

No. _____

In the
Supreme Court of the United States

HOOPES VINEYARD LLC, HOOPES FAMILY WINERY
PARTNERS, LP, LINDSAY BLAIR HOOPES,
Applicants,

v.

NAPA COUNTY, et al.,
Respondents.

*On Application to Stay the California Court of Appeal, First District,
to the Honorable Elena Kagan, Associate Justice of the Supreme Court
of the United States and Circuit Justice for the Ninth Circuit*

EMERGENCY APPLICATION FOR STAY

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PARTIES TO THE PROCEEDING

The parties to the proceeding below are as follows:

Applicants in this Court are Hoopes Vineyard LLC, Hoopes Family Winery Partners, LP and Lindsay Blair Hoopes, who were the defendants in the superior court and the appellants in the court of appeals.

Respondents are Napa County, the People of the State of California ex. rel. Thomas Zeleny, and Akenya Robinson-Webb. The Respondents were the plaintiffs in superior court and the appellees in the court of appeals.

RELATED PROCEEDINGS

The related proceedings are:

Napa County v. Hoopes Family Winery Partners, LP, et al., No. 22CV001262 (Cal. Super. Ct. Napa County)

Napa County v. Hoopes Family Winery Partners, LP, et al., A175111 & A176066 (consolidated) (Cal. Ct. App.)

Napa County v. Hoopes Family Winery Partners, LP, et al., No. S296873 (Cal. 2026)

Hoopes Vineyard LLC, Summit Lake Vineyards & Winery LLC, Cook's Flat Associates LP v. County of Napa, No. 24-cv-6256 (N.D. Cal. Mar. 28, 2025) (dismissing all claims on abstention grounds)

Hoopes Vineyard LLC, Summit Lake Vineyards & Winery LLC, Cook's Flat Associates LP v. County of Napa, No. 25-2715 (9th Cir. Apr. 13, 2026) (affirming in part and reversing in part the abstention below)

RULE 29.6 STATEMENT

As required by Supreme Court Rule 29.6, applicants hereby submit the following corporate disclosure statement.

Hoopes Vineyard LLC has no parent corporations and no publicly held company owns 10% or more of stock.

Hoopes Family Winery Partners, LP, has no parent corporations and no publicly held company owns 10% or more of stock.

Lindsay Blair Hoopes is an individual.

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**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE
FOR THE UNITED STATES AND CIRCUIT JUSTICE
FOR THE NINTH CIRCUIT:**

Pursuant to Rules 22 and 23 of this Court and the All Writs Act, 28 U.S.C. § 1651, Applicants Hoopes Family Winery Partners LP, Hoopes Vineyard LLC and Lindsay Blair Hoopes (collectively “Hoopes”) respectfully seek an emergency stay of a January 27, 2026, California superior court judgment (App. 022a-027a) approving Napa County’s imposition of a massive \$1,525,000 civil fine, and the \$2,250,000 in private counsel fees the County incurred to impose it. The Napa Superior Court agreed with the County that Hoopes created a public nuisance by hosting harmless, State-approved wine tastings on its vineyard where wine tastings have been hosted by prior owners for over three decades, without issue, under a historic land use entitlement that has been in place since 1984. The County initially sought over \$8 million in fines, and not only went after the LLC and LP that own the winery, but also pursued Ms. Hoopes—a mother of four young children—personally. The nearly \$4,000,000 judgment far exceeds both the property’s lifetime revenues and her personal net worth and will force liquidation of the property. The County is already aggressively pursuing execution and collection of the judgment, even though on appeal, Hoopes is challenging these fines as unconstitutionally excessive under the Eighth Amendment, and that claim both raises important questions on which lower courts are split and has merit. If this Court does not act to preserve the status quo, the County will gleefully execute the judgment before Hoopes’s appeal is resolved, the small family winery will likely be liquidated, and Ms. Hoopes will be driven into

personal insolvency and may even lose her home, and they will lose their opportunity for complete relief.

Ms. Hoopes and the winery contend that \$4,000,000 exceeds both their culpability and their ability to pay in violation of the Eighth Amendment's prohibition on excessive fines, and that they were entitled to a hearing on their ability to pay. Neither Ms. Hoopes nor the winery can pay the fine, nor can they secure a bond given the ongoing proceedings and ineligibility of winery assets as surety. The result is that unless this Court enters a stay, a family business and its proprietor will face imminent liquidation, homelessness, and a total loss of the business the Hoopes family has built for over four decades. If Hoopes is forced to immediately pay the very fines they are challenging as excessive, the courts will be deprived of the ability to render meaningful review of the important Eighth Amendment question because even if the appeal affirms that Hoopes was right all along and reduces or eliminates the fines, the business they seek to preserve by vindicating their constitutional rights will be long gone. The only way to preserve Hoopes's chance at a complete remedy is for this Court to enter a stay, without which the Eighth Amendment's guarantee against excessive fines is functionally meaningless.

STATEMENT OF THE CASE

A. Factual Background

Hoopes Vineyard LLC and Hoopes Family Winery Partners, LP own and operate a small 8-acre vineyard in Napa County, California. Lindsay Hoopes, formerly an assistant District Attorney in San Francisco, returned to Napa to help with the family

winery business and care for her father and mother following an organ transplant and cancer diagnosis, respectively. Though the Hoopes Family has produced wine on another Napa vineyard since 1983, in 2017 it purchased a new 8-acre vineyard, via a Small Business Loan, to help the business reach new customers with a tasting room and regenerative farm experience dubbed “the Oasis by Hoopes.”

As is the case for many properties in Napa County, wine tastings had been conducted on the property by prior owners under a Small Winery Exemption (SWE) issued by the County in 1984 and amended in 1987.

Hoopes sought to renovate the existing buildings and obtained permits from Napa County to do so. It then turned an aging property into a homey, functioning, and modernized but unpretentious winery and tasting room. Throughout the renovation, Napa County gave inconsistent and conflicting answers to inquiries about how the property could be used.

In August 2019, Napa County reported to the state Alcoholic Beverage Control (ABC) that tastings were “allowed and approved” on the property since 1987, which allowed ABC to issue a Type 02 Winery License to the Hoopes Oasis and confirm that such a license—which explicitly allows tastings—was not in conflict with local zoning laws.

But in February 2020, before the Oasis had even opened, Napa County sent a Notice of Apparent Violation alleging the winery was exceeding its SWE by advertising wine tