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No. _____

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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

SHANNON GILMOUR,
Petitioner,

v.

JULIET STEPHENS,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF VERMONT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Respondent sued Petitioner and Petitioner's twelve-year-old child, M.G., for eviction, serving the child with a summons "directed to: Shannon Gilmour on behalf of minor child" that required an answer and any counterclaims within 21 days on pain of default. Petitioner answered and counterclaimed for both. The Vermont trial court held that Petitioner's appearance as next friend "cures M.G.'s lack of capacity" but that she "may not provide legal representation or act pro se for M.G.," and that M.G. "currently has no ability to litigate." It never appointed a guardian ad litem, though its rule provides that a court "shall." It then dismissed M.G.'s counterclaims because Petitioner had not obtained counsel for M.G. and in the exercise of its "discretionary authority to control its docket," and dismissed Petitioner's own related claim because "the claim belongs to M.G." On appeal, the Vermont Supreme Court held that Petitioner lacked standing to raise any issue concerning M.G.'s claims, and that her argument that she had her own standing — which the trial court had described and rejected — was unpreserved for want of a citation.

The questions presented are:

1. Whether a State violates the Due Process Clause of the Fourteenth Amendment when its courts permit a child to be made a defendant in a civil action alongside the child's parent (her sole legal guardian), bar the parent from acting for the child, dismiss the child's claims for want of counsel the child cannot obtain without appointing the guardian the State's own rule requires, and then hold that no one has standing to seek review of the dismissal.

2. Whether a state rule denying a parent standing to appeal the dismissal of a child's claims is an adequate and independent state ground barring this Court's review, where the State's own rules ensured that no one else could raise them.

3. Whether a state court's ruling that an argument was unpreserved is an adequate and independent state ground, where the trial court described that argument in its own words and rejected it, and the only thing new on appeal was a citation.

LIST OF PARTIES AND RELATED CASES

Petitioner is Shannon Gilmour, defendant and counterclaim-plaintiff in the trial court and appellant in the Vermont Supreme Court. Respondent is Juliet Stephens, plaintiff and counterclaim-defendant in the trial court and appellee in the Vermont Supreme Court. Petitioner's minor child, M.G., was named and served as a defendant in the trial court; Respondent's complaint against M.G. was voluntarily dismissed, and M.G.'s counterclaims were dismissed without prejudice, on April 17, 2025. M.G. was not a party to the appeal and is not a party here.

Related Proceedings

Juliet Stephens v. Shannon Gilmour, No. 24-CV-04273, Vermont Superior Court, Washington Unit, Civil Division. Final judgment entered March 24, 2026.

Juliet Stephens v. Shannon Gilmour, No. 25-AP-240, Vermont Supreme Court. Appeal dismissed July 18, 2025.

Juliet Stephens v. Shannon Gilmour, No. 25-AP-323, Vermont Supreme Court. Permission to appeal denied September 22, 2025.

Juliet Stephens v. Shannon Gilmour, No. 25-AP-409, Vermont Supreme Court. Judgment entered August 21, 2026; reargument denied September 8, 2026.

There are no other proceedings in any court directly related to this case.

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OPINIONS BELOW

The Vermont Supreme Court's unpublished Entry Order of August 21, 2026 (three-justice panel) is at (App. 1a–7a); its order of September 8, 2026 denying reargument is at (App. 35a). The Superior Court's orders of January 8, April 17, July 9, and August 21, 2025 are at (App. 8a–30a). The Vermont Supreme Court's orders of July 18 and September 22, 2025 are at (App. 33a, 34a).

JURISDICTION

The Vermont Supreme Court entered judgment on August 21, 2026 and denied a timely motion for reargument on September 8, 2026. This petition is filed within 90 days of that denial. Sup. Ct. R. 13.1, 13.3. Jurisdiction rests on 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS AND RULES INVOLVED

The Fourteenth Amendment to the Constitution provides in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law."

Vermont Rule of Civil Procedure 17(b) provides in relevant part: "An infant or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person." (App. 36a–37a)

STATEMENT OF THE CASE

Citations to "App." are to the appendix to this petition. Citations to "PC" are to the printed case filed in the Vermont Supreme Court, No. 25-AP-409. Citations to "Conf.PC" are to pages of its confidential portion, cited by page number only.

A. The tenancy, the fire-safety complaint, and the service of the child

Petitioner rented two rooms in Respondent's Montpelier residence under a one-year lease beginning September 2023 and lived there with her child, M.G., then eleven. (PC:2; PC:5) In the winter of 2023 she told Respondent that the premises lacked the smoke and carbon-monoxide detectors required by law. (PC:22) The lease expired August 31, 2024; the tenancy continued. (PC:5) Petitioner stated in her June 11, 2025 opposition that she and Respondent had a verbal agreement to continue the tenancy and that "[n]o notice to not renew lease was given by Stephens." (App. 51a) Respondent's own messages refer to a new lease that "was dated September 3" and ask Petitioner to "sign it before the 15th." (Conf.PC:72–73)

In early September 2024, Respondent proposed a rent increase; Petitioner responded that the statutory notice had to be given first, and on September 10 again raised the absence of detectors. (PC:5; Conf.PC:28; PC:136) On September 12, Respondent gave written notice of a rent increase effective December 1. (Conf.PC:38) On September 14, Petitioner requested a fire-safety inspection from the Vermont Division of Fire Safety. (Conf.PC:36) The inspector examined the premises on September 19, with both parties present, and on September 23 issued a report requiring smoke alarms, carbon-monoxide detectors, and a fire extinguisher, with a compliance deadline of October 23. (Conf.PC:33–34) The same day, the inspector forwarded Petitioner's inspection request to Respondent by email. (Conf.PC:91)

On September 26, Respondent's counsel telephoned Petitioner and proposed that she vacate by October 15; Petitioner declined, and counsel restated the proposal by letter on October 1. (PC:26; Conf.PC:39) Petitioner alleged that, after she declined, counsel told her that her child would be hurt if the eviction went forward. (PC:26; App. 51a) Respondent's motion to dismiss the counterclaims (Dec. 6, 2024) did not deny the call; it argued that, "[e]ven if all the allegations in her Counterclaims are true," neither emotional-distress claim involved outrageous conduct. (PC:68) The record contains no denial until June 16, 2025, seven months after the counterclaim, when Respondent filed a verified reply to Petitioner's opposition. (PC:26; PC:104) That reply

confirms that the call occurred, that Petitioner "rejected the offer," and that counsel raised the child and said an eviction "may be more disruptive to the child than a planned move"; it denies only that counsel called Petitioner a "bad mother." (PC:104–105) A notice of termination dated October 1 was served on Petitioner — not on M.G. — on October 3, setting a vacate date of October 22. (PC:15) Respondent installed the required equipment on October 9; the premises passed reinspection on October 10. (Conf.PC:118; Conf.PC:35)

