

No. 25-940

IN THE
Supreme Court of the United States

MONIB A. ZIRVI,

Petitioner,

v.

AKIN GUMP STRAUSS HAUER & FELD, LLP, *et al.*,

Respondents.

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

SUPPLEMENTAL BRIEF

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Counsel for Petitioner respectfully submits this brief pursuant to Supreme Court Rule 15.8 to advise the Court of a material development in the underlying federal record bearing on the Petitioner’s attorney-client relationship and duty questions, and on the Petitioner’s showing that the courts below failed to address serious attorney-misconduct issues preserved in the record.

On April 13, 2026, Petitioner filed in the United States District Court for the District of New Jersey, *Zirvi v. Illumina, Inc.*, et al., No. 2:23-cv-01997 (MCA) (JSA), a post-judgment motion to restore public access to ECF 107 and its attachments, including Exhibit 7 (ECF 107-7), which consists of more than 1,600 pages of email correspondence involving Petitioner and Akin Gump attorney Matthew A. Pearson. The district-court record reflects that Exhibit 7 was filed under, temporary seal only, as a feasibility-based measure taken “in an abundance of caution,” with later document-by-document treatment to be supplied “as required.” The docket also reflects a clerk’s Rule 5.3 notice directing that any consolidated sealing motion be filed within 14 days, but no such sealing motion or sealing order as to ECF 107 appears on the docket. Petitioner’s motion therefore seeks restoration of public access or, alternatively, narrowly tailored redactions supported by the particularized showing required by Local Civil Rule 5.3.¹

1. Nov. 14, 2023 Letter to the District Court, re filing ECF 107 and sealing Exhibit 7, at 1 (stating that, “[i]n an abundance of caution,” counsel sealed the entire exhibit and would address sealing in a subsequent filing “as required”); ECF 107 docket text (Nov. 14, 2023) (directing that any consolidated motion to seal be filed within 14 days pursuant to Local Civil Rule 5.3(c)(2)); see also D.N.J. docket entries reflecting no later sealing motion or sealing order as to ECF 107.

This development bears directly on the Questions Presented because the Petition challenges the courts below for resolving the attorney-client relationship and duty issues at the pleading stage on an unduly restrictive view of attorney-client formation and attorney duty, notwithstanding contemporaneous documentary communications in the record and related sealing practices that obstructed access to that record. The sealed exhibit includes contemporaneous communications that Petitioner already identified in the Petition Appendix as reflecting Petitioner's treatment of Pearson as his attorney.² Those communications are referenced here not for the truth of the underlying patent dispute, but to identify the nature of the contemporaneous attorney-client communications now pending before the district court on Petitioner's motion to restore public access.

The newly highlighted record also bears on the Petition's discussion of *Johnson v. Mazie*, Nos. 24-1946 & 24-2056 (3d Cir. July 11, 2025) and the related Rule 28(j) proceedings in the Third Circuit. In Appendix K to the Petition, Petitioner argued that Johnson confirms a court's obligation to address collateral attorney-misconduct and sanctions issues even when merits dismissal is otherwise entered. Respondents answered that Johnson was inapplicable because, in their words, "Zirvi filed no sanctions motion against Akin."³

2. Petition App. K, 125a (citing ECF 107-7 at 192-93 and identifying contemporaneous October 31, 2015 communications from Petitioner to Matthew Pearson reflecting attorney-client treatment); see also ECF 107-7 at 192-93.

3. Petition App. K, 128a (Respondents' Rule 28(j) response stating that "Zirvi filed no sanctions motion against Akin," and therefore *Johnson v. Mazie* was inapplicable); id. at 124a-125a, 131a (Petitioner's Rule 28(j) submissions invoking *Johnson v. Mazie*).

The district-court record now shows why that response was materially incomplete. In opposing Rule 11 sanctions motions filed by Illumina and Thermo Fisher, Petitioner expressly argued in a separate headed section that “it is the moving defendants who deserve to be sanctioned,” invoked Rule 11’s fee-shifting language, cited authority that counsel may be sanctioned for filing a frivolous sanctions motion, and expressly stated that “no cross motion for sanctions is required under Rule 11.”⁴

That sanctions record is relevant here because Akin Gump, Matthew Pearson, and Angela Verrecchio were already named defendants in *Zirvi v. Illumina*, and Petitioner’s filing did not confine the alleged misconduct to the formal Rule 11 movants alone. Rather, it repeatedly referred to the “Defendant Attorneys,” identified Pearson and Verrecchio by name, and alleged that the sanctions motions were part of a broader effort, undertaken with the aid of defense counsel, to ensure that the settlement agreements and related misconduct “are never seen.”⁵ Thus, even though Akin Gump did not itself file the Rule 11 motion against Petitioner, the record shows that Petitioner did place sanctions-related relief before the district court and did so in a way that encompassed the defense-side

4. ECF 107, at 40-43 (section titled “SANCTION OF THE PLAINTIFF IS INAPPROPRIATE; INSTEAD, IT IS THE MOVING DEFENDANTS WHO DESERVE TO BE SANCTIONED”); *id.* at 42 (“no cross motion for sanctions is required under Rule 11”).

5. ECF 107, at 40-43 (referring to “Defendant Attorneys,” identifying Matthew Pearson and Angela Verrecchio, and alleging that the sanctions motions were designed to make sure the settlement agreements “are never seen”); Nov. 14, 2023 filing letter at 1-2 (case caption naming Akin Gump, Pearson, and Verrecchio as defendants).

attorney misconduct now relevant to the Petition's duty, concealment, accrual, and process-integrity themes.

This supplemental development does not expand the Petition. It sharpens an issue already preserved there: whether the lower courts could dismiss Petitioner's later-accruing malpractice and concealment claims while refusing to grapple with contemporaneous documentary evidence supporting an implied attorney-client relationship and with record allegations of sanctions-worthy attorney misconduct. The pending motion to restore public access and the sanctions record together underscore that the questions presented are not abstract. They arise from a concrete record containing contemporaneous attorney-client communications, disputed restrictions on access to judicial records, and a preserved request that the lower courts address defense-side misconduct rather than treat it as procedurally invisible.

Petitioner respectfully submits this supplemental development for the Court's consideration under Rule 15.8.

Respectfully submitted,

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