No. 15-891

In the Supreme Court of the United States

AURELIUS CAPITAL MANAGEMENT, LP,
Petitioner,
v.

TRIBUNE MEDIA COMPANY, F/K/A TRIBUNE COMPANY, F/K/A TIMES MIRROR CORPORATION; OFFICIAL COMMITTEE OF UNSECURED CREDITORS; OAKTREE CAPITAL MANAGEMENT, LP; ANGELO GORDON & COMPANY; AND JPMORGAN CHASE BANK, NA, ET AL.
Respondents.

On Petition For A Writ Of Certiorari to the United States Court of Appeals for The Third Circuit

BRIEF OF FEDERAL COURTS PROFESSORS IN SUPPORT OF GRANTING THE PETITION

CHRISTOPHER J. WRIGHT
COUNSEL OF RECORD
TIMOTHY J. SIMEONE
JOHN R. GRIMM
HARRIS, WILTSHIRE & GRANNIS, LLP
1919 M Street, N.W.
Washington, D.C. 20036
(202) 730-1300
tsimeone@hwglaw.com

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INTEREST OF AMICI CURIAE[1]

Amici are professors of federal courts at major American law schools.[2] Although Amici represent different views, they agree that, as this Court's recent precedents confirm, the federal courts have a basic obligation to exercise the jurisdiction that Congress confers on them. The equitable mootness doctrine is inconsistent with this bedrock premise of federal jurisdiction. Because of the important constitutional issues that equitable mootness raises, Amici urge the Court to grant the petition for a writ of certiorari.

SUMMARY OF ARGUMENT

I. "Equitable mootness" is a judge-made doctrine under which federal courts refuse to exercise congressionally granted appellate jurisdiction over substantially consummated Chapter 11 plans. This doctrine ignores this Court's frequent—and recently repeated—admonitions that the lower courts have a "virtually unflagging obligation" to exercise the jurisdiction that Congress has conferred upon them.

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[1] The parties have consented to the filing of this brief. Counsel of record for all parties received notice at least 10 days prior to the due date of the *amici curiae*'s intention to file this brief. Counsel for the Official Committee for Unsecured Creditors, EGI-TRB LLC, and Wilmington Trust Company advised Amici that those entities are no longer involved in these proceedings. No counsel for a party authored this brief in whole or in part and no party made a monetary contribution intended to fund the preparation or submission of this brief.

[2] The list of amici filing this brief is attached hereto as Schedule A.

This Court has, of course, recognized narrow exceptions to that obligation in its abstention doctrines. But the purposes of those doctrines have no application to equitable mootness, which does not advance interests in comity or federalism. Moreover, unlike abstention—which merely directs litigants to a non-federal forum—equitable mootness leaves injured parties without any forum at all for their claims.

Significantly, in the three years since this Court was last asked to consider equitable mootness, two important decisions—addressing abstention and prudential standing—have reaffirmed the bedrock principle that abstention is the rare exception to courts' duty to exercise their authority. At the same time, however, the lower courts continue to invoke and, in some cases, even expand the doctrine of equitable mootness to refuse to hear bankruptcy appeals. This Court should grant certiorari here to reaffirm Congress's carefully balanced appellate scheme for bankruptcy-court decisions, and to ensure that lower courts do not unjustifiably decline to exercise the authority that Congress gave them.

II. Lower court invocations of the equitable mootness doctrine ultimately vest Article III authority in non-Article III courts by giving them *de facto* final decision-making power. But Article III prohibits the bankruptcy courts from exercising unreviewable judicial authority, and the lower courts cannot grant it to them. Congress intended this limitation on bankruptcy court authority—it vested exclusive bankruptcy jurisdiction in the *district*

courts, and constituted the bankruptcy courts as their adjuncts. Recent precedent by this Court calls into question whether the bankruptcy courts are exercising their authority solely in this "adjunct" role, making review by Article III courts all the more essential.

In short, delegation of Article III authority implies review by Article III courts. This Court has upheld such delegations, but only so long as such exercises of authority were subject to review by Article III courts. Congress has noted the importance of Article III review when creating judicial adjuncts, and scholars agree that at least some form of Article III review is a prerequisite to delegation of judicial authority. Equitable mootness violates these principles.

