

No. 26A____

IN THE SUPREME COURT OF THE UNITED STATES

IN RE: 6525 BELCREST ROAD, LLC,

Debtor

6525 BELCREST ROAD, LLC,

Applicant

v.

DEWEY, L.C.,

Respondent

**APPLICATION TO THE HONORABLE SONIA SOTOMAYOR
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Second Circuit:

Pursuant to Supreme Court Rule 13.5, Applicant, 6525 Belcrest Road, LLC, respectfully requests an extension of time of 60 days to file its Petition for a Writ of Certiorari in this Court up to and including October 9, 2026.

1. The order and opinion for which review is sought was issued by the United States Court of Appeals for the Second Circuit on May 12, 2026 (attached

as Exhibit 1). As such, the Petition for a Writ of Certiorari is currently due on August 10, 2026, per Supreme Court Rule 13.3. This application for an extension of time is filed at least ten days prior to that date. This Court has jurisdiction over a timely filed petition for a writ of certiorari in this case pursuant to 28 U.S.C. § 1254(1).

2. Among other issues that the undersigned counsel is in the process of investigating, this case involves important issues regarding creditor standing, the burdens of proof required for establishing a proof of claim under 11 U.S.C. § 101(5), as well as the obligation of a creditor to prove the actual damages sought in its claim and the court's obligation to specifically determine the amount of the creditor's actual damages for which it will allow the claim, as required by 11 U.S.C. § 502(b), prior to applying the statutory cap of 11 U.S.C. § 502(b)(6).

3. The United States Bankruptcy Court for the Southern District of New York failed to require the creditor to establish its legal burden of proof for lease rejection damages, acknowledging that the creditor presented "little evidence at trial, and little to no discussion in [its] papers about the actual damages (lost rents) that were caused by the rejection of the ... Lease." The Bankruptcy Court then failed to calculate and determine the creditor's actual damages for rent under the clear and unambiguous terms of the First Amendment to Assignment and Assumption of Parking Lease ("Amended Lease Assignment") as is required pursuant to 11 U.S.C. § 502(b)(6) and well-established case law.

4. The United States District Court for the Southern District of New York affirmed the decision of the Bankruptcy Court, “perceive[ing] no reversible error in the bankruptcy court’s analysis,” which then was affirmed by the Second Circuit Court of Appeals. In so holding, neither appellate court determined the creditor’s actual damages, and both courts disregarded the express terms of the Amended Lease Assignment, affirming the allowance of unpaid rent damages to the creditor for a period of years well beyond the creditor’s right to receive rents under the terms of the Amended Lease Assignment.

REASONS FOR GRANTING EXTENSION OF TIME

5. Counsel was only recently retained to represent Applicant in connection with an appeal of the Second Circuit’s opinion and order. Counsel was first contacted by Applicant on or about June 26, 2026, but at that time, counsel was actively engaged in preparing a merits brief to the New Jersey Supreme Court in the matter of Wunsch v. CTE Republicans for Englewood Cliffs, et al., Docket No. 091722, which brief and appendix was submitted to the Court on July 15, 2026. Due to current work demands, the extensive bankruptcy court record, and the limited time before the statutory deadline for filing a petition for certiorari expires, counsel requires additional time to become familiar with the full record in this case and to prepare and file a cogent and compelling petition in this case that fully addresses the important legal and statutory issues explained above.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including October 9, 2026, within which to file a Petition for a Writ of Certiorari.

DATED: July 31, 2026.

Respectfully submitted,

/s/ Michael S. Zicherman

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Counsel for Applicant

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant, 6525 Belcrest Road, LLC, hereby discloses that it has no parent corporation and no publicly held company owns 10% or more of its stock.

CERTIFICATE OF SERVICE

A copy of this application was served via email and Federal Express overnight mail to counsel listed below in accordance with Supreme Court Rules 22.2 and 29.3:

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DATED: July 31, 2026.