On October 24 — the day after the compliance deadline — Respondent, through counsel, filed a complaint for ejectment naming as defendants Petitioner, M.G., then twelve, "& all other occupants." (PC:2; App. 44a–46a) It alleged that "Defendants Shannon and [M.G.] entered into a written Lease Agreement," with a footnote: "MG is a minor and it appears that Shannon Gilmour entered into the lease on behalf of her minor daughter." *Id.* ¶ 2 & n.1. The attached lease showed M.G.'s signature line crossed out. The complaint asked the court to "[e]nter an immediate writ of possession in favor of Plaintiff against Defendants." *Id.*, Prayer ¶ B. Each defendant was served separately. Petitioner was served with a summons directed to her. (App. 41a–43a) On October 30, a deputy sheriff served a second summons, complaint, answer form, and notice-of-appearance form naming M.G. as a defendant. (PC:22; PC:261; App. 39a–40a) That summons, signed by Respondent's counsel, stated: "THIS SUMMONS IS DIRECTED TO: SHANNON GILMOUR on behalf of minor child, [M.G.]" It instructed its addressee that "YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS"; that "YOU WILL LOSE YOUR CASE IF YOU DO NOT GIVE YOUR WRITTEN ANSWER TO THE COURT"; that "YOU MUST MAKE ANY CLAIMS AGAINST PLAINTIFFS IN YOUR REPLY" or "you may not be able to bring them up at all"; and that "[e]ven if you cannot get legal help, you must still give the Court a written Answer." (App. 39a–40a) As the Superior Court later found, Respondent "named M.G., 12 years old at the time, as a formal party to this case and had her served with process." (App. 18a)

B. The counterclaims and the order that Petitioner could not act for the child

Petitioner, self-represented, submitted separate answers for herself and for M.G., each with counterclaims — including intentional infliction of emotional distress, abuse of process, and defamation arising from the service of M.G. — docketed November 18, 2024. (App. 16a–17a) On November 15 she paid two counterclaim filing fees of $90 each, one for each defendant. (App. 69a) In July and again in December 2025, the court found her gross income "at or below 150% of the poverty income guidelines" and waived her fees. (IFP Mot., Attachs. (Determinations of Financial Eligibility, July 15 and Dec. 1, 2025))

On January 8, 2025, the Superior Court (Tomasi, J.) recorded that Petitioner "appears on behalf of M.G. as M.G.'s parent/next friend" and that "M.G. is not represented by counsel." (App. 8a) Under the heading "M.G.'s Unrepresented Status," it stated: "A minor child is an 'infant' who lacks capacity to sue or be sued except through a competent representative. Vt. R. Civ. P. 17(b). In this case, Ms. Gilmour is acting as such a representative for M.G., which cures M.G.'s lack of capacity." *Id.* at 2. It then held that by filing "an answer and a series of counterclaims" for M.G., Petitioner was "litigating for her in a pro se capacity," and that "the non-attorney representative of a party cannot act in a pro se capacity for that party — a licensed attorney must be retained." *Id.* (citing *Estate of Snelgrove v. LeBlanc*, 2023 VT 58, ¶¶ 6–7). Quoting the Second Circuit, it observed that minors "are entitled to trained legal assistance so their rights may be fully protected." *Id.* at 3 (quoting *Berrios v. New York City Hous. Auth.*, 564 F.3d 130, 134 (2d Cir. 2009)). It concluded: "She may not provide legal representation or act pro se for M.G. in this case. Accordingly, Ms. Gilmour shall obtain counsel for M.G. or show cause as to why M.G.'s counterclaims should not be dismissed within 30 days." *Id.*

The same order stated that the court "lacks clarity as to why M.G. needs to be a formal party to this case at all," that Respondent "has identified no clear need for her presence," and that Respondent must "show cause as to why her claims against M.G. should not be dismissed within 30 days." *Id.* at 3–4. Ruling on Respondent's motion against Petitioner's own counterclaims, it

dismissed the IIED and defamation claims arising from the service of M.G. because "[a]ny such claim belongs to M.G., not Ms. Gilmour," while it "declines to address the potential merit of such a claim, as asserted by M.G., here." *Id.* at 7. It sustained Petitioner's abuse-of-process claim, describing it as alleging that Respondent sued M.G. "only to produce distress and force Ms. Gilmour voluntarily to vacate the living space or otherwise compromise the defenses and counterclaims she has asserted here." *Id.* at 8. M.G.'s counterclaims, "identical" to Petitioner's, were "not now at issue." *Id.* at 2 n.1, 5.

C. The search for counsel, the GAL request, and the April 17, 2025 order

On February 5, 2025, Respondent moved to dismiss her own complaint against M.G., "acknowledg[ing] that there was no necessity" to have named M.G. (App. 19a) On February 6, Petitioner responded to the show-cause order that she "has been diligently seeking to obtain pro bono or low bono counsel and had not yet been successful"; the court construed this as a timely request for more time and granted it, "extended to the date of Attorney Andersen's notice of appearance." *Id.* at 2, 6. On February 7, Respondent moved to dismiss M.G.'s counterclaims; the court denied the motion: "M.G. currently has no ability to litigate. The matter of her legal representation must be resolved first." *Id.* at 3.

On February 27, Attorney Austin D. Andersen filed a limited appearance and motion to clarify for M.G. (App. 20a; PC:91) It asked the court to rule on M.G.'s party status "by and through Ms. Gilmour's proffered 'next friend' status under V.R.C.P. 17(b)," and requested, "[i]f the Court . . . rules that M.G. will remain a co-defendant," that it "appoint a Guardian ad Litem, pursuant to 14 V.S.A. § 2657, V.R.C.P. 17(b), and V.R.P.C. 1.14 . . . (specifically, to convey those interests to defense counsel)"; alternatively, if the complaint against M.G. were dismissed, counsel asked leave to withdraw. *Id.* ¶¶ 2, A–B.

On April 17, 2025, the court resolved all pending motions in one order. (App. 47a–49a; PC:96) It granted Respondent's dismissal of the complaint against M.G. It found that "[t]he issue

of M.G.'s lack of an attorney is a straightforward matter. She cannot continue in this case without one," and that representation "appears to be no more sorted out now than before Attorney Andersen's 'appearance.'" *Id.* at 5. It continued:

> "The Court declines to permit this issue to drag this case out any longer. . . . As the Court explained in its dismissal decision, there was no need for M.G. to be named a formal party in this case. None of the claims that Ms. Gilmour has improperly attempted to assert on M.G.'s behalf would operate as defenses to eviction. M.G.'s presence in this case has accomplished nothing other than delay and unnecessary [] expenses for the parties . . . . The Court has intrinsic and 'discretionary authority to control its docket to preserve judicial resources and ensure efficient disposition of cases.' [*In re Snowstone*, 2021 VT 72A, ¶ 24.] . . . The Court is not satisfied that Ms. Gilmour has effectively obtained counsel for M.G. to pursue her claims in this case . . . , further delay is unwarranted and would be prejudicial. Further, dismissing M.G.'s claims without prejudice permits her to bring them separately in a new action if the determination is made to do so and she can obtain counsel to endorse such claims. For those reasons, M.G.'s claims are dismissed. M.G.'s motion for clarification is denied." *Id.*

The order does not mention the request for a guardian ad litem. *Id.* at 4–5. Because it dismissed the complaint against M.G., the condition on the request — that M.G. "remain a co-defendant" — was not met; because it dismissed M.G.'s counterclaims, M.G. ceased to be a party of any kind: "All claims asserted by and against M.G. in this case now having been dismissed, M.G. no longer remains a putative party to this case." *Id.* at 6.

D. Petitioner's own abuse-of-process counterclaim

Respondent renewed her motion to dismiss Petitioner's abuse-of-process counterclaim. Petitioner's June 11, 2025 opposition stated that the suit "caused harm to me and my 12 year old child"; that it was filed "just to harass or intimidate me from asserting my rights"; and, addressing "how M.G.'s injuries relate to my own," that she was "the sole legal rights holder to M.G.," was "responsible financially for M.G.'s care both medical and psychological," that "both the child and the parent/guardian can potentially recover damages," and that the parent may

recover "lost wages and emotional distress in the parent under the abuse of process claim." (App. 50a, 52a–53a)

On July 9, 2025, the court granted the motion. (App. 24a–26a) It described the claim as contending "that Plaintiff sued M.G. when it was not necessary to obtain full relief, and that her goal in doing so was to pressure Defendant to settle." *Id.* at 1. Without deciding whether the allegations stated a claim, it held that "the claim in this case would need to be brought by M.G. and not Defendant": "While Defendant may well have been the target of the alleged improper motive, the 'process' was directed solely to M.G., and the principal harm asserted . . . was suffered by M.G., and Ms. Gilmour only indirectly. . . . [I]f a possible claim exists for abuse of process, the claim belongs to M.G. and may not be asserted by Defendant." *Id.* at 2. A footnote added: "M.G. is no longer a party to this case, and, as noted in its 4/17/25 ruling, any potential claims by M.G. do not fall within the scope of this action." *Id.* at 3 n.1. The summons served on M.G., *see* Part A, *supra*, was "directed to: Shannon Gilmour on behalf of minor child."

Petitioner sought immediate review. On July 16 she filed a notice of appeal, which the Vermont Supreme Court dismissed on July 18 "insofar as there is no final judgment and defendant has not requested or received permission to file an interlocutory appeal." (App. 33a) On July 22 she filed a motion for permission under V.R.A.P. 5(b), stamped filed by the Superior Court that day but captioned to the Supreme Court; on July 28 she refiled it captioned to the Superior Court, noting the July 22 filing. (App. 70a–71a) On August 21 the Superior Court denied permission, stating that "[h]er motion was filed on July 28, well outside the 14-day period," and alternatively that the claim "would be properly brought by her daughter, not Ms. Gilmour," and that "Ms. Gilmour may appeal the abuse-of-process ruling once final judgment is entered, if she wishes." (App. 28a–29a) Of M.G.'s own claim, it said: "The potential merit of that claim may be unclear, but it was dismissed long ago because she was unrepresented." *Id.* at 2. On August 29 Petitioner sought permission from the Supreme Court, which denied permission without opinion on September 22, 2025. (App. 34a)

E. Trial and judgment

A two-day jury trial in October 2025 resulted in a verdict for Respondent on the possession claim and against Petitioner on her retaliatory-eviction counterclaim; the court entered judgment as a matter of law against Petitioner on the habitability counterclaims. (App. 2a–3a) A writ of possession issued October 28, 2025, with fourteen days to vacate. Petitioner did not seek a stay. She filed her notice of appeal on November 25, 2025, designating the judgment and, by date, the January 8 and April 17, 2025 orders concerning M.G. (App. 62a–63a) No judgment had yet been entered; the court entered judgment for Respondent on March 24, 2026, and the appeal proceeded from it. (App. 31a)

F. The appeal and the Vermont Supreme Court's decision

Petitioner appealed. A three-justice panel of the Vermont Supreme Court affirmed on August 21, 2026. (App. 1a–7a) As to M.G., it held that "although tenant appears to challenge several of the court's rulings related to child's representation and child's counterclaims, tenant has not shown that she has standing to raise these issues on appeal," because an appellant "cannot rest his claim to relief on the legal rights or interests of third parties," and it "decline[d] to consider them." As to Petitioner's own counterclaim, it held that her argument that she "suffered a direct constitutional injury in the form of interference with her liberty interest in 'the care, custody, and control' of child," citing *Troxel v. Granville*, 530 U.S. 57 (2000), was not raised "in opposition to landlord's motion to dismiss the counterclaim" and was not preserved. (App. 3a, 5a) Petitioner moved for reargument on September 1, 2026, identifying the June 11 opposition; the Court denied the motion on September 8, 2026, without opinion. (App. 35a, 54a–55a)

The result: M.G. was served as a defendant at twelve; M.G.'s parent was permitted to appear as "next friend" but barred from acting as legal representative; M.G.'s counterclaims were dismissed for lack of counsel; and the parent was then held to lack standing to appeal that

dismissal. No court has ever reviewed whether the dismissal was lawful, and under the State's rules as applied, no one can ask.

REASONS FOR GRANTING THE WRIT

I. A State violates the Due Process Clause when its rules, applied together, permit a child to be made a party to a civil action, bar the child's parent from acting for the child, dismiss the child's claims for want of counsel the child cannot obtain, and then leave no person who may challenge the dismissal.

A. A child's cause of action is property, and the State may not extinguish it through a procedure the child had no capacity to satisfy.

A cause of action is "a species of property protected by the Fourteenth Amendment's Due Process Clause." *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982). In *Logan*, an agency's failure to convene a hearing within a statutory deadline — "for reasons beyond the complainant's control," *id.* at 424 — extinguished the claimant's discrimination claim. This Court held that "the State may not finally destroy a property interest without first giving the putative owner an opportunity to present his claim of entitlement," *id.* at 434; that the State's interest was, "on this record, insubstantial," *id.*; and that "it is the state system itself that destroys a complainant's property interest, by operation of law . . . whether the Commission's action is taken through negligence, maliciousness, or otherwise." *Id.* at 436. The vice was not the deadline; it was that the deadline destroyed the claim of a person who had no means of meeting it.

M.G.'s counterclaims were property in exactly this sense — asserted in a pending action, against the party who had brought M.G. into it, arising from that party's conduct toward M.G. They were dismissed on a ground M.G. could not cure: failure to obtain counsel. M.G. was twelve, could not retain or pay a lawyer, and could not — as the trial court held — be represented by Petitioner. The court had found that M.G. "currently has no ability to litigate" and that "[t]he matter of her legal representation must be resolved first," (App. 20a) then dismissed M.G.'s claims without resolving it. It later described what it had done in a sentence: "The

potential merit of that claim may be unclear, but it was dismissed long ago because she was unrepresented." (App. 28a) That order did not give the owner of the claims "an opportunity to present [her] claim of entitlement." *Logan*, 455 U.S. at 434.