ARGUMENT

The doctrine of "equitable mootness" allows federal courts to end-run their congressionally granted jurisdiction, thereby according final effect to decisions of non-Article III bankruptcy courts. This judge-made doctrine ignores the Court's recent instruction on federal courts' obligation to exercise their authority except in rare cases, and is inconsistent with Article III of the Constitution.

I. THE COURT SHOULD CLARIFY THAT FEDERAL COURTS LACK DISCRETION TO REFUSE TO EXERCISE THEIR APPELLATE JURISDICTION OVER BANKRUPTCY COURT DECISIONS.

This Court should grant certiorari here to reaffirm, in this critically important context, the lower courts' "virtually unflagging obligation … to exercise the jurisdiction given them." *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976). Federal courts have "no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given." *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 404 (1821).

To be sure, courts can—and should—decline to exercise jurisdiction beyond the bounds of Article III. This is the basis for the various justiciability doctrines—such as standing, ripeness, and mootness—which are intended to ensure that federal courts hear only live cases or controversies as Article III requires. But while these rules prevent courts from violating Article III by issuing rulings when there is no case or controversy, equitable mootness only arises when there *is* a live controversy regarding a bankruptcy court's decision.

This Court has traditionally been careful to circumscribe the conditions under which the lower courts may abstain from hearing cases within their jurisdiction; that may be done "only [in] exceptional circumstances." *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans*, 491 U.S. 350, 368 (1989). As set forth below, however, those

circumstances are narrow, and none is intended to extinguish a live claim of a party with a cognizable injury in fact. We focus on abstention and prudential standing below as the most closely analogous exceptions, but conclude that equitable mootness has little in common with them.

A. Equitable Mootness has Little in Common with Accepted Abstention or Prudential Standing Doctrines.

Although some courts treat equitable mootness as an abstention doctrine, *see, e.g.*, *In re Semcrude, L.P.*, 728 F.3d 314, 317 (3d Cir. 2013) (describing equitable mootness as a "judge-made abstention doctrine"), it has none of the characteristics of the narrow abstention rules that this Court recognizes. *See generally Colo. River Water Conservation Dist.*, 424 U.S. at 814–21 (detailing abstention doctrines). The heart of the various abstention doctrines is that while the federal courts are generally "bound to proceed to judgment and to afford redress … in every case to which their jurisdiction extends," *Chicot County, Ark. v. Sherwood*, 148 U.S. 529, 534 (1893), "there are some classes of cases" in which judges may exercise their common-law discretion to "withhold[] … authorized equitable relief because of undue interference with state proceedings." *New Orleans Pub. Serv. Inc.*, 491 U.S. at 359 (1989)

These "classes of cases" raising the specter of undue interference with state proceedings divide roughly into three main categories. A federal court may, for example, abstain in deference to a state court on an unsettled issue of state law when state court

resolution of the issue could obviate the need for the federal court to decide a federal constitutional question. *R.R. Comm'n of Tex. v. Pullman Co.*, 312 U.S. 496, 498 (1941). This doctrine allows the state courts to provide needed (and authoritative) answers to state law questions, while limiting interference in state law by the federal courts. Similarly, abstention may be warranted if federal court review would intrude on a state's ability to uniformly apply state law in an important area of state interest. *Burford v. Sun Oil Co.*, 319 U.S. 315, 333–34 (1943).[3] And federal courts will not intervene to enjoin most state criminal or quasi-criminal proceedings. *Younger v. Harris*, 401 U.S. 37, 49–54 (1971); *Huffamn v. Pursue, Ltd.*, 420 U.S. 592 (1975).

These accepted abstention rules have shared roots in federalism or comity. They address the concern—absent in federal-question subject matter like

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[3] So-called "*Thibodaux*" abstention is closely related to *Burford* abstention; under *Thibodaux*, federal courts sitting in diversity jurisdiction may choose to allow a state court to decide an issue of state law of great importance to the state, to the extent that a federal determination would infringe on state sovereignty. *See generally La. Power & Light Co. v. City of Thibodaux*, 360 U.S. 25 (1959). And "*Colorado River*" abstention, from *Colo. River Water Conservation District v. United States*, 424 U.S. 800 (1976), also bears brief mention here, although it is perhaps best considered not to be a doctrine of abstention at all, but rather a doctrine of "exceptional circumstances." In such circumstances—defined differently by different lower courts—it has been invoked where parallel litigation exists in federal and state courts to avoid wasteful duplicative litigation.

