No. 22-1215

In the Supreme Court of the United States

DARREN THOMAS DELAFIELD, PETITIONER

v.

GERARD R. VETTER, ACTING U.S. TRUSTEE FOR REGION FOUR

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

Whether the court of appeals erred in concluding that the bankruptcy court acted within its discretion when it disciplined an attorney based on its findings that the attorney had ratified a scheme to collect fees through a fraudulent towing program, failed to disclose his knowledge of the scheme to creditors, and failed properly to address a conflict of interest.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-14a) is reported at 57 F.4th 414. The opinions of the district court (Pet. App. 15a-18a, 35a-63a) are not published in the Federal Supplement but are available at 2021 WL 2232162 and 2019 WL 6742996. The opinion of the bankruptcy court (Pet. App. 64a-155a) is not published but is available at 2018 WL 832894.

JURISDICTION

The judgment of the court of appeals was entered on January 11, 2023. A petition for rehearing was denied on March 15, 2023 (Pet. App. 19a-20a). The petition for a writ of certiorari was filed on May 31, 2023. The

[1] Gerard R. Vetter, acting U.S. Trustee for Region Four, is automatically substituted for his predecessor. See Sup. Ct. R. 35.3.

jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. a. Petitioner was a "local partner" of UpRight Law LLC (UpRight), a bankruptcy legal services company, which operated out of a central office in Chicago through a network of partner attorneys across the country. Pet. App. 3a. When potential clients contacted UpRight, non-attorney sales personnel used "high pressure sales tactics" to persuade individuals to use the company's services. *Id.* at 70a. When a client engaged UpRight, the sales associate referred the client to an UpRight attorney who practiced in the client's district. *Id.* at 74a-75a. After approving the representation, the local attorney was responsible for preparing and filing a bankruptcy petition. *Id.* at 75a.

UpRight offered clients the ability to participate in a New Car Custody Program, which it operated in partnership with Sperro LLC, a towing company. Pet. App. 3a. The program "purported to assist clients that needed to surrender possession of their cars." *Ibid.* In reality, however, the program "funneled bankruptcy clients to Sperro," which used the client's cars to "generate profits for itself." *Id.* at 3a-4a. Under the program, UpRight clients with liens on their cars would surrender their cars to Sperro, which towed them to lots in States that allow some mechanic and storage liens to take priority over a secured lender's first lien. *Id.* at 4a. Sperro charged "excessive" and "completely unnecessary" fees for towing and storing the cars. *Ibid.* (citation omitted). Sometimes creditors would recover the cars and pay Sperro those fees; other times, creditors would abandon the cars and allow Sperro to sell them at auction and keep the proceeds. *Ibid.* Either way,

Sperro profited. In exchange, Sperro paid attorney's fees and filing fees for UpRight's clients. *Ibid.* Petitioner was aware of how the program operated. *Id.* at 131a.

b. In December 2015, Timothy and Andrian Williams hired UpRight to assist them with filing a Chapter 7 bankruptcy petition and were referred to petitioner as their local attorney. Pet. App. 88a. During the intake process, an UpRight sales associate recommended that the Williamses participate in the New Car Custody Program and surrender their car to Sperro. *Id.* at 89a. When Mr. Williams questioned the program's legality, an UpRight attorney (other than petitioner) told him it was lawful. *Id.* at 90a. The Williamses surrendered their car, and Sperro covered their attorney's fees and filing fees. *Id.* at 91a-93a. Knowing that the Williamses had surrendered their car to Sperro, petitioner filed their Chapter 7 petition in the Bankruptcy Court for the Western District of Virginia. *Id.* at 93a.

At the initial meeting of creditors, in response to questions from the Williamses' secured auto lender, petitioner denied knowing why Sperro had paid the Williamses' fees. Pet. App. 93a.

2. The United States Trustee commenced an adversary proceeding against petitioner, UpRight, Sperro, and other defendants, seeking disgorgement of fees and disciplinary measures. Pet. App. 101a-102a.