That the dismissal was "without prejudice" does not change the analysis. The trial court explained what the phrase meant here: M.G. could refile "if the determination is made to do so and she can obtain counsel to endorse such claims." (App. 22a) The condition on the escape hatch was the very thing the court had found M.G. lacked. A dismissal that can be undone only by satisfying the condition whose non-satisfaction caused it is not without prejudice in any sense that matters to due process. It is a dismissal deferred to M.G.'s majority — by which time the defendant may be gone, the witnesses scattered, and the record cold. *Cf. Logan*, 455 U.S. at 436–37 (rejecting an independent tort action as "apt to be a lengthy and speculative process" and a post-deprivation remedy as "constitutionally inadequate").

B. The State's own rule required the court to protect the child; the only order it entered removed the child's claims.

Vermont Rule of Civil Procedure 17(b) provides that "[a]n infant . . . who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem," and that the court "shall appoint a guardian ad litem for an infant . . . not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant." (App. 36a) The rule authorized what Petitioner did: M.G.'s counterclaims were brought "by a next friend." What forbade it was a separate doctrine against unauthorized practice. (App. 9a–10a) The trial court treated Rule 17(b) as satisfied — Petitioner was "acting as such a representative for M.G., which cures M.G.'s lack of capacity" — and in the next paragraph held that she "may not provide legal representation or act pro se for M.G." *Id.* The rule's requirement of a representative was met by a representative forbidden to represent. A next friend who cannot file, argue, or appeal is not representation; it is a title. This Court has described the office differently: a next friend possesses "authority to do every act which the interest of the infant demands and the law

authorizes," and denying infants a procedural right "simply because they are unable to act for themselves" would be "rank injustice." *In re Moore*, 209 U.S. 490, 499 (1908) (quoting *Raming v. Metropolitan St. Ry. Co.*, 157 Mo. 477, 514 (1900)).

The rule gave the court a choice between appointing a guardian and making some "other order . . . for the protection of" the child. It made neither. The only order it entered on M.G.'s claims dismissed them, for reasons of efficiency: "further delay . . . would be prejudicial," and the court has "discretionary authority to control its docket." (App. 22a) Those reasons do not justify treating the absence of a guardian as a ground for dismissing the claims the guardian would have protected, and "the exercise of an inherent power cannot be contrary to any express grant of or limitation on the district court's power contained in a rule or statute." *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016). Rule 17(b)'s "shall" is such a limitation. The court invoked docket authority to do the one thing the rule does not permit: dispose of an unrepresented child's claims without protecting them.

The courts that bar non-attorney parents justify the bar on the ground that the court itself stands in for the child: minors "are wards of any court called upon to measure and weigh their interests," and "every step in the proceeding occurs under the aegis of the court," *Dacanay v. Mendoza*, 573 F.2d 1075, 1079 (9th Cir. 1978); the judge has "a special obligation to see that they [are] properly represented, not only by their own representatives but also by the court itself," *United States v. Reilly*, 385 F.2d 225, 228 (10th Cir. 1967). The same courts hold that the bar must yield when it would harm the child it protects, lest it "undermine a child's interest in having claims pursued for him or her when counsel is as a practical matter unavailable" and "force minors out of court altogether," *Tindall v. Poultney High Sch. Dist.*, 414 F.3d 281, 286 (2d Cir. 2005), or harm the minors' interests "in a way that subverts the purpose of the rule," *Elustra v. Mineo*, 595 F.3d 699, 706 (7th Cir. 2010). The very authority the trial court cited prescribes the sequence: the court "must appoint a guardian ad litem — or issue another appropriate order"; it "is not to reach the merits without appointing a suitable representative";

and only if counsel is neither secured nor appointed may it "dismiss the complaint, but without prejudice." *Berrios*, 564 F.3d at 134–35. The trial court performed the last step without the first. Counsel for M.G. had requested a guardian ad litem under Rule 17(b); the request was framed to apply if M.G. remained a co-defendant, and the order that dismissed the complaint against M.G. and M.G.'s counterclaims together did not address it. (App. 49a) But the rule's command does not wait for a motion; it attaches to any infant "not otherwise represented in an action." This Court has declined to decide whether a parent may litigate a child's claim without counsel. *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 535 (2007). The question here is narrower. A State that forbids a parent to act for a child must supply some other mechanism by which the child's claims can be heard. Vermont's rule supplies one. The court did not use it.

C. Due process requires, at minimum, that some person be able to be heard on whether the deprivation was lawful.

"The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). The requirement is not satisfied by the abstract existence of a hearing that no one is permitted to attend. *Boddie v. Connecticut*, 401 U.S. 371, 377–79 (1971).

Here the opportunity existed in form at every stage and in substance at none. M.G. could have been heard through counsel, but could not obtain counsel; through a guardian ad litem, but the court appointed none; through a parent, but the court held the parent could not act. On appeal, the dismissal could have been reviewed at the instance of M.G. — who still had no counsel — or of M.G.'s parent, who the Vermont Supreme Court held had no standing. From the day a twelve-year-old was served to the day the Vermont Supreme Court affirmed, there was no person who could ask a court whether what was done to M.G. was lawful.

This is not a case about any single rule. A State may bar non-lawyers from representing others, limit third-party standing, and manage its docket. The question is whether those rules,

applied together to a child the plaintiff chose to make a party, may combine to produce a deprivation that no one can contest. A State does not escape the Due Process Clause by distributing a denial across three rulings and two courts.

The contradiction is written into the record's first documents. Respondent's summons was "directed to: Shannon Gilmour on behalf of minor child, [M.G.]" It told its addressee that she "must reply within 21 days"; that she "will lose [the] case" if she did not file a written answer; that she "must make any claims against Plaintiffs in [the] reply" or "may not be able to bring them up at all" — the compulsory-counterclaim warning of V.R.C.P. 13(a); and that "[e]ven if you cannot get legal help, you must still give the Court a written Answer." (App. 39a–40a) What losing meant was what the complaint asked for: "an immediate writ of possession . . . against Defendants" — a judgment of eviction in a twelve-year-old's own name. And because each defendant was served separately, each could default separately: had no answer been filed for M.G., judgment could have entered against the child alone while the mother's defense was pending. A writ of possession issues on the date of judgment and directs the sheriff to serve the defendant and, fourteen days later, "to put the plaintiff into possession." 12 V.S.A. § 4854. A default judgment of possession against M.G. alone would have authorized a twelve-year-old's removal from the home of the child's sole legal guardian (Conf.PC:113 (Exhibit AI, legal-guardian documentation)), whose own defense was still pending. Petitioner did what the summons directed — answered for her child, pleaded her child's counterclaims, and paid a second filing fee to do it. The court's first order found that her appearance "cures M.G.'s lack of capacity" and, on the next page, that she "may not provide legal representation or act pro se for M.G." (App. 9a–10a) Its later order dismissed the counterclaims the summons had told her to file. No one was ever appointed who could have filed them instead. A State's courts may not enforce process that directs a parent to answer and counterclaim for her child without a lawyer, then hold that the parent who complied had no capacity to do so and that the claims she filed

must fall for want of a lawyer the summons did not require her to have. The direction and the incapacity cannot coexist in the same case, applied to the same child.

D. The child did not choose to be in court.

One feature of this case distinguishes it from every decision this Court has issued on the representation of minors, and from the petitions it recently declined to review. *See* Part IV.D, *infra*. In those cases the child was a plaintiff and the question was whether the child's parent could bring the claim without a lawyer. Here, M.G. was a defendant. "The right to sue and defend in the courts . . . is the right conservative of all other rights." *Chambers v. Baltimore & Ohio R.R. Co.*, 207 U.S. 142, 148 (1907). M.G. was not exercising the first half of that right; M.G. was denied the second. Respondent named M.G. and had M.G. served — as the trial court found and Respondent acknowledged, without necessity. (App. 18a–19a) M.G.'s counterclaims initiated nothing; they responded to what had been done. The State's rules then treated M.G. as a litigant who had walked into court voluntarily and failed to bring a lawyer.

When a plaintiff makes a child a party, the State's obligation to see that the child is heard is at its highest, because the child's presence in court is not the child's doing. The trial court wrote that "there was no need for M.G. to be named a formal party," then held that "M.G.'s presence in this case has accomplished nothing other than delay," and dismissed M.G.'s claims to end it. (App. 22a) Due process does not permit a State to charge a child with the consequences of a plaintiff's choice to sue the child, then resolve them by erasing the only claims the child had.

The courts' orders treated parent and child as two strangers who happened to share an address. For the purpose of bringing them into court, they were one household — a single tenancy, a single complaint, a single writ sought against both, served in two packets, answerable on two deadlines, defaultable one at a time. For every purpose that would have let either be heard, they were strangers. M.G.'s claims were dismissed because M.G.'s parent could not bring them. Petitioner's own claim, arising from the service of her child, was dismissed because "the

claim belongs to M.G. and may not be asserted by Defendant" — in an order whose footnote added that "any potential claims by M.G. do not fall within the scope of this action." (App. 25a–26a) Before trial, the court barred any testimony "regarding M.G.'s inclusion as a party in this case or the service of process that she received," and ruled that "any claim for impacts to M.G.'s health are M.G.'s claims to assert, and it is not for Defendant to raise." (App. 66a–67a) On appeal, Petitioner could not raise M.G.'s issues because they were M.G.'s. At each stage the courts divided the family into its members and then held that neither member, alone, could do what the family needed done. The child could not act because the child was twelve. The parent could not act because the claims were the child's. The relationship that made M.G. a defendant was not available to make M.G. heard.

What the courts divided is an interest this Court has long protected. "[T]he interest of parents in the care, custody, and control of their children . . . is perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion). It "does not evaporate" even when a parent has "lost temporary custody of [her] child to the State." *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). And "[t]he integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment." *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). Petitioner does not contend that these cases decide this one; none involved a landlord's action or a child named as a defendant. They identify what is on the scale. In weighing what process was due, the first consideration is "the private interest that will be affected by the official action," *Mathews*, 424 U.S. at 335, and here that interest belonged to a parent and child together: a household sued as a unit, with a writ sought against both, in which the parent's and the child's defenses could be separately lost. A procedure that left the child unrepresented and the parent unable to act for the child put that family interest at risk at every stage, and no stage allowed anyone to say so.

The consequences were not divided the way the claims were. Congress has provided that even a parent's own bankruptcy "may not be required to disclose in the public records in the case

the name of such minor child," 11 U.S.C. § 112, and the federal civil rules require that a minor be identified in filings by initials only, Fed. R. Civ. P. 5.2(a)(3). Vermont has no such rule. The trial court, which granted Petitioner's motion to proceed by initials, later explained that "[t]here is no rule or statute requiring the redaction of a minor's information in a civil case" and that "[m]inors are often mentioned in public court proceedings and records." (App. 59a) M.G.'s full name came out of the caption and the earliest filings only on Petitioner's motions — the first granted in December 2024, the last in April 2026, directing redactions that had not yet been made. *Id.* at 2–4. The legislatures that have addressed this practice have treated that record as the injury. *See* Part III.A, *infra*.

II. The state-law grounds on which the Vermont Supreme Court declined to reach the federal questions are not adequate to bar this Court's review, because no participant in the litigation could have satisfied them.

This Court will not review a federal question where the state judgment rests on a state-law ground independent of the federal question and adequate to support the judgment. *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). But adequacy "is itself a federal question." *Douglas v. Alabama*, 380 U.S. 415, 422 (1965); *Lee v. Kemna*, 534 U.S. 362, 375 (2002). And while violation of a firmly established and regularly followed state rule ordinarily forecloses review, *James v. Kentucky*, 466 U.S. 341, 348 (1984), "[t]here are, however, exceptional cases in which exorbitant application of a generally sound rule renders the state ground inadequate to stop consideration of a federal question." *Lee*, 534 U.S. at 376. "Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 U.S. 22, 24 (1923) (Holmes, J.). The Vermont Supreme Court declined to reach every federal question in this case on one of two state-law grounds — appellate standing and preservation. *See* Statement, Part F, *supra*. Each is, in the abstract, a legitimate rule of state practice. Neither is adequate as applied here.

A. The third-party standing ground is inadequate because the State's own rules ensured that no one else could raise the claim.

A rule against third-party standing ensures that rights are asserted by those who hold them, who are ordinarily best positioned to decide whether and how to press them. This Court's own version of the rule recognizes an exception calibrated to that purpose: a litigant may assert another's rights where the litigant has a close relationship with the rightholder and where "there is a 'hindrance' to the possessor's ability to protect his own interests." *Kowalski v. Tesmer*, 543 U.S. 125, 130 (2004) (quoting *Powers v. Ohio*, 499 U.S. 400, 411 (1991)). A parent and a twelve-year-old child are the paradigm of a close relationship. And the hindrance here was not incidental; it was constructed by the State's own rules.

Kowalski shows what a sufficient hindrance is by showing what an insufficient one is. There, attorneys sought to assert the rights of hypothetical future indigent defendants denied appellate counsel. The Court found no hindrance because those defendants had "open avenues" to raise the claim themselves — they could seek leave to appeal pro se, and some had. *Id.* at 131–32. The lack of a lawyer was "not the type of hindrance necessary" to permit another to speak for them. *Id.* at 133. The avenue that defeated hindrance in *Kowalski* — proceeding pro se — is the avenue the trial court held closed to M.G. by law: a twelve-year-old "lacks capacity to sue or be sued except through a competent representative," (App. 9a) and the only representative M.G. had was forbidden to act. M.G.'s hindrance was not the lack of a lawyer; it was that the State's rules left no one, with or without a lawyer, who could act for M.G. When final judgment entered a year after M.G.'s claims were dismissed, M.G. had no counsel, no guardian ad litem, and a parent who under the trial court's own order could not act for M.G. The Vermont Supreme Court held that M.G.'s mother could not raise M.G.'s issues because M.G.'s counsel had not appealed — M.G.'s counsel having been a lawyer whose limited appearance ended fifteen months earlier, when the court dismissed the claims he had appeared to protect. (App. 2a, 22a–23a)

A rule against third-party standing serves a legitimate state interest when the rightholder is able to speak. It serves none when the State has ensured that the rightholder cannot. The Vermont Supreme Court did not ask whether M.G. was hindered from asserting M.G.'s own rights, or whether anyone remained who could. It applied the rule categorically, citing decisions in which the third party had simply chosen not to appeal, *In re John L. Norris Tr.*, 143 Vt. 325, 328 (1983); *PeakCM, LLC v. Mountainview Metal Sys., LLC*, 2025 VT 50, ¶¶ 41–42, and "decline[d] to consider" the federal claims. (App. 3a) That is the "arid ritual of meaningless form" this Court has held inadequate to bar review. *Staub v. City of Baxley*, 355 U.S. 313, 320 (1958). The State's interest in the rule was not merely unserved; it was inverted. The rule that exists to protect a rightholder's control over the rightholder's claims was used to ensure that no one could contest the State's removal of them.

Most inadequacy cases involve rules of procedural default. *E.g.*, *Osborne v. Ohio*, 495 U.S. 103, 122–25 (1990); *Lee*, 534 U.S. at 376–87. But the doctrine has reached a state standing rule before. In *Staub*, one of the grounds on which the Georgia court declined to reach the federal question was that the defendant, "[h]aving made no effort to secure a license," was "in no position to claim that any section of the ordinance is invalid." 355 U.S. at 318. This Court held: "This is not an adequate nonfederal ground of decision." *Id.* at 319. Two Members of the Court have recently read *Staub* for that proposition — a state standing determination ordinarily bars review, but "only 'constitutionally proper' rules can create adequate and independent state grounds." *Wilson v. Hawaii*, 604 U.S. ___, ___ (2024) (Thomas, J., joined by Alito, J., statement respecting denial of certiorari) (slip op., at 4) (quoting *Trevino v. Thaler*, 569 U.S. 413, 421 (2013)). Petitioner acknowledges that the Court has not applied this reasoning to a third-party *appellate*-standing rule. But the doctrine has never been limited by the label a State attaches to its rule; its concern is whether the State's procedure gave a reasonable opportunity to assert federal rights. A standing rule that operates, with the State's other rules, to guarantee that a

federal claim can be raised by no one at any stage affords no such opportunity. If the adequacy doctrine does not reach that case, it does not reach the case it exists for.

B. The preservation ground is inadequate because Petitioner invoked the substance of her federal right before the trial court, and only the citation was new.

The Vermont Supreme Court held that Petitioner's argument that she had her own standing to bring an abuse-of-process claim — because Respondent's use of process against her child was directed at her and injured her parental liberty interest — was "not preserved" because she did not raise it in opposition to the motion to dismiss. (App. 5a) The record shows otherwise. Her June 11, 2025 opposition stated that she was "the sole legal rights holder to M.G."; that she was "responsible financially for M.G.'s care both medical and psychological"; that "both the child and the parent/guardian can potentially recover damages"; and that the parent may recover for "lost wages and emotional distress in the parent under the abuse of process claim." (App. 53a) The trial court ruled on that opposition and rejected it, describing the claim as alleging that Respondent's "goal" in suing M.G. "was to pressure Defendant to settle," acknowledging that "Defendant may well have been the target of the alleged improper motive," and holding that because the harm was suffered "by M.G., and Ms. Gilmour only indirectly," the claim "belongs to M.G." (App. 24a–25a) The contention — that Petitioner had her own standing, arising from her own relationship and her own injuries — was presented, understood, ruled upon, and rejected. Indeed, it had been before the court from the pleadings: in January 2025 the court sustained this very claim on the allegation that Respondent sued M.G. "only to produce distress and force Ms. Gilmour voluntarily to vacate the living space or otherwise compromise the defenses and counterclaims she has asserted here." (App. 15a) What appeared for the first time on appeal was the citation to *Troxel v. Granville*, 530 U.S. 57 (2000).

A preservation rule is not adequate where the litigant put the substance of the federal claim before the trial court and the rule would require only that it be restated in a particular form. "Where it is inescapable that the defendant sought to invoke the substance of his federal right,

the asserted state-law defect in form must be more evident than it is here." *James*, 466 U.S. at 351. An objection "ample and timely to bring the alleged federal error to the attention of the trial court and enable it to take appropriate corrective action is sufficient to serve legitimate state interests, and therefore sufficient to preserve the claim for review here." *Osborne*, 495 U.S. at 125 (quoting *Douglas*, 380 U.S. at 422). In *Lee*, Missouri's rule was inadequate where the movant "substantially, if imperfectly, made the basic showings" it required, because "nothing would [have] be[en] gained" by requiring him to restate them in the prescribed form. 534 U.S. at 366, 385. The same is true here. The trial court had before it a self-represented parent asserting, in plain language, that she — not only her child — had been injured by the misuse of process. It understood the contention well enough to reject it. The State's interest in preservation — giving the trial court "a fair opportunity to rule," *State v. Ben-Mont Corp.*, 163 Vt. 53, 61 (1994) — was fully served. That Petitioner was self-represented strengthens the point. "A document filed pro se is 'to be liberally construed,'" *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). Petitioner does not contend that *Erickson* binds a state court. But it reflects the understanding on which the adequacy cases rest: a procedural rule serves no purpose when it demands of a layperson a legal form whose substance she had already supplied, and the court had already understood. To hold the federal claim forfeited because the opposition lacked a case name "would further no perceivable state interest." *Osborne*, 495 U.S. at 124 (quoting *James*, 466 U.S. at 349).

C. Together, the two grounds foreclosed every federal question in the case, and that is why they cannot be adequate.

Each state ground, considered alone, might be defended as an ordinary application of an ordinary rule. Considered together, as they operated here, they produce the result the adequacy doctrine exists to prevent. A child was made a party by the plaintiff's choice. The child's parent was permitted to appear for the child but forbidden to act. The child's claims were dismissed for want of the counsel the court had found the child could not obtain. The parent's own claim,

arising from the same conduct, was dismissed on the ground that the injury was the child's, and the parent's argument that the injury was also her own was held unpreserved for want of a citation. When the parent sought interlocutory review, the trial court told her she "may appeal the abuse-of-process ruling once final judgment is entered." (App. 29a) She did. On appeal she could not raise the child's issues because they were the child's, and could not raise her own because she had not cited the right case below. Nothing was ever decided. Every federal question was routed to a door that was closed.

The adequacy doctrine is "about federalism," *Coleman*, 501 U.S. at 726. Respect for state procedure does not require this Court to accept, as a bar to its jurisdiction, a set of rules that combined to ensure that a federal constitutional claim concerning a child could not be presented by the child, by the child's parent, or by anyone. The state grounds are not adequate. The Court should reach the questions presented.

III. The question is recurring and nationally important, and the same rules that produced it ensure that it will rarely reach an appellate court by any other route.

A. The practice of naming children as defendants in eviction actions is widespread, longstanding, and recognized by legislatures across the country as a distinct harm.

This case did not arise from an aberration. Naming children as parties to eviction proceedings is a documented practice, and five States have legislated against it in the past decade. Connecticut acted first, in 2016, authorizing courts to strike a named minor's name from the record and requiring its removal from the Judicial Branch's public website. Conn. Gen. Stat. § 47a-26h(a) (as amended by 2016 Conn. Acts 16-67). Massachusetts barred the practice outright, effective 2021: "[t]he defendant named in a summary process summons and complaint shall not include any minors, and any such minors' names so included shall be expunged from any court record and electronic docket entry." Mass. Gen. Laws ch. 239, § 2 (as amended by 2020 Mass. Acts ch. 358, § 84). Ohio followed in 2025, barring any eviction complaint that lists

a minor tenant alongside a parent or guardian and requiring dismissal and an award of the minor's attorney's fees. Ohio Rev. Code § 1923.05(B)–(C) (eff. Apr. 9, 2025). Illinois went further: "[a] complaint may not name a minor as a defendant"; one that does "shall be dismissed in its entirety" and sealed; and a minor "willfully and wantonly" named is entitled to attorney's fees, actual damages, and $1,000 in liquidated damages. 735 ILCS 5/9-106, 5/9-121 (as amended by Pub. Act 104-0317, eff. Jan. 1, 2026). Minnesota enacted a bar this year, with damages of $300 or actual loss for each violation. Minn. Stat. § 504B.2136 (eff. Aug. 1, 2026).

Bills have been introduced in at least four more States. New York's Senate has passed the same bill in three successive sessions since 2021, N.Y. S. 1615-A (2025–26); Kentucky's House passed its version 95–0 in 2026, H.B. 338 (Ky. 2026); and bills are pending in Rhode Island, H. 8111 (R.I. 2026), and Colorado, H.B. 26-1106 (Colo. 2026). In New York, the practice was documented in 2021 after a 2019 statute was read by some landlords to require naming every occupant of a rental unit, including children as young as three. Shelby R. King, *Minor Defendants: Kids Are Being Named in Evictions*, Shelterforce (Nov. 11, 2021).

Two features of this record bear on the question presented. First, Connecticut's statute provides that a summary process judgment binds "the named defendants and any minors holding under them." § 47a-26h(a). A judgment against the parent already binds the child. Naming the child adds nothing to the landlord's remedy — only a public record in the child's name and the pressure that record places on the parent. That pressure depends on the child being undefended. If a court must appoint a representative for a named child before the child's interests can be decided, the pressure disappears: the judgment reaches the household whether or not the child is named, and the child, once represented, is no longer the member of the household through whom the parent can be reached. A plaintiff would then gain nothing by naming a child, and a rule that is followed would end the practice without any prohibition on it. Second, Illinois concluded that a child willfully named in an eviction has suffered a compensable injury. Illinois would have given M.G. a cause of action. Vermont's courts held that no one could bring M.G.'s.

Vermont has no statute on the subject, and Petitioner does not suggest the Fourteenth Amendment requires one or ask this Court to decide whether a State may permit a child to be named. That is for legislatures. What process is owed once a State's courts have permitted it is not. The legislative record shows that the injury at the center of this case is neither novel nor peculiar to Petitioner: States led by both parties have identified and legislated against it for a decade. Whether a State's courts may leave such an injury without any avenue for its adjudication is a question of national importance.

B. The question will not percolate, because the rules that produced it prevent the cases that would present it from reaching appellate courts.

This Court ordinarily lets a question develop in the lower courts before granting review, on the assumption that if a question matters, cases presenting it will arrive. The assumption fails here, for a reason that is itself part of the question presented. The population affected is tenants in summary eviction — overwhelmingly unrepresented, largely indigent. Kathryn A. Sabbeth, *Eviction Courts*, 18 U. St. Thomas L.J. 359, 382 (2022) ("roughly 90 to 97 percent of tenants do not enjoy representation by counsel, in contrast to the 80 to 90 percent of landlords that do"). Those who are unrepresented also face obstacles on appeal: in most States a rent bond is a condition of appealing, and eviction courts are largely courts of no record, so there may be no transcript to review. *Id.* at 383–84. When a landlord names a tenant's child, the only adult positioned to raise the child's rights is the tenant. Under rules like Vermont's, that adult may not act for the child at trial or on appeal; the child cannot act alone; and counsel for a child's tort counterclaim in a summary eviction is, as this record shows, extraordinarily difficult to obtain. In the ordinary case the question can be raised by no one and reviewed at the instance of no one. The cases that would allow it to percolate are the cases the rules prevent.

The question is nonetheless being decided — in trial courts, without appellate guidance, inconsistently. Within two months in 2025, one district court dismissed a child's claims brought by a non-attorney parent without appointing counsel or any representative under Rule 17,

reasoning that no substantial claim was presented and that tolling preserved the claims until majority, *Stone ex rel. C.S. v. Peck*, No. 5:25-cv-1209, 2025 WL 2959790 (N.D.N.Y. Oct. 20, 2025), while another, facing an unrepresented incompetent *defendant*, stayed the case and appointed counsel under Rule 17(c) rather than let it go forward without a representative, *Duan v. MX Pan Inc.*, No. 1:22-cv-02333, 2025 WL 2958420 (S.D. Ind. Sept. 2, 2025). Neither is precedent; both show the question is live and the answers diverge.

Two further features of eviction practice thin the appellate population. The trial-court record in any such case will have been made by a self-represented parent, because the rules guarantee that no one else could make it; counsel may join later, as in *Grizzell*, but the record is set by then. And an eviction judgment is executed on a clock that runs inside the appeal period. Here the writ of possession issued with fourteen days to vacate; the notice of appeal was filed two weeks after that period ended. (App. 32a, 62a) The parent who raised the question on appeal did so after being dispossessed.

The absence of an appellate conflict therefore reflects the barrier, not the absence of the problem. The legislative record shows enactments or bills in at least nine States; the appellate record shows almost nothing — not because courts have considered the question and answered it, but because it cannot get to them. Petitioner's own appeal reached the Vermont Supreme Court only because she pursued it without counsel through a jury trial and full briefing, and it was disposed of, as to every issue concerning her child, in two paragraphs holding that she could not raise them. The Vermont Supreme Court designated its decision non-precedential; it binds no court and may not be cited before any tribunal. (App. 1a) The next parent will face the same rules, and nothing in the decisions of other States' courts suggests a different result elsewhere.

