, and Rule 3 supplies the notice method. Petitioner identified the September 24, 2025 order. Under the decision below, however, a litigant who timely files a Rule 60(b)(4) motion, loses, and appeals from the denial may still be denied review because the court of appeals characterizes the appeal as one from the earlier order alleged to be void.

The Court should grant review to confirm that a timely order denying Rule 60(b)(4) relief is independently appealable and cannot be collapsed into the antecedent order challenged as void.

IV. The Courts Of Appeals Are Divided Over The Consequences Of Section 455(e) Nondisclosure

Section 455(e) does not merely permit waiver. It defines when waiver may lawfully exist. Congress provided that a ground for disqualification arising only under § 455(a) may be waived only if the waiver is “preceded by a full disclosure on the record of the basis for disqualification.” 28 U.S.C. § 455(e). The order of operations is statutory, not prudential: disclosure first; waiver, if any, only after disclosure. A party cannot

knowingly waive what the judge has not disclosed, and an appellate court cannot review the validity of waiver on a record that contains no disclosure.

The courts of appeals have not given that command a uniform legal consequence. One line of authority treats § 455(e)'s disclosure requirement as an actual precondition to waiver. Another treats nondisclosure as part of a broader discretionary inquiry governed by timeliness, forfeiture, harmless error, abuse-of-discretion review, or remedial balancing. A third group of decisions has acknowledged § 455(a) recusal principles without developing any operative doctrine under § 455(e). The disagreement matters because it determines whether the disclosure requirement is a statutory condition or merely a factor that may be diluted after the fact.

The strict-compliance cases give § 455(e) its textual force. In *Barksdale v. Emerick*, the Sixth Circuit held that where there was no disclosure "on the record," there was "therefore no properly obtained 'waiver.'" 853 F.2d 1359, 1362 (6th Cir. 1988). The court did not treat counsel's silence as consent or the judge's recollection of an informal disclosure as enough. It vacated and remanded because the litigant was "entitled to the decision of a judge eligible to preside," and the judge's eligibility logically had to be resolved before the merits. *Id.* at 1363.

The Fifth Circuit reached the same conclusion in *Potashnick v. Port City Construction Co.*, 609 F.2d 1101 (5th Cir. 1980). There, partial disclosure could not support waiver because § 455(e) requires full disclosure on the record. *Id.* at 1114-15. The point was not that the parties lacked confidence in the judge; it was that confidence, acquiescence, and silence are not substitutes for the disclosure Congress

required. A waiver founded on undisclosed or only partially disclosed facts is not a waiver under § 455(e).

The Seventh, Ninth, and Eleventh Circuits follow the same statutory logic. *United States v. Murphy* refused to infer waiver from silence or litigation conduct where full disclosure had not preceded waiver. 768 F.2d 1518, 1537–39 (7th Cir. 1985). *United States v. Rogers* recognized that § 455(e) permits waiver only after full disclosure on the record. 119 F.3d 1377, 1381–82 (9th Cir. 1997). And *United States v. Kelly* emphasized that even a disclosed § 455(a) ground should be waived only with “the utmost restraint,” because the appearance of justice protects the public as well as the parties. 888 F.2d 732, 744 (11th Cir. 1989). Those decisions do not turn § 455(e) into an automatic-vacatur rule for every recusal error. They do something narrower and more basic: they enforce disclosure as the condition that makes waiver possible.

Other circuits have taken a more flexible approach. The First Circuit’s recusal decisions emphasize practical judgment, abuse-of-discretion review, and absence of prejudice, without giving § 455(e)’s disclosure condition independent operative force. See *In re Martínez-Catalá*, 129 F.3d 213, 220–21 (1st Cir. 1997); *United States v. Snyder*, 235 F.3d 42, 46–48 (1st Cir. 2000). Those decisions analyze recusal principally under § 455(a), not as a disclosure-and-waiver problem under § 455(e). The practical effect is to move nondisclosure into a discretionary recusal framework rather than treating it as a threshold defect in waiver.

The Second Circuit’s approach likewise permits timeliness, strategic conduct, and judicial self-assessment to do work that § 455(e) assigns to disclosure. In *In re Drexel*

Burnham Lambert Inc., the court placed substantial weight on seasonable objection, concerns about judge-shopping, and the district judge's own assessment of the alleged conflict. 861 F.2d 1307, 1312–15, 1320–21 (2d Cir. 1988). That mode of analysis sits uneasily beside a statute that conditions waiver not on the litigant's vigilance, but on the judge's full disclosure on the record.