During discovery, the U.S. Trustee served subpoenas on the Williamses seeking production of various documents related to the bankruptcy representation. Pet. App. 98a; C.A. App. 110-113. Using "heavy-handed tactics," UpRight urged the Williamses to sign a conflict waiver to allow UpRight to continue to represent the Williamses and to assert attorney-client privilege on

their behalf to shield the documents from discovery. Pet. App. 99a-101a; see *id.* at 48a-49a. The Williamses initially refused to waive the conflict but eventually did so. *Id.* at 100a-101a. When the conflict came to light in the proceeding, the U.S. Trustee introduced evidence about petitioner's conduct, including evidence that petitioner told Mr. Williams that "if [he] did not sign the [conflict] waiver," petitioner "would be solely looking out for himself only." *Id.* at 6a (citation omitted; brackets in original).

Following a four-day bench trial, the bankruptcy court disciplined petitioner and others affiliated with UpRight and Sperro. Pet. App. 64a-155a. The court found that the entire Sperro program was a "scam from the start," *id.* at 126a, "prey[ing] upon some of the most vulnerable in our society," *id.* at 127a, and allowing UpRight to collect fees faster at the expense of secured creditors, *id.* at 126a-128a. The court found that petitioner "professed ignorance" as to the Sperro program at the initial creditors' meeting even though he "knew full well" what it was and "how it worked," and that he "ratified participation" in the program when he filed the Williamses' petition. *Id.* at 130a-132a. Because petitioner was a partner in UpRight, the court held him "equal[ly] responsib[le]" for UpRight's unethical conduct in "touting and pushing the Sperro [p]rogram." *Id.* at 133a. Additionally, the court found that petitioner did "not act[] appropriately" when his conflict of interest "came to light" during discovery or when he filed the Williamses' bankruptcy petition without appropriately obtaining a client signature. *Id.* at 130a.[2] The court

[2] The bankruptcy court indicated that the error with the Williamses' signatures was that petitioner improperly filed an amendment to the Chapter 7 petition without their permission or wet signatures.

concluded that petitioner's conduct had violated his obligations as an officer of the court and run afoul of Virginia Rules of Professional Conduct 5.1(c) and 5.3. Pet. App. 131a-133a.

Based on those findings and on petitioner's "past disciplinary history with the [bankruptcy court], specifically designed to correct past practice deficiencies in [that court]," Pet. App. 134a, the bankruptcy court revoked petitioner's privileges to practice before that court for one year and further ordered him to pay $5000 to the Williamses to compensate them for the "stress, anxiety, and inconvenience" that they suffered in taking part in the case. *Id.* at 155a n.85.

3. The district court affirmed in full the discipline imposed against petitioner. Pet. App. 35a-63a. The court held that the bankruptcy court had authority to impose the sanctions and did not abuse its discretion in holding petitioner responsible for his conduct and for the acts of other UpRight employees, as a partner of the firm. *Id.* at 39a-42a, 58a-59a. Accepting the bankruptcy court's findings that petitioner engaged in misconduct in representing the Williamses, *id.* at 58a, and that the Williamses were harmed as a result of that misconduct, *id.* at 63a n.11, the district court held that the relief imposed was within the bankruptcy court's discretion, *id.* at 59a.

Pet. App. 130a. It appears that the court conflated petitioner's conduct with that of another attorney on that point. See *id.* at 97a-98a. Petitioner's own misconduct in that regard was the failure to comply with his obligation to witness his clients' signatures on their petitions. See C.A. App. 294, 436-438. Given that failure, any error in the court's description was harmless. In any event, that particular misconduct was only one of several improprieties on which the court based its sanctions against petitioner. See Pet. App. 130a-134a.

The district court also affirmed the measures issued against all but one of the other defendants, but remanded to the bankruptcy court to assess the ability of some of those defendants to pay. Pet. App. 36a. Upon remand, those defendants entered into a consent decree in which they agreed to pay a reduced monetary amount (some of which was forwarded to the Williamses) and to adhere to a longer practice revocation period. C.A. App. 851-861. The consent decree stated that it in no way "modified, abated, reduced, or otherwise changed" the original disciplinary order against petitioner. *Id.* at 859; see *id.* at 746. When the case returned to the district court, it reaffirmed that the bankruptcy court properly disciplined petitioner. Pet. App. 15a-18a.