bankruptcy—that federal court action will interfere with the States' independence. But all abstention rules assume adequate alternative remedies to federal-court review, and none forecloses the eventual possibility of an Article III court—even if only this Court—reviewing federal questions. And the abstention doctrines only apply when there are ongoing *state* proceedings; no abstention doctrine allows federal courts to refuse to exercise *appellate* jurisdiction after a lower federal court has already exercised jurisdiction.[4]

Under the equitable mootness doctrine, in contrast, the *only* court competent to hear a question of federal law refuses to do so, leaving parties without any alternative remedy. This does not protect the dignity of a parallel proceeding before another sovereign or promote a state's interest in administering its laws; it simply extinguishes a live dispute and insulates a lower *federal* court's decisions from judicial review—including by this Court.[5]

The fact that equitable mootness has nothing in common with accepted abstention doctrines is well understood. In her concurring opinion in *In re One2One Commc'ns, LLC*, Judge Krause explained

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[4] Of course, this Court may decline to review decisions of lower federal courts, but it has statutory authority to do so. *See* 28 U.S.C. § 1254.

[5] Congress understood that some bankruptcy proceedings could raise federalism concerns which is why it created a *statutory* abstention provision resembling the Court's established abstention doctrines. *See* 28 U.S.C. § 1334(c)(1); *see also infra* Sec. II.C.

how equitable mootness does not serve any of the interests that underlie established abstention principles. 805 F.3d 428, 438 (3d Cir. 2015) (Krause, J., concurring). The Third Circuit below considered Judge Krause's *One2One* concurrence, but concluded that this Court's decisions do not prevent courts from foreclosing appeals under the equitable mootness doctrine. 799 F.3d at 286. That conclusion is incorrect—and this Court should grant certiorari here to clarify that equitable mootness has no basis in its decisions.

Equitable mootness has also been described as a "prudential doctrine," *see In re Transwest Resort Props., Inc.*, 801 F.3d 1161, 1167 (9th Cir. 2015), but courts cannot refuse jurisdiction merely out of "prudential" concerns either. In *Lexmark Intern., Inc. v. Static Control Components, Inc.*, this Court clarified that so-called "prudential standing" is really a question of statutory interpretation, addressing which plaintiffs *Congress* intended to give a right of action. 134 S. Ct. 1377 (2014). Here, however, Congress explicitly *gave* Article III courts appellate jurisdiction over bankruptcy judges, so the considerations that justify prudential standing argue *against* equitable mootness.

B. The Court's Recent Cases Clarify That Equitable Mootness is Improper, but Lower Courts are not Giving Those Cases Their Full Effect.

The Court should grant the petition because equitable mootness is inconsistent with recent

precedents, but the lower courts continue to apply it.

1. The Court's Recent Decisions Confirm that Federal Courts Cannot Refuse to Exercise their Authority.

Since this Court last decided not to consider the doctrine of equitable mootness, *see Law Debenture Trust Co. of N.Y. v. Charter Commc'ns, Inc.*, 133 S. Ct. 2021 (2013) (denying writ),[6] a number of cases have reiterated the federal courts' duty to exercise their jurisdiction. In *Sprint Commc'ns, Inc. v. Jacobs*, the Court rejected an expansive understanding of *Younger* abstention and reemphasized the *limited* nature of abstention doctrines, unanimously confirming that "[i]n the main, federal courts are obliged to decide cases within the scope of federal jurisdiction." 134 S. Ct. 584, 588 (2013).

Sprint involved a federal suit by a telecommunications company for a declaration that a state regulation violated the federal Communications Act. *Id.* at 589. Citing *Younger*, the district court abstained because a parallel proceeding seeking review of a state administrative decision was ongoing in the state courts, and the Eighth Circuit affirmed. *Id.* at 590. In reversing, this Court stressed that "abstention from the exercise of federal jurisdiction is the exception, not the rule." *Id.* at 593 (internal quotation marks omitted). The Court also warned against extending abstention doctrines beyond their intended limits. The Eighth Circuit had interpreted *Middlesex Cty.*

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[6] Amici are not aware of a more recent case asking the Court to consider equitable mootness.

Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423 (1982) as requiring *Younger* abstention any time that three factors were met. This Court, however, explained that the *Middlesex* factors were additional conditions to consider before applying *Younger*, not a dispositive test broadening *Younger*'s scope. 134 S. Ct. at 587. *Sprint* unambiguously clarified that federal courts cannot abstain from hearing cases that do not fall within specific, settled abstention doctrines.

In *Lexmark*, the Court—again unanimously—refused to abstain from hearing a case "on grounds that are 'prudential,'" pointing out that the "request [was] in some tension with [the] recent affirmation of the principle that a federal court's obligation to hear and decide cases within its jurisdiction is virtually unflagging." 134 S. Ct. at 1386 (quoting *Sprint*, 134 S. Ct. at 591) (internal quotation marks omitted). The district court in *Lexmark* had dismissed a Lanham Act false-advertising suit on "prudential" grounds because the plaintiff's injury was too remotely attributable to the defendant. *Id.* at 1385. This Court reversed on the ground that the plaintiff fell within the statute's "zone of interest." *Id.* at 1387, 1394. In doing so, the Court clarified that determining who can bring a cause of action is a matter of statutory construction, rejecting the characterization "prudential standing." *Id.* at 1386.

These recent cases emphatically confirm the longstanding principle that federal courts must exercise the jurisdiction Congress gives them unless a specific and narrow exception applies. Courts are not free to create new exceptions or expand existing ones even when legitimate prudential interests may be at

stake. Yet they do so when they invoke equitable mootness.

2. The Lower Courts have Erroneously Failed to Recognize that *Sprint* Applies Beyond *Younger* Abstention.

The Court should clarify that equitable mootness is inconsistent with *Sprint*. To be sure, the courts of appeals have heard the Court's recent message as it applies directly to over-extension of *Younger* abstention, the specific type of abstention at issue in *Sprint*. *See, e.g.*, *ACRA Turf Club, LLC v. Zanzuccki*, 748 F.3d 127, 138 (3d Cir. 2014); *Mulholland v. Marion Cty. Election Bd.*, 746 F.3d 811 (7th Cir. 2014); *ReadyLink Healthcare, Inc. v. State Compensation Ins. Fund*, 754 F.3d 754 (9th Cir. 2014); *Banks v. Slay*, 789 F.3d 919 (8th Cir. 2015). Yet the lower courts appear to treat *Sprint* as solely concerned with the contours of *Younger* abstention, as opposed to the animating principle that federal courts must exercise their congressionally granted jurisdiction.

Despite the Court's clear language in *Sprint*, courts are, if anything, *expanding* the application of equitable mootness, as Judge Krause's *One2One* concurrence illustrates.[7] Some courts have even

[7] A notable exception is the Ninth Circuit, which recently held that equitable mootness does *not* apply when third parties were actively involved in formulating a Chapter 11 plan. *Transwest*, 801 F.3d at 1169–70. But *Transwest* does not suggest a general trend away from equitable mootness. Without uniform guidance from the Court, it may just lead debtors to file in circuits that are favorable to the doctrine, leading to further splits among the circuits. *See, e.g.*,

extended the doctrine to *Chapter 9* bankruptcy proceedings, meaning that *municipal* bankruptcy plans, as well as plans affecting private parties, may go unreviewed by Article III courts. *See In re City of Vallejo, Cal.*, 551 F. App'x 339 (9th Cir. 2013); *In re City of Stockton, Cal.*, 542 B.R. 261 (9th Cir. B.A.P. 2015). This Court should reiterate that *Sprint* does not permit *ad hoc* exceptions to the exercise of the federal courts' congressionally granted jurisdiction.

C. Congress Created a Carefully Tailored Appellate Scheme, and the Courts Should Implement It.

Petitioners have demonstrated that Congress created a finely tailored bankruptcy appellate scheme. Pet. 3–5. Because none of the accepted abstention doctrines applies, the courts may not disregard this scheme.

Congress carefully designed appellate authority over bankruptcy courts, vesting it first in the district courts, with the courts of appeals reviewing the district courts' decisions. 28 U.S.C. § 158(a)(1), (d)(1). Congress even *withheld* appellate jurisdiction from Article III courts in specific narrow categories of cases. 11 U.S.C. §§ 363(m), 364(e). But those categories do not include review of Chapter 11 plans. In fact, the Act restricts certain parties' ability to *modify* a confirmed Chapter 11 plan, but contains no restrictions on the ability to *appeal* such a plan. *See* 11 U.S.C. § 1127(b). This detailed appellate regime shows the care that

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Randolph J. Haines, *Ninth Circuit Eviscerates Equitable Mootness*, 2015 No. 8 Norton Bankr. L. Adviser NL 1.