The D.C. Circuit has proceeded through a similarly remedial lens. *United States v. Heldt* resisted mechanical recusal rules and emphasized contextual appraisal. 668 F.2d 1238, 1271–72 (D.C. Cir. 1981). In *United States v. Microsoft Corp.*, the court found serious misconduct creating an appearance problem, but declined automatic vacatur and applied remedial balancing under *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988). 253 F.3d 34, 117–18 (D.C. Cir. 2001) (en banc) (per curiam). *Liljeberg* may govern the remedy after a violation is established. It does not answer the prior statutory question whether waiver can exist when the disclosure required by § 455(e) never occurred.

The Third Circuit illustrates another form of uncertainty. In *In re School Asbestos Litigation*, the court quoted § 455(e)'s language allowing waiver after full disclosure on the record, but did not develop a rule for nondisclosure, waiver, or the validity of judicial acts entered without the required disclosure. 977 F.2d 764, 776–77 (3d Cir. 1992). Other Third Circuit decisions likewise resolve recusal disputes under § 455(a) without explaining what follows from a failure to comply with § 455(e). See *Johnson v. Trueblood*, 629 F.2d 287 (3d Cir. 1980); *United States v. Antar*, 53 F.3d 568 (3d Cir. 1995); *Selkridge v. United of Omaha Life Insurance Co.*, 360 F.3d 155 (3d Cir. 2004).

The Fourth Circuit has not resolved the issue either. *Sierra Club v. Simkins Industries, Inc.* recognized that waiver may be accepted only after full disclosure on the record. 847 F.2d 1109, 1116 (4th Cir. 1988). But *Simkins* involved disclosure followed by waiver. It did not decide what follows when disclosure never occurs: whether waiver is impossible, whether later reassignment cures the defect, whether orders already entered are void or voidable, or whether harmless-error and *Liljeberg* balancing may be used before the statutory waiver inquiry has been answered.

That is the division this petition presents. The question is not whether every § 455 violation automatically voids every order. Nor is it whether *Liljeberg* permits remedial discretion after a violation has been found. The question is antecedent: whether § 455(e)'s disclosure requirement is a mandatory precondition to waiver, such that nondisclosure cannot be converted into waiver by silence, delay, forfeiture, reassignment, harmlessness, or judicial assurance of impartiality.

The certification motion below framed the issue in those terms. It identified the unsettled Fourth Circuit doctrine, the strict-compliance approach of the Fifth, Sixth, Seventh, Ninth, and Eleventh Circuits, the more flexible approaches of the First, Second, and D.C. Circuits, and the Third Circuit's absence of a settled rule. The conflict concerns the enforceability of § 455(e)'s disclosure condition, not the general standard for appearance-based disqualification under § 455(a).

Review is warranted because § 455(e) is a national statute governing the legitimacy of federal adjudication. Its command should not depend on geography. Congress required full disclosure on the record before waiver. The courts of appeals

are divided over whether that requirement is binding in the only way that matters: whether nondisclosure has legal consequences.

V. The Section 455(e) Question Is Recurring, Important, And Properly Presented Here

The § 455(e) issue is not peripheral. It explains why petitioner's Rule 60(b)(4) motion was substantial and why the court of appeals' recharacterization was consequential.

That consequence is not abstract. Petitioner presented the § 455(e) issue to the court of appeals through a certification motion, but the court's jurisdictional disposition left that statutory question unresolved. The petition therefore does not ask this Court to decide disqualification in the first instance; it asks the Court to prevent a substantial statutory-disclosure question from being avoided through recharacterization of the order appealed from.

Section 455(a) protects the appearance of impartiality. Section 455(e) allows waiver of § 455(a) disqualification, but only after full disclosure on the record. The statute thereby serves two audiences: the parties, who need disclosure to make an informed waiver decision, and the public, which needs a record sufficient to assess the legitimacy of adjudication. A silent or undisclosed conflict cannot be meaningfully waived because the parties do not know what they are waiving and the public cannot see that the waiver was informed.

This Court's decision in *Liljeberg* confirms that § 455 violations may require retroactive relief when necessary to protect the parties, other litigants, and public

confidence in the judicial process. The certification motion below correctly recognized that reassignment, retirement, or later judicial-status changes do not cure defects that allegedly infected rulings when entered. It cited *Liljeberg* for the proposition that violations of the judicial-disqualification regime may be addressed retroactively and that the validity of judgments already entered remains a live issue.