4. A unanimous panel of the court of appeals affirmed. Pet. App. 1a-14a. The court concluded that the bankruptcy court complied with due process because petitioner had appropriate "notice and an opportunity to prepare" his defense. *Id.* at 9a. The court explained that the complaint "provided detailed and specific allegations of misconduct," "specified the provisions of the Bankruptcy Code that the Trustee alleged [petitioner] violated," and "identified the exact sanctions that were ultimately imposed." *Id.* at 9a-10a. Although "the complaint did not cite to the Virginia Rules of Professional Conduct that [petitioner] was ultimately found to have violated," "[t]he complaint adequately notified [him] of the conduct for which he was being accused and the sanctions that were being sought." *Id.* at 10a. The court noted that petitioner was afforded the opportunity to conduct discovery, "present[] evidence, cross-examine[] witnesses," and "ma[k]e arguments." *Ibid.* The court also found "unpersuasive" petitioner's argument that he lacked notice that a "criminal sanction was to be

sought." *Id.* at 12a n.6. The court determined that the sanction was not criminal, as it was "designed to promote deterrence and compensate the Williamses." *Ibid.*

The court of appeals also rejected petitioner's argument that the bankruptcy court should have "ignored his post-complaint conduct in seeking conflict of interest waivers," concluding that the bankruptcy court correctly considered that evidence in response to "his arguments that he had taken corrective action after his initial misconduct." Pet. App. 10a.

Reviewing the record, the court of appeals found "no error in the bankruptcy court's factual findings," and it rejected petitioner's contention that the bankruptcy court abused its discretion in sanctioning him. Pet. App. 12a n.5.

5. The court of appeals denied a petition for panel rehearing. Pet. App. 20a.

ARGUMENT

Petitioner contends (Pet. 15-32) that the bankruptcy court abused its discretion in sanctioning him and violated his due process rights, his First Amendment rights, and his clients' privilege against self-incrimination. Those arguments are meritless. The court of appeals' decision does not conflict with any decision of this Court or another court of appeals. Further review is not warranted.

1. The court of appeals correctly concluded that the bankruptcy court acted within its discretion when it sanctioned petitioner.

a. Courts possess "inherent authority" to discipline lawyers, including by suspending them and imposing monetary penalties. *In re Snyder*, 472 U.S. 634, 643 (1985); *Roadway Express, Inc.* v. *Piper*, 447 U.S. 752, 766 (1980). To accord with due process, the imposition

of such civil sanctions requires "fair notice and an opportunity for a hearing on the record." *Roadway Express*, 447 U.S. at 767.

The court of appeals correctly held that the bankruptcy court complied with due process when it suspended petitioner from practice before that court for one year and imposed a $5000 penalty to compensate the Williamses for their harms. The U.S. Trustee filed a complaint advising petitioner of the alleged misconduct. Pet. App. 4a-5a. And the bankruptcy court allowed petitioner to conduct extensive discovery before holding a four-day bench trial. *Id.* at 66a. When petitioner's conduct relating to the conflict of interest arose during the proceeding, the bankruptcy court allowed petitioner to address that conduct in his testimony and in briefing. *Id.* at 11a. The proceeding thus afforded petitioner more than adequate notice and opportunity to be heard and so satisfied due process. See *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); see also *Martinez* v. *City of Chicago*, 823 F.3d 1050, 1055 (7th Cir. 2016) (holding that to provide notice, either the opposing party or the court must inform the attorney what conduct may be sanctioned); *Collins* v. *Daniels*, 916 F.3d 1302, 1320 (10th Cir.), cert. denied, 140 S. Ct. 203 (2019) (holding that to provide an opportunity to be heard, the court need only allow for briefing; an evidentiary hearing is not required).

b. Petitioner nonetheless contends (Pet. 20-28) that his due process rights were violated because the bankruptcy court purportedly imposed a criminal penalty and relied on allegations not contained in the complaint. Those arguments are unavailing.

Petitioner argues (Pet. 20-25) that the $5000 penalty was a criminal penalty—which would have required

additional process—because it was punitive rather than compensatory. According to petitioner (Pet. 21), because other defendants had settled the claims against them and made payments to the Williamses following the bankruptcy court's initial imposition of sanctions, the Williamses had already been fully compensated for their harms. But the bankruptcy court did not impose penalties jointly and severally on the defendants. Rather, it determined that *petitioner's* misconduct caused the Williamses "stress, anxiety, and inconvenience," necessitating that he pay them $5000. Pet. App. 155a n.85. The district court and court of appeals correctly credited that finding, see *id.* at 12a n.6, 64a n.11, which is "entitled to substantial deference on appeal." *Goodyear Tire & Rubber Co.* v. *Haeger*, 581 U.S. 101, 110 (2017).

Petitioner's claim (Pet. 25, 32) that he received insufficient notice also fails. The complaint filed by the U.S. Trustee supplied detailed factual allegations, C.A. App. 2-18, the U.S. Trustee's legal theory, *id.* at 18-21, and the relief sought, *id.* at 22. And the sanction the bankruptcy court ultimately imposed precisely aligned with the relief that was sought in the complaint. Compare *id.* at 22, with Pet. App. 134a. That is all the notice due process requires. See, *e.g.*, *Martinez*, 823 F.3d at 1055; *Law Solutions of Chi. LLC* v. *Corbett*, 971 F.3d 1299, 1319 (11th Cir. 2020) (affirming sanctions order against UpRight, including monetary sanctions and revocation of filing privileges, based on a similar complaint and hearing procedure).

Nor did the bankruptcy court's decision to admit and consider post-complaint conduct deprive petitioner of meaningful notice and opportunity to be heard. As the court of appeals noted, petitioner "was given the opportunity to respond to the post-complaint conduct issues

through his direct testimony and post-complaint briefing." Pet. App. 11a. And this Court has expressly recognized that such "notice and opportunity to respond" are "sufficient to satisfy the demands of due process," even when the theory of discipline relied upon by the court is "different from the theory asserted * * * in [the] complaint." *Zauderer* v. *Office of Disciplinary Counsel*, 471 U.S. 626, 654-655 (1985).

For the same reasons, petitioner cannot succeed in claiming (Pet. 26-27) that he lacked notice of the allegation that he failed to appropriately obtain and witness signatures from the Williamses on their petition. Petitioner was put on notice of the allegation during discovery and during trial. See C.A. Supp. App. 42; D. Ct. Doc. 198, at 79-81 (Nov. 21, 2017). Indeed, petitioner made use of the opportunity to respond by disputing the factual assertions in his post-trial briefing, without ever challenging the notice provided. D. Ct. Doc. 230, at 88-89 (Jan. 4, 2018).

c. Petitioner also invokes the First Amendment, the Fifth Amendment, and the Ex Post Facto Clause; and he challenges the lower courts' factual findings. Each of those arguments fails.

Petitioner asserts (Pet. 16-17) that the sanctions violated his First Amendment right to free speech and his clients' Fifth Amendment privilege against self-incrimination. But petitioner did not raise any such arguments before the court of appeals, and this Court should not address them in the first instance. See *Cutter* v. *Wilkinson*, 544 U.S. 709, 718 n.7 (2005) (noting that this Court is one "of review, not of first view").

In any event, petitioner's arguments fail. Despite his contentions (Pet. 16-17), petitioner was not sanctioned for advising his clients to invoke attorney-client

privilege. Rather, he was sanctioned because he continued to represent his clients—and pressured them to sign a conflict waiver—when he had a personal stake in resisting the U.S. Trustee's subpoena. Pet. App. 130a; see *id.* at 6a, 8a. That behavior does not implicate petitioner's right to speak as an attorney or his clients' Fifth Amendment rights. The First Amendment does not protect conduct in undertaking a conflicted representation. See, *e.g.*, *Board of Educ.* v. *Nyquist*, 590 F.2d 1241, 1245 (2d Cir. 1979) (noting that an attorney does not have a "First Amendment right to conduct any particular representation, in the face of ethical proscriptions to the contrary"). And the Fifth Amendment does not shield the recipient of a valid subpoena from turning over non-testimonial documents in his possession. *Fisher* v. *United States*, 425 U.S. 391, 409-410 (1976). Nor may petitioner assert the Fifth Amendment rights of a third party. *Rakas* v. *Illinois*, 439 U.S. 128, 140 n.8 (1978).