Congress took both in granting and denying appellate jurisdiction over bankruptcy courts. Nothing in the Bankruptcy Act suggests a congressional intent that courts further restrict their jurisdiction beyond the narrow limits spelled out in the Act.

What is more, Congress included a *limited* abstention provision in the Bankruptcy Act, allowing the *district court* to decline *original jurisdiction* over Chapter 11 proceedings "in the interest of justice, or in the interest of comity with State courts or respect for State law[.]" 28 U.S.C. § 1334(c)(1). But this provision mirrors accepted abstention rules, applies only to the district court, and does not extend to any court's *appellate* jurisdiction. Congress's explicit inclusion of the words "district court" and "original … jurisdiction" indicates that it did not intend the doctrine to extend any further.

Furthermore, the "equitable" nature of bankruptcy proceedings does not mean that *appellate review* is discretionary. Judge Ambro's concurrence below incorrectly argues that equitable mootness is justifiable because bankruptcy courts are courts of equity, citing examples of district courts refusing to enter injunctions even when they were statutorily authorized to do so. 799 F.3d at 287–88 (Ambro, J., concurring). But the fact that a district court exercising its *original jurisdiction* may decline to order particular relief does not mean that it, or a court of appeals, can decline to exercise *appellate jurisdiction*. District courts plainly do *not* have a "virtually unflagging duty" to grant every injunction that is requested; but they (and courts of appeals) do have such a duty to exercise jurisdiction granted by

Congress. Moreover, a district court that denies an injunction after considering the request *has* exercised its jurisdiction, unlike a court applying equitable mootness.

D. Practical Concerns Do Not Require Courts to Refuse to Hear Bankruptcy Appeals.

While courts often invoke equitable mootness out of practical concerns, those issues may be addressed without refusing to exercise jurisdiction. For example, deferential standards of review would allow courts to correct gross legal errors and ensure the smooth development of the law without unduly upsetting third-party expectations. A harmless error standard might be appropriate to allow appellate courts to avoid unnecessarily "scrambling" Chapter 11 plans while still answering legal questions and providing guidance to bankruptcy judges in future cases.

Finally, exercising appellate jurisdiction also does not require upsetting third-party expectations. As Judge Krause points out, in some cases equitable concepts such as laches or bad faith will prevent appellants from overturning Chapter 11 plans even if courts consider their appeal. *One2One*, 805 F.3d at 449 (Krause, J., concurring). And the Ninth Circuit has held equitable mootness inappropriate where there was the possibility of partial relief that stopped short of undoing a consummated plan. *Transwest*, 801 F.3d at 1171–73.

II. FEDERAL COURTS CANNOT ABDICATE THEIR AUTHORITY TO NON-ARTICLE III COURTS.

The Court should also confirm that ultimate judicial authority over bankruptcy matters must reside in Article III courts. Article III of the Constitution provides that "the judicial Power of the United States, *shall be* vested in one supreme Court, and in such inferior Courts as the Congress may … establish." U.S. Const. art. III, § 1 (emphasis added). But equitable mootness effectively confers final authority on the bankruptcy courts.

A. Bankruptcy Courts Cannot Properly Exercise the Judicial Power of the United States.

It is well-established that bankruptcy courts are not "inferior courts" established by Congress under *Article III*, and that they therefore cannot exercise the "judicial Power of the United States." In *Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, the Court held that bankruptcy courts cannot entertain common law breach-of-contract claims, and confirmed the general "constitutional command that the judicial power of the United States must be vested in Art. III courts." 458 U.S. 50, 63–64 (1982). And in *Stern v. Marshall*, the Court held that bankruptcy courts similarly do not have authority to enter final judgments in common law tort claims because doing so was an exercise of the "judicial power of the United States." 131 S. Ct. 2594, 2601 (2011).

Consistent with this constitutional restriction, Congress directed that "the *district courts* shall have original and exclusive jurisdiction of all cases under title 11," 28 U.S.C. § 1334(a) (emphasis added), intending that bankruptcy judges serve as "adjuncts" to the district court. *See* S. Rep. 95-989 at 16, 18, 51, 152, 153 (1978) (describing bankruptcy judges as "adjuncts"). In *Stern*, however, this Court questioned whether bankruptcy judges exercise powers too extensive to be "mere adjunct[s] of anyone"—suggesting possible questions about their authority even over cases arising under Chapter 11. 131 S. Ct. at 2611. Given the breadth of bankruptcy courts' authority—and the tension between the current reach of that authority and Congress's vision—it is especially essential for Article III courts to retain oversight over bankruptcy courts.