Some questions warrant review precisely because the structure of the dispute prevents their presentation in the ordinary course. *Cf. Southern Pacific Terminal Co. v. ICC*, 219 U.S. 498, 515 (1911) ("capable of repetition, yet evading review"); *Turner v. Rogers*, 564 U.S. 431, 439–40 (2011). That doctrine addresses mootness, but its logic applies to the decision whether to

wait. Where a State's rules guarantee that a class of litigants' federal claims cannot reach this Court through the usual channels, the usual reason for waiting — that a better vehicle will come — has no foundation. This is the vehicle. It is unlikely there will be many others.

C. The question is important beyond the eviction context.

The rules at issue — the bar on non-lawyer representation of children, the limits on third-party appellate standing, the discretion to dismiss for failure to obtain counsel — are general rules of civil procedure in force in every State, not features of landlord-tenant law. The question presented is whether, when a plaintiff chooses to make a child a defendant, those general rules may combine to leave the child's claims unadjudicated and the dismissal unreviewable. Nothing in the rules confines that question to eviction. It could arise in any civil action in which a minor is named as a defendant by a plaintiff who does not need to name the minor — a debt action, a property dispute, a nuisance or trespass claim naming every member of a household. Nor does the question depend on the child's age. The Vermont rule protects "an infant or incompetent person" in a single sentence, V.R.C.P. 17(b), and so does its federal counterpart, which speaks of "a minor or an incompetent person," Fed. R. Civ. P. 17(c)(2). The same rules, applied in the same way, would reach an adult who lacks capacity to litigate and whose relative or caregiver is not a lawyer: a person who could be sued, could not act without counsel, could not be represented by the one person willing to act, and could not obtain review because the claims were the person's own. The case before the Court arises from a child. Its reasoning applies wherever a State's courts hold that a person cannot litigate for herself and then decline to take the step their own rule requires to protect her. Eviction is the context in which the practice has been documented and in which legislatures have responded. A decision here would supply guidance wherever the same rules are applied to the same situation.

IV. This case is a suitable vehicle for deciding the questions presented.

A. Petitioner has standing to seek review of the rulings that excluded her, and the facts are the courts' own.

The Vermont Supreme Court's holding that Petitioner lacked standing to raise her child's issues was a ruling against Petitioner: she was the appellant, she presented the arguments, she was told she could not. Whatever may be said of M.G.'s ability to assert M.G.'s own rights, the ruling that Petitioner may not assert them is Petitioner's own injury, reviewable in her own name. The same is true of the preservation ruling: the abuse-of-process claim was hers, the ruling dismissed it, and the holding that her argument was unpreserved was addressed to her. (App. 3a, 5a) Each question presented concerns Petitioner's own treatment by the State's courts, and each is hers to present. And every fact on which they depend is stated in the courts' own orders, reproduced in the appendix — not in Petitioner's characterization of them. No factual dispute stands between the Court and the questions presented.

B. The judgment is final and the questions were pressed below.

The Superior Court entered final judgment after a jury verdict in October 2025; a writ of possession issued; the Vermont Supreme Court affirmed on August 21, 2026, and denied reargument on September 8, 2026. (App. 1a, 31a–32a, 35a) Nothing remains pending. Jurisdiction lies under 28 U.S.C. § 1257(a). Petitioner's brief argued that the dismissal of M.G.'s claims and the failure to act on the guardian ad litem request violated the Due Process Clause, and that she had her own standing to bring the abuse-of-process counterclaim by reason of her liberty interest in the care and custody of her child. (App. 73a–78a) The Vermont Supreme Court identified both arguments and declined to reach them on state-law grounds whose adequacy is the subject of the second and third questions presented. *See Lee*, 534 U.S. at 375.

C. The considerations that might counsel against review are answered by the record.

Petitioner is self-represented and indigent. The Court may ask whether a case litigated without counsel from the trial court to this one is the right occasion for a constitutional question. Two answers. First, the absence of counsel is not incidental to the question presented; it is the question presented. The case exists in its current form because a family could not obtain a lawyer for a twelve-year-old the plaintiff chose to sue, and because the State's rules then treated that inability as a ground for dismissal and a bar to review. If such a case could reach this Court only with counsel, it would never reach this Court. Second, the record is unusually clean for a pro se case: the dispositive facts are the courts' findings, the dispositive rulings are in the courts' words, and the state grounds are identified with precision in the Vermont Supreme Court's order.

Nor is this a case in which the parent waited or declined to seek counsel. Within eleven days of the dismissal of her own claim, Petitioner had filed a notice of appeal and a motion for permission to appeal, and then sought permission from the Supreme Court — three attempts at interlocutory review before the appeal in which the argument was held unpreserved. (App. 27a–30a, 33a–34a) The trial court itself recorded that she "has been diligently seeking to obtain pro bono or low bono counsel" and granted more time; a lawyer then appeared for M.G. (App. 19a, 21a)

Respondent may suggest that M.G.'s counterclaims lacked merit because they were "identical" to dismissed claims of Petitioner's. The trial court said the opposite: it "decline[d] to address the potential merit of such a claim, as asserted by M.G.," and sustained the identical abuse-of-process claim when Petitioner asserted it. (App. 14a–15a) No court has assessed the merits of M.G.'s claims; the questions presented ask whether anyone could. Nor does the "without prejudice" dismissal supply a remedy that makes review unnecessary: Part I.A explains why it is illusory on the trial court's own terms, and a theoretical alternative did not prevent the Court from reaching the due process question in *Logan*.

This petition does not present the question this Court declined to review last Term in *Grizzell v. San Elijo Elementary School*, No. 24-812, and *Warner v. School Board of Hillsborough County*, No. 24-718 (both cert. denied May 19, 2025) — whether a parent may litigate her child's claims pro se in federal court under 28 U.S.C. § 1654. Those were federal cases brought by parents for child plaintiffs, asking whether the bar on non-attorney parental representation is lawful. Petitioner does not contest that bar; she accepts that Vermont may forbid her to act as M.G.'s lawyer. The questions here begin where that one ends: when a State forbids the only adult in a child defendant's life from acting for the child, dismisses the child's claims for want of the counsel the State's own cited authority says the child is entitled to, and then holds that no one may seek review, has the State afforded the process the Fourteenth Amendment requires — and are the state grounds that foreclose the question adequate to bar this Court from asking it? Neither *Grizzell* nor *Warner* presented a child who had been sued, a mandatory state rule requiring a guardian, a guardian request left unaddressed, or an appellate-standing ruling closing the courthouse behind the child. This case presents all four.

Finally, the Vermont Supreme Court's designation of its decision as non-precedential does not diminish the case's suitability for review; it means the sequence the decision approved may recur without any Vermont court being required to confront it. *See* Part III.B, *supra*.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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