Petitioner invokes (Pet. 28-30) the Ex Post Facto Clause, claiming that the bankruptcy court applied a new ethical standard in sanctioning him for the conduct of others at his firm. The court did not announce any new standard, see pp. 14-15, *infra*. But regardless, the Ex Post Facto Clause applies only to "certain types of criminal statutes," *Carmell* v. *Texas*, 529 U.S. 513, 522 (2000), or proceedings that are so punitive that they cannot be deemed civil, *Smith* v. *Doe*, 538 U.S. 84, 92 (2003). It is not implicated by petitioner's sanctions for violations of the rules of professional conduct, which were "designed to promote deterrence and compensate" his clients, not to punish. Pet. App. 12a n.6.

Petitioner's challenges (Pet. 18) to the bankruptcy court's factual findings that he engaged in misconduct

likewise fail. Both the district court and the court of appeals reviewed the factual record and found no error in the bankruptcy court's findings. Pet. App. 12a n.5, 57a. Under this Court's two-court rule—which has even more force when, as here, *three* separate courts have reviewed the factual record and have come to the same conclusion—further review of that factbound determination is unwarranted. See *Exxon Co.* v. *Sofec, Inc.*, 517 U.S. 830, 841 (1996) (citing *Graver Tank & Mfg. Co.* v. *Linde Air Prods. Co.*, 336 U.S. 271, 275 (1949)); *Branti* v. *Finkel*, 445 U.S. 507, 512 n.6 (1980) (discussing this "settled practice"); see also *United States* v. *Johnston*, 268 U.S. 220, 227 (1925) ("We do not grant * * * certiorari to review evidence and discuss specific facts.").

2. The decision below does not conflict with any decision of this Court or another court of appeals. The conflicts that petitioner asserts are illusory.

a. Petitioner contends that the decision below conflicts with several decisions of this Court. See Pet. 16 (citing *Gentile* v. *State Bar of Nevada*, 501 U.S. 1030 (1991)); Pet. 20-24, 31-32 (citing *Goodyear*, *supra*, and *International Union* v. *Bagwell*, 512 U.S. 821 (1994)); Pet. 25, 32 (citing *In re Ruffalo*, 390 U.S. 544 (1968)); Pet. 29 (citing *Bouie* v. *City of Columbia*, 378 U.S. 347 (1964)). That is incorrect. The court of appeals properly applied this Court's precedent.

Consistent with *Goodyear* and *Bagwell*, the court of appeals recognized that civil sanctions must be compensatory not punitive. Compare Pet. App. 12a n.6, with *Bagwell*, 512 U.S. at 829, 833; *Goodyear*, 581 U.S. at 108. Consistent with *Ruffalo*, the court recognized that an attorney must have notice of misconduct allegations before he can be sanctioned. Compare Pet. App. 9a, with *Ruffalo*, 390 U.S. at 550. And nothing in the court of

appeals' decision is inconsistent with *Gentile*, which contemplates that "lawyers in pending cases [may be] subject to ethical restrictions on speech to which an ordinary citizen would not be," 501 U.S. at 1071, or with *Bouie*'s discussion of ex post facto laws, which is irrelevant to the civil sanctions at issue here, see *Bouie*, 378 U.S. at 350-351.

b. Attempting to find a conflict among the circuits, petitioner first asserts that the court of appeals created a conflict with the Sixth, Ninth, and Eleventh Circuits because those circuits forbid bankruptcy courts from imposing serious punitive sanctions. Pet. 24 (citing *Adell* v. *John Richards Homes Bldg. Co.* (*In re John Richards Homes Bldg. Co.*), 552 Fed. Appx. 401 (6th Cir. 2013), cert. denied, 572 U.S. 1101 (2014); *Knupfer* v. *Lindblade* (*In re Dyer*), 322 F.3d 1178 (9th Cir. 2003); and *Gowdy* v. *Mitchell* (*In re Ocean Warrior, Inc.*), 835 F.3d 1310 (11th Cir. 2016)). But the court of appeals did not hold otherwise. Instead, the court correctly affirmed the sanctions imposed on petitioner as compensatory. Pet. App. 12a n.6.