That is the issue petitioner attempted to present through Rule 60(b)(4). Whether Rule 60(b)(4) ultimately supplies relief is a merits question. The court of appeals could have held that *Liljeberg* makes Rule 60(b)(6), not Rule 60(b)(4), the proper remedial path. It could have held that the alleged defect was avoidable rather than void. It could have held that petitioner's § 455(e) theory failed on the facts. But those are merits determinations. They do not justify dismissing the appeal by treating it as an appeal from a different order.

The question is recurring because federal judges regularly confront circumstances implicating § 455(a). Financial interests, prior associations, institutional relationships, and other appearance-based concerns arise across the federal docket. Section 455(e) provides a uniform rule for waiver. Yet if circuits disagree on whether nondisclosure can be excused through ordinary waiver, forfeiture, harmless-error, or timeliness doctrines, the statute's uniformity is lost.

The question is important because it concerns the legitimacy of judicial power. Disqualification law is not merely about the subjective fairness of a particular judge. It concerns whether the public may trust that judgments are entered by courts whose neutrality is disclosed, reviewable, and lawful. As *Liljeberg* recognized, the

appearance of justice is not ornamental. It is a condition of public confidence in adjudication.

This case is a suitable vehicle because the § 455(e) question arrives through a clean appellate posture. Petitioner timely filed a Rule 60(b)(4) motion. The district court denied it. Pet. App. 9a. Petitioner appealed that denial. The notice of appeal identified the order. Pet. App. 1a. The court of appeals dismissed by recharacterizing the appeal. Pet. App. 4a–6a. The Court can resolve the notice-of-appeal and Rule 60(b)(4) appealability questions and, if appropriate, direct the court of appeals to address the § 455(e) issue in the first instance under the correct framework.

VI. The Decision Below Creates A Remedial Gap At The Intersection Of Rule 60(b)(4), Section 1291, Rule 3, Section 455(e), And The Party-Presentation Principle

The decision below creates a remedial gap that neither Congress nor the Rules created. Rule 60(b)(4) supplies a mechanism for relief from a void judgment, order, or proceeding. Rule 60(c)(1), as *Coney Island Auto Parts Unlimited, Inc. v. Burton*, 607 U.S. 155 (2026), confirms, imposes a reasonable-time constraint on that mechanism. Petitioner satisfied that condition. When the district court denied Rule 60(b)(4) relief, it finally disposed of the Rule 60 proceeding. That denial was itself reviewable: a timely appeal may be taken from the denial of Rule 60 relief, though the appeal brings up the Rule 60 ruling, not the underlying judgment itself. *Browder v. Director, Department of Corrections*, 434 U.S. 257, 263 n.7 (1978).

Petitioner then did what Rule 3 required. A notice of appeal must identify the party taking the appeal, designate the judgment or appealable order from which the appeal is taken, and name the court to which the appeal is directed. Fed. R. App. P. 3(c)(1). Petitioner's notice identified the September 24, 2025 order denying Rule 60(b)(4) relief. Pet. App. 1a. There was no uncertainty about the appellant, the reviewing court, or the order designated for review. The difficulty arose only later, when the court of appeals treated the notice as though it had designated a different order.

That was not an application of Rule 3. It was a departure from it. *Torres v. Oakland Scavenger Co.*, 487 U.S. 312 (1988), holds that Rules 3 and 4 establish jurisdictional requirements that courts may not waive when they have not been satisfied. *Id.* at 315–17. But *Torres* does not authorize a court to disregard a notice that satisfies those requirements. The rule is jurisdictional because notice matters. Where the notice identifies the appellant, the order appealed, and the appellate court, the Rule 3 threshold has been crossed.

The same notice-centered principle runs through *Smith v. Barry*, 502 U.S. 244 (1992), and *Becker v. Montgomery*, 532 U.S. 757 (2001). *Smith* instructs that the sufficiency of an appellate filing turns on the notice it conveys, not on formal labels. 502 U.S. at 248–49. *Becker* states the point even more directly: imperfections should not defeat appellate review where there is “no genuine doubt” about who is appealing, from what judgment, and to which court. 532 U.S. at 767–68. Here, there was no such doubt. Petitioner did not ask the Fourth Circuit to infer a notice of appeal from an

informal brief. He filed a notice of appeal, and the notice designated the September 24 order.

Nor can the result below be reconciled with *Parrish v. United States*, 605 U.S. 376 (2025). *Parrish* rejected an unnecessary appellate trap where the litigant's filing adequately communicated the intent to seek review and the Rules supplied a path for jurisdiction. The same concern is present here. A litigant who follows the route provided by Rule 60(b)(4), Rule 60(c)(1), § 1291, and Rule 3 should not lose review because the court of appeals redefines the appeal after the notice has been filed.