/s/ Michael S. Zicherman
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(201) 343-3434
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Exhibit 1

25-1643-bk

In Re: 6525 Belcrest Road, LLC

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 12th day of May, two thousand twenty-six.

PRESENT:

GUIDO CALABRESI,
MICHAEL H. PARK,
MARIA ARAÚJO KAHN,
Circuit Judges.

IN RE: 6525 BELCREST ROAD, LLC,
Debtor.

6525 BELCREST ROAD, LLC,
Debtor-Appellant,

v.

25-1643-bk

DEWEY, L.C.,
Appellee.

FOR DEBTOR-APPELLANT:

JOHN D. D’ERCOLE (Steven B. Eichel, *on the brief*), Leech Tishman Robinson Brog PLLC, New York, NY.

FOR APPELLEE:

Todd M. Brooks, Whiteford, Taylor & Preston LLP, Baltimore, MD; Kenneth M. Lewis,

Whiteford, Taylor & Preston LLP, New York,
NY.

Appeal from a judgment of the United States District Court for the Southern District of New York (Ho, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED**.

6525 Belcrest Road, LLC (“Belcrest”), a Chapter 11 debtor, appeals from a district court order that affirmed a bankruptcy court decision granting Dewey, L.C. (“Dewey”) an allowed claim. Belcrest leased parking space from Dewey under a long-term ground lease. Dewey entered into an assignment agreement with New Town Parking, LLC (“New Town”) that assigned to New Town “all of [Dewey’s] right, title and interest in and to the” ground lease as of the “Transfer Date.” App’x at 1390. Under an amendment to the assignment agreement, rent for the ground lease “that is accrued prior to the Revenue Transfer Date . . . shall be retained by and/or delivered to [Dewey] upon payment.” *Id.* at 1444. After the Transfer Date but before the Revenue Transfer Date, Belcrest commenced a voluntary Chapter 11 case and, pursuant to 11 U.S.C. § 365, rejected the unexpired ground lease. Dewey filed a proof of claim based on the rejected ground lease, and the bankruptcy court ruled that Dewey had an allowed claim of \$2,428,675.83. Belcrest appealed the ruling to the district court, which affirmed. On appeal here, Belcrest contends that (1) Dewey lacks standing to file a proof of claim because Dewey assigned its rights under the lease to New Town before Belcrest filed for bankruptcy, (2) the bankruptcy court incorrectly computed the amount of Dewey’s allowed claim, and (3) the doctrines of equitable estoppel and unclean hands bar Dewey’s claim. We assume the parties’ familiarity with the underlying facts, procedural history, and issues on appeal.

“Because bankruptcy court decisions are subject to appellate review in the first instance by the district court, we engage in plenary, or de novo, review of the district court decision.” *In re Nordlicht*, 115 F.4th 90, 103 (2d Cir. 2024) (cleaned up). “We thus apply the same standard of review that the district court employed, reviewing the bankruptcy court’s findings of fact for clear error, its legal determinations de novo, and its discretionary rulings for abuse of discretion.” *Id.* at 104 (cleaned up).

We affirm substantially for the reasons given by the district court. First, Dewey has standing to file a proof of claim based on Belcrest’s rejection of the ground lease. Under the Bankruptcy Code, a “creditor . . . may file a proof of claim.” 11 U.S.C. § 501(a). A creditor is an “entity that has a claim against the debtor that arose at the time of or before” the debtor filed a voluntary bankruptcy petition. *Id.* § 101(10)(A); *see id.* § 301. The “term ‘claim’ means” a “right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.” *Id.* § 101(5). Here, although Dewey assigned its rights under the ground lease to New Town as of the Transfer Date, which occurred before Belcrest filed for bankruptcy, the pre-petition amendment to the assignment agreement gave Dewey the right to receive Belcrest’s payments for rent that accrued before the Revenue Transfer Date. All agree that the Revenue Transfer Date did not occur until after Belcrest became a Chapter 11 debtor. Dewey thus had a right to payment that arose before Belcrest commenced Chapter 11 proceedings, so Dewey meets the statutory definition of a creditor entitled to file a proof of claim.