Petitioner next claims that the decision below conflicts with decisions of the Second, Third, Seventh, and Ninth Circuits because those circuits forbid sanctioning an attorney without disclosing the alleged misconduct in advance. Pet. 26-27 (citing *Nuwesra* v. *Merrill Lynch, Fenner & Smith, Inc.*, 174 F.3d 87 (2d Cir. 1999) (per curiam), *Fellheimer, Eichen & Braverman, P.C.* v. *Charter Techs., Inc.*, 57 F.3d 1215 (3d Cir. 1995), *Johnson* v. *Cherry*, 422 F.3d 540 (7th Cir. 2005), and *In re Deville*, 280 B.R. 483 (B.A.P. 9th Cir. 2002), aff'd 361 F.3d 539 (9th Cir. 2004)). But the court of appeals likewise adhered to that rule. See Pet. App. 9a-10a; see also *Projects Mgmt. Co.* v. *Dyncorp Int'l LLC*, 734 F.3d 366,

375-376 (4th Cir. 2013) (requiring that an attorney be given notice of alleged misconduct and potential consequences and be given a meaningful opportunity to be heard). In the decision below, the court of appeals explained that the complaint had provided "detailed and specific allegations of misconduct" and advised petitioner of the "exact sanctions that were ultimately imposed," and further that petitioner had received a full "opportunity to prepare and present a defense." Pet. App. 9a-10a.

Finally, petitioner asserts that the court of appeals diverged from the Second, Third, and Eleventh Circuits because those circuits limit the issuance of sanctions based on a court's inherent authority to instances of bad faith specific to the sanctioned attorney. Pet. 29-31 (citing *Wolters Kluwer Fin. Servs., Inc.* v. *Scivantage*, 564 F.3d 110 (2d Cir.), cert. denied, 558 U.S. 1037 (2009), *CTC Imports & Exports* v. *Nigerian Petroleum Corp.*, 951 F.2d 573 (3d Cir. 1991), cert. denied, 504 U.S. 914, and 506 U.S. 917 (1992), and *JTR Enters., LLC* v. *Columbian Emeralds*, 697 Fed. Appx. 976 (11th Cir. 2017)). The bankruptcy court acted in accordance with that rule by determining that petitioner engaged in personal misconduct when he ratified the misconduct of his law firm, Pet. App. 131a-132a, and failed to uphold his responsibility as a partner to prevent his firm's employees from violating ethical rules, *id.* at 132a-134a. The bankruptcy court also found that petitioner knew about the actions of UpRight and its employees, including the Sperro program. *Id.* at 131a. It thus made specific findings about his conduct and disciplined him for his own acts and omissions.

In any event, petitioner mischaracterizes the law of the Second, Third, and Eleventh Circuits. Those circuits

simply hold that the bad faith of one firm member "'may not automatically be visited' on others." *Wolters Kluwer*, 564 F.3d at 114 (citation omitted); see *CTC Imports*, 951 F.2d at 578 (requiring "particularized findings and conclusions" for each sanctioned party); *JTR Enters.*, 697 Fed. Appx. at 987 (denying sanctions where firm was not "involved in the fraud" and non-attorney employee did not "substantially participate[]" in or "control" the relevant litigation). And indeed, both the Second and Third Circuits have indicated that a party may be held responsible for the bad faith of another in certain circumstances. *Browning Debenture Holders' Comm.* v. *DASA Corp.*, 560 F.2d 1078, 1089 (2d Cir. 1977) (contemplating imputation of bad faith when a party is "personally * * * aware of or otherwise responsible for" misconduct); see *CTC Imports*, 951 F.2d at 579 (holding that in considering Rule 11 sanctions, conduct of one party "may not be imputed to the other unless it is reasonable to do so").

In short, petitioner's cases do not establish a general rule that the conduct of an attorney's firm or colleagues may never be imputed to him. The law in the Fourth Circuit, as in others, is that in some but not all circumstances, imputing bad faith is appropriate, where individualized findings are made for each sanctioned party. There is no circuit split.

3. At best, petitioner challenges the lower courts' factual findings or application of a properly stated rule of law. He does not and cannot contend that the court of appeals misstated the law. Instead, petitioner complains that the court of appeals "rejected [his] argument that the sanction in this case was criminal," Pet. 20, "permitted [consideration of] new allegations," Pet. 27, and "declined to consider" his attorney-client privilege

argument, Pet. 17. Even if any of those claims were correct, such fact-bound error correction does not warrant this Court's review. See Sup. Ct. R. 10.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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