The gap was created not by the Rules, but by recharacterization. *Margolin, Clark, Greenlaw, and Sineneng-Smith* forbid appellate courts from deciding a materially different case from the one the parties presented. That principle has special force where the operative party filing is the notice of appeal itself. If the notice identifies a Rule 60(b)(4) denial, and the court instead treats the appeal as one from the antecedent order challenged as void, the court does more than misread Rule 3. It changes the controversy and then denies jurisdiction over the controversy it created.

The court of appeals had ordinary, lawful options. If it believed the September 24 order denying Rule 60(b)(4) relief was not appealable, it could have dismissed on that ground. If it believed the order was appealable but petitioner's Rule 60(b)(4) theory failed, it could have affirmed. If it believed *Liljeberg* supplied the proper remedial framework under Rule 60(b)(6), rather than Rule 60(b)(4), it could have said so. What it could not do consistently with Rule 3, § 1291, and the party-presentation

principle was disregard the order actually designated and dismiss the appeal as though petitioner had appealed something else.

The remedial gap is especially serious because the Rule 60(b)(4) motion raised a judicial-disqualification defect under § 455(e). Congress provided that waiver of a § 455(a) disqualification ground may be accepted only if it is “preceded by a full disclosure on the record.” 28 U.S.C. § 455(e). That disclosure condition has force only if a litigant may obtain review of an order denying timely relief from a ruling alleged to have been entered despite the absence of such disclosure. If appellate review can be avoided by recharacterizing the appeal as one from the antecedent disqualification order, § 455(e) becomes mandatory in text but contingent in enforcement.

The Rules do not produce that result. Rule 60(b)(4) supplies the vehicle for challenging voidness. Rule 60(c)(1) supplies the timeliness constraint. Section 1291 supplies appellate jurisdiction over final decisions, including the final denial of Rule 60 relief. Rule 3 supplies the notice requirement. The party-presentation principle prevents the court from replacing the appeal the litigant filed with a different one more susceptible to dismissal. Petitioner followed each step. The court of appeals closed the route only by treating the appeal as something other than the appeal petitioner filed.

That is the gap this Court should close. A timely Rule 60(b)(4) motion should not become unreviewable because the court of appeals collapses the denial of that motion into the earlier order challenged as void. A notice of appeal should not lose its function because the court substitutes another order for the one the notice identifies.

And a statutory disclosure requirement designed to protect judicial impartiality should not be insulated from review by an appellate recharacterization that neither Rule 3, § 1291, Rule 60, nor the party-presentation principle permits.

VII. The Petition Is Not Fact-Bound And Does Not Require The Court To Resolve The Underlying Merits

Respondents may argue that this case is unsuitable because the underlying litigation involves a complex factual record. That objection misunderstands the petition.

The Court need not decide whether petitioner's fraud allegations are true. It need not decide whether the underlying lease dispute gives rise to civil liability. It need not decide whether any state-court action was valid or invalid. It need not decide whether the challenged judge was actually disqualified. It need decide only whether the Fourth Circuit could dismiss the appeal by recharacterizing the order appealed from and whether the § 455(e) issue is sufficiently important and divided to require review.

The procedural facts are narrow and undisputed for certiorari purposes: petitioner filed a Rule 60(b)(4) motion; the district court denied it on September 24, 2025; petitioner noticed an appeal from that order; the court of appeals treated the appeal as from an antecedent nonfinal order; rehearing was denied; and petitioner sought a mandate stay to present these questions.

That makes this case a proper vehicle. The Court can correct the jurisdictional error and clarify the governing framework without becoming entangled in the full

factual record. At minimum, the Court should grant, vacate, and remand for the Fourth Circuit to consider the appeal from the September 24, 2025 Rule 60(b)(4) denial as the appeal petitioner filed.

The party-presentation issue is equally clean: the Notice of Appeal identified the September 24, 2025 Rule 60(b)(4) order, Pet. App. 1a, and the court of appeals' dismissal opinion treated the appeal as one from the antecedent disqualification order, Pet. App. 4a–6a. The mismatch appears on the face of the appendix.

Conclusion

The petition for a writ of certiorari should be granted. In the alternative, the Court should grant the petition, vacate the judgment below, and remand for the court of appeals to consider petitioner's appeal as an appeal from the September 24, 2025 order denying Rule 60(b)(4) relief.

Respectfully submitted on August 10 , 2026.

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