

MAY 13 2026

No.: 25A1303

IN THE SUPREME COURT OF THE UNITED STATES

KUSMIN L. AMARSINGH,
Petitioner,

v.

FRONTIER AIRLINES, INC.,
Respondent.

EMERGENCY APPLICATION: TO THE HONORABLE NEIL M. GORSUCH,
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES
AND CIRCUIT JUSTICE FOR THE TENTH CIRCUIT

Submitted by:

/s/ Linda Amarsingh

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

JURISDICTION

Petitioner submits this application under Supreme Court Rule 22 and 28 U.S.C. §§ 1651(a) and 2101(f) to the Honorable Neil M. Gorsuch, Associate Justice and Circuit Justice for the Tenth Circuit. The application seeks interim relief from the imposition of inherent-authority sanctions entered despite an express finding of no bad faith and without the procedural safeguards this Court requires for punitive or quasi-disciplinary measures.

The court of appeals entered judgment on February 9, 2026; denied rehearing on March 6, 2026; and issued its mandate on March 16, 2026. It denied Petitioner's motion to recall the mandate on April 26, 2026. Petitioner intends to file a timely petition for a writ of certiorari under 28 U.S.C. § 1254(1).

Under 28 U.S.C. § 2101(f), this Court may grant a stay of the judgment below to preserve its jurisdiction and prevent irreparable harm pending disposition of the petition. Interim relief is therefore available and appropriate.

NATURE OF THE EMERGENCY

The sanctions order at issue was entered under the court of appeals' inherent authority despite an express finding of no bad faith and without the procedural safeguards this Court requires for punitive or quasi-disciplinary measures. The order rests on misstatements of material facts, reliance on a docket entry that never existed in operative form, and interpretations of the record that Petitioner had no ability to correct. It further assigns responsibility to Petitioner for procedural events outside her control, including docket modifications and the timing of the bar referral.

The sanctions include a published reprimand that has already received wide dissemination because it addresses emerging issues involving the use of artificial intelligence in legal practice. On the day the judgment issued, Petitioner began receiving inquiries from legal journals and professional publications seeking comment. The reputational consequences were immediate and continue to unfold.

As this Court has recognized, official accusations of professional misconduct carry "foreseeable and lasting" effects that cannot be undone by later review. *In re Snyder*, 472 U.S. 634, 643 (1985); *Barr v. Matteo*, 360 U.S. 564, 575 (1959).

Because the mandate has issued and the sanctions order is the only published judgment in the case, the harm is ongoing and irreparable. Interim relief is necessary to preserve this Court’s jurisdiction and prevent further injury while the petition for certiorari is prepared and filed.

PROCEDURAL IRREGULARITIES WARRANTING RELIEF

The record speaks for itself. The relevant events appear in the District Court’s judgment, the Court of Appeals’ Order to Show Cause, Petitioner’s responses, the Final Judgment, and the entries that followed. These exhibits, presented concisely in this emergency application, reflect the sequence of procedural steps giving rise to the present request for relief and the reputational harm Petitioner now faces.

The procedural record begins with the Clerk’s April 4, 2025 Order directing Appellee to serve Petitioner within three days. (Ex. 1A). The docket contains no certificate of service, no notation of service, and no indication that Petitioner received the filing referenced in that order. (Ex. 1). The later Order to Show Cause nonetheless expressed concern that Petitioner had attempted to “blame the clerk” and stated that she could have “clicked on the docket” entry dated February 25, 2025. (Ex. 6). The Clerk’s subsequent notation, however, identified that same docket entry as deficient. Petitioner respectfully notes that the absence of service is apparent on the face of the docket. Under *Mullane v.*

Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950), actual notice is a prerequisite to meaningful participation. Even if the conflicting docket entries resulted from clerical error, Petitioner’s reliance on the docket—as the official record—was reasonable. These circumstances weigh in favor of lesser sanctions rather than the exercise of inherent authority.

The record further reflects that Petitioner filed a corrected brief on January 31, 2026. (Ex. 4), 9 days before the final judgment. But the docket later showed that this filing was removed, renamed as an “Amended Brief,” assigned a new filing date matching the date of judgment, and excluded from the record. (Ex. 1). The Order to Show Cause then faulted Petitioner for not correcting certain citations. (Ex. 2). Petitioner respectfully notes that the corrected brief was filed, and that the subsequent docket changes occurred without notice. These changes are documented in Exhibit 1.

The Order to Show Cause also expressed concern about Petitioner’s characterization of the district court’s reasoning. (Ex. 2). Petitioner respectfully notes that the district court’s order itself described the comparator as African American, relied on the racial composition of the group left behind, and applied but-for causation at the pleading stage. (Ex. 10). Petitioner’s appellate briefing quoted these passages directly. Any divergence between the OSC’s understanding and the district court’s language appears to stem from the underlying order, not from any misstatement by Petitioner.

The OSC further stated that Petitioner “required” the magistrate judge to weigh evidence. (Ex. 2). Petitioner respectfully notes that her filings argued the opposite: that the magistrate judge had already weighed competing explanations and considered matters outside the pleadings. (Ex. 10). These arguments were procedural in nature and grounded in Rule 12(b)(6) and Rule 12(d). Petitioner did not request credibility determinations; she identified where such determinations appeared in the record.