Second, the bankruptcy court did not err in computing the amount of Dewey’s allowed claim. The allowed claim consists of damages arising from Belcrest’s rejection of the ground lease (\$2,602,119.73), unpaid rent owing at the time Belcrest filed for bankruptcy (\$98,612.50),

and Dewey's expenses in an arbitration against Belcrest (\$23,812.19), minus an offset for certain tax payments Belcrest had made (\$295,868.59). The parties dispute only the amount of the lease-rejection damages component of the allowed claim.

Under the amendment to the assignment agreement, "all Net Annual Rent or Additional Rent for the [ground lease] that is accrued prior to the Revenue Transfer Date . . . shall be retained by and/or delivered to [Dewey] upon payment." App'x at 1444. This provision gives Dewey the right to all future rent payments under the circumstances presented here. We assume, as the bankruptcy court found, that future rents under the ground lease were accelerated upon Belcrest's bankruptcy petition.¹ All future rent under the ground lease thus "accrued prior to the Revenue Transfer Date," *id.*, so Dewey has a right to those rent payments under the amendment. The Bankruptcy Code caps "the claim of a lessor for damages resulting from the termination of a lease of real property" at "three years" of "the rent reserved by such lease." 11 U.S.C. § 502(b)(6). Applying this limitation, the bankruptcy court properly determined that the lease-rejection damages component of Dewey's allowed claim is equal to three years of "base rent" owed under the ground lease ($\$690,000 \times 3 \text{ years} = \$2,070,000$), plus three years of taxes (\$483,490.09) and utilities (\$48,629.64) Belcrest would have owed under the lease, for a total lease-rejection damages claim of \$2,602,119.73. Special App'x at 44-45.²

¹ Belcrest argues on appeal that future rents under the ground lease were not subject to acceleration. Belcrest, however, never presented that argument at trial before the bankruptcy court. Indeed, there was "little evidence at trial, and little to no discussion in the parties' papers, about the actual damages (lost rents) that were caused by the rejection," and Belcrest never disputed at trial that "the lost revenues would exceed the maximum amount allowed by [11 U.S.C. §] 502(b)(6)." Special App'x at 46. Accordingly, "we conclude that [Belcrest] has waived this argument by failing to present it below," and we decline to consider it. *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 132 (2d Cir. 2008) (per curiam).

² Belcrest contends that the tax and utility amounts should not be included in Dewey's lease-rejection damages claim because they represent amounts paid by New Town for "Garage A," which Dewey did not own. This argument fails. "Additional Rent" under the ground lease, for which Belcrest was responsible, included "taxes" and "charges for public utilities" "as to the Leased Premises." App'x at 1356. Although the Leased Premises originally consisted of property owned by Dewey, the ground lease

Finally, the doctrines of equitable estoppel and unclean hands do not apply here. “Many courts review application of equitable estoppel for abuse of discretion, but, because we would affirm the district court under de novo review, we need not consider whether a more deferential standard of review should apply.” *Rein v. McCarthy*, 803 F. App’x 477, 479 (2d Cir. 2020) (summary order) (quotation marks omitted). Equitable estoppel “arises if (i) [one party] made a definite misrepresentation of fact, and had reason to believe that [the other party] would rely on it; and (ii) the [other party] reasonably relied on that misrepresentation to his detriment.” *Kavowras v. N.Y. Times Co.*, 328 F.3d 50, 56 (2d Cir. 2003) (quotation marks omitted). Belcrest contends that Dewey made false statements about nonexistent lease agreements and concealed the assignment agreement and the amendment from Belcrest until the bankruptcy court ordered Dewey to disclose any agreements it had with New Town. But Belcrest has not shown that it relied to its detriment on Dewey’s false statements or concealment. As the bankruptcy court explained, Belcrest’s conduct in the arbitration against Dewey makes “quite clear that Belcrest did not accept Dewey’s statements” about the nonexistent lease agreements. Special App’x at 39. And Belcrest’s argument that it could have tried to renegotiate the ground lease with New Town had it known about the assignment agreement is “far too speculative a theory to support” its estoppel claim. *William Crawford, Inc. v. Travelers Ins. Co.*, 838 F. Supp. 157, 160 (S.D.N.Y. 1993), *aff’d*, 23 F.3d 663 (2d Cir. 1994).

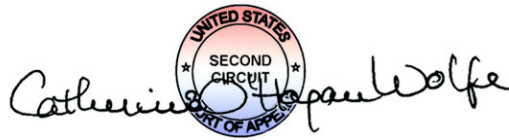
We review for “abuse of discretion” a lower court’s “*refusal* to deny relief” “on the basis of unclean hands.” *Fitzgerald Pub. Co., Inc. v. Baylor Pub. Co., Inc.*, 807 F.2d 1110, 1114 (2d

provided that Dewey may “substitute for the then Leased Premises . . . the Substituted Leased Premises,” *id.* at 1358, and Dewey designated certain areas of “Garage A,” owned by New Town, as “Permanent Substituted Leased Premises,” *id.* at 1389-90; *see* Special App’x at 44. Garage A thus became “the Leased Premises” “for all purposes of [the] Ground Lease.” App’x at 1358; *see id.* at 1373. Belcrest was thus responsible for taxes and utilities in connection with Garage A, so the tax and utility amounts were properly included in Dewey’s allowed claim.

Cir. 1986). Quoting a bankruptcy-court case, Belcrest contends that courts “apply unclean hands to bar legal relief where the plaintiff’s reprehensible conduct is directly related to the subject matter in litigation and the party seeking to invoke the (unclean hands) doctrine was injured by such conduct.” Appellant’s Br. at 53 (quoting *In re Ampal-Am. Isr. Corp.*, 545 B.R. 802, 811 (Bankr. S.D.N.Y. 2016)). Assuming without deciding that the unclean-hands doctrine applies in those circumstances, we conclude that it does not apply here. As explained above, Belcrest has not adequately shown it was injured by Dewey’s false statements or concealment. The bankruptcy court thus did not abuse its discretion in declining to invoke the unclean-hands doctrine.

We have considered Belcrest’s remaining arguments and find them to be without merit. For the foregoing reasons, the judgment of the district court is **AFFIRMED**.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court

The image shows a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in the center, flanked by two small stars.

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: May 12, 2026
Docket #: 25-1643
Short Title: In Re: 6525 Belcrest Road, LLC

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 1:23-cv-11205
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Trial Judge - Dale E. Ho

BILL OF COSTS INSTRUCTIONS

The requirements for filing a bill of costs are set forth in FRAP 39. A form for filing a bill of costs is on the Court's website.

The bill of costs must:

- * be filed within 14 days after the entry of judgment;
- * be verified;
- * be served on all adversaries;
- * not include charges for postage, delivery, service, overtime and the filers edits;
- * identify the number of copies which comprise the printer's unit;
- * include the printer's bills, which must state the minimum charge per printer's unit for a page, a cover, foot lines by the line, and an index and table of cases by the page;
- * state only the number of necessary copies inserted in enclosed form;
- * state actual costs at rates not higher than those generally charged for printing services in New York, New York; excessive charges are subject to reduction;
- * be filed electronically or if counsel is exempted with the original and two copies.

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: May 12, 2026
Docket #: 25-1643
Short Title: In Re: 6525 Belcrest Road, LLC

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 1:23-cv-11205
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Trial Judge - Dale E. Ho

VERIFIED ITEMIZED BILL OF COSTS

Counsel for

respectfully submits, pursuant to FRAP 39 (c) the within bill of costs and requests the Clerk to
prepare an itemized statement of costs taxed against the

and in favor of

for insertion in the mandate.

Docketing Fee _____

Costs of printing appendix (necessary copies _____) _____

Costs of printing brief (necessary copies _____) _____

Costs of printing reply brief (necessary copies _____) _____

(VERIFICATION HERE)

Signature