By refusing to review bankruptcy decisions, Article III courts effectively grant bankruptcy courts authority they cannot constitutionally wield. The Court should clarify that its decisions, including its recent decision in *Stern*, do not allow bankruptcy courts to exercise the final judicial power that equitable mootness gives them.

B. Article III Courts Cannot Delegate Final, Unreviewable Authority to Bankruptcy Courts.

Article III courts can delegate much responsibility to bankruptcy judges, but they cannot confer *final* decision-making authority over federal questions on them. However, that is exactly what equitable mootness accomplishes.

Delegation of judicial authority to non-Article III bodies requires judicial review by Article III courts. The House Report accompanying the 1976 Magistrates Act noted that Congress has granted adjuncts such as magistrate judges *and bankruptcy referees*—the predecessors to bankruptcy judges—"the power to … perform[] an adjudicatory function, *subject always to ultimate review* by a judge of the [Article III] court." H.R. Rep. 94-1609 at 8 (1976) (emphasis added); *see also* Richard H. Fallon Jr., *Of Legislative Courts, Administrative Agencies, and Article III*, 101 Harv. L. Rev. 915, 971 n.309 (1988) (demonstrating that all non-Article III court decisions are reviewable by Article III courts).

Similarly, this Court has upheld the exercise of judicial authority by non-Article III bodies as long as their decisions were subject to review by an Article III court in some manner. For instance, in *Peretz v. United States* and *United States v. Raddatz*, the Court affirmed grants of substantial authority to magistrate judges *because* the district court still exercised control over their decisions. 501 U.S. 923 (1991); 447 U.S. 667 (1980). And in *Crowell v. Benson*, the Court upheld a scheme allowing an administrative body to act as a fact-finding adjunct to the courts, *as long as the courts themselves decided* "fundamental or jurisdictional facts." 285 U.S. 22, 62 (1932).

Article III scholars also confirm the importance of reviewability by Article III courts. Professor Amar has argued that it "would in no way impermissibly vest 'the judicial Power of the United States' in non-Article III tribunals, *so long as these cases were ultimately*

appealable to the Supreme Court," and "the judicial power of the United States must, as an absolute minimum, comprehend the subject matter jurisdiction to decide finally all cases involving factual questions … ." Akhil Reed Amar, *A Neo-Federalist View of Article III: Separating the Two Tiers of Federal Jurisdiction*, 65 B.U. L. Rev. 205, 213, 229 (1985). And Professor Fallon argues that "compelling normative and doctrinal arguments require the reviewability of at least some issues decided by legislative courts and administrative agencies," and that "[j]udicial precedent gives more modest support to the claim that there must be at least potential review in a constitutional court of all cases that were referred to a non-article III federal decisionmaker." Fallon, *supra* page 17, at 950, 951.

Equitable mootness allows bankruptcy courts to exercise more authority than the Constitution permits, while avoiding the safeguards the Constitution requires. The Court should confirm that Article III courts cannot abdicate their judicial power to non-Article III bankruptcy courts.

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The Court has stated clearly, forcefully, and repeatedly that federal courts' exercise of their jurisdiction is not optional, and that courts cannot create new exceptions to the authority Congress gives them. Yet Petitioners have shown that lower courts continue to apply equitable mootness to refuse to hear appeals. The Court should confirm that its jurisprudence does not allow for a "judge-created doctrine that reflects an *unwillingness* to provide

relief," *Transwest*, 801 F.3d at 1167 (emphasis in original), and gives non-Article III courts final, unreviewable authority over federal questions.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

CHRISTOPHER J. WRIGHT
COUNSEL OF RECORD
TIMOTHY J. SIMEONE
JOHN R. GRIMM
HARRIS, WILTSHIRE
& GRANNIS, LLP
1919 M STREET, N.W.
WASHINGTON, D.C. 20036
(202) 730-1300
tsimeone@hwglaw.com

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SCHEDULE A

List of Amici (Alphabetical)

Robert Pushaw
James Wilson Endowed Professor of Law
Pepperdine School of Law

Kermit Roosevelt
Professor of Law
University of Pennsylvania Law School

Michael Solimine
Donald P. Klekamp Professor of Law
University of Cincinnati College of Law