The timing of the bar referral also contributed to the concerns reflected in the OSC. Petitioner filed her compliance affidavit and request for non-referral on February 9 and 10, 2026. (Ex. 5). The court denied the request as moot because the referral had already been transmitted. (Ex. 6). The OSC expressed concern that Petitioner had not adequately addressed the issues before the referral. (Ex. 2). Petitioner respectfully notes that the referral preceded the court’s consideration of her affidavit, as reflected in Exhibits 5 and 6.

Additional procedural complexity arose after the mandate issued. On April 24, the Court of Appeals denied the motion to recall the mandate. (Ex. 9). The docket reflects that certain entries and modifications occurred after that date. (Ex. 1). Petitioner does not challenge the court’s authority; she simply notes that these entries occurred after jurisdiction had returned to the district court, and that she had no procedural mechanism to address or correct them.

Finally, the OSC stated that Petitioner “could have clicked on the docket” to obtain filings. (Ex. 2). Petitioner respectfully notes that the April 4 Clerk’s Order required actual service (Ex. 1A), the docket reflects no such service (Ex. 1), and certain filings referenced in the OSC never appeared on the docket at all. Petitioner does not dispute that litigants may consult the docket. She simply notes that constructive notice cannot substitute for actual service where the docket does not contain the filing in question.

Petitioner offers these clarifications not to assign fault, but to ensure that the procedural record is accurately understood. The sanctions order rests on concerns that, as reflected in Exhibits 1 through 11, arose from circumstances outside Petitioner’s control. In a system committed to regular order, sanctions should not be imposed for procedural events that the record shows the litigant neither caused nor could have corrected. Petitioner has accepted responsibility for her own errors; she respectfully asks only that the record be viewed as it exists.

RELIEF REQUESTED

The mandate has issued, and the sanctions order has been published and widely disseminated because it addresses emerging questions concerning the use of artificial intelligence in legal practice. On the same day the judgment was released, Petitioner began receiving inquiries from legal journals and

professional publications seeking comment. The reputational consequences were immediate and recurring. As this Court has recognized, official accusations of professional misconduct carry “foreseeable and lasting” reputational effects that cannot be undone by later review. *In re Snyder*, 472 U.S. 634, 643 (1985); *Barr v. Matteo*, 360 U.S. 564, 575 (1959). The harm here is therefore not speculative; it is present, ongoing, and irreparable. Petitioner made multiple attempts to correct the record through the District and Appellate Courts, but for reasons that are unclear, the corrections were never recognized or made part of the record. As a result, the sanctions order relies on an inaccurate record and misstatements of material facts. If the corrections were made, the outcome would have been materially and substantially different.

CONCLUSION

This case presents structural defects that reach the foundations of appellate practice: the requirement of clear notice before punitive sanctions, the obligation to act within jurisdictional limits, and the necessity of decisions grounded in an accurate and transparent record. Petitioner accepts responsibility for her own filings and corrective actions. But the sanctions order rests on a docket entry that never existed in operative form, on comparator facts recast at the pleading stage, and on a shifting sanctions

theory imposed despite an express finding of no bad faith. The resulting bar referral has already produced immediate and irreversible reputational harm, harm that no later reversal can remedy.

Emergency relief is warranted. A stay will preserve this Court's ability to review the questions presented, prevent further irreparable injury, and ensure that the exercise of inherent judicial authority remains anchored in regular order.

Petitioner therefore respectfully requests that the Court grant the application for a stay pending disposition of the petition for a writ of certiorari.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 12, 2026, I mailed a copy of this application to the Clerk of Court of the US Supreme Court, Emergency Docket, and served a true and correct copy of the foregoing **Emergency Application for a Stay Pending Petition for Certiorari**, with all accompanying exhibits and appendices, on the attorneys for the Defendant as follows:

Brian Timothy Maye at bmaye@fitzhunt.com

Thomas Werge at twerge@wclg.com

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Under Supreme Court Rules 33.1 and 33.2, I certify that this Emergency Application complies with the applicable word-count and formatting requirements.

This filing complies with the applicable word-count limits, excluding the parts exempted by Rule 33.1(d). The document is prepared in 12-point Bookman Old Style, double-spaced, with margins and formatting consistent with Supreme Court Rule 33.1.

Respectfully submitted,

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APPENDIX — LIST OF EXHIBITS

1. Exhibit 1 – Docket (Pre-Mandate) (Post-Mandate)
2. Exhibit 1A – Clerk’s Order (Appellee to Serve Appellant Within 3 Days)
3. Exhibit 2 – Order to Show Cause
4. Exhibit 3 – Petitioner’s Response to OSC
5. Exhibit 4 – Petitioner’s Corrected Brief
6. Exhibit 5 – Compliance Certificate & Request Not to Refer
7. Exhibit 6 – Final Judgment / Sanctions Order
8. Exhibit 7 – Request for Panel Rehearing
9. Exhibit 8 – Order Denying Rehearing
10. Exhibit 9 – Mandate
11. Exhibit 10 – District Court Final Judgment
12. Exhibit 11 – Proof of Publications (Ongoing Harm)
13. Exhibit 12 – Order denying motion to recall mandate

**Additional material
from this filing is
available in the
Clerk's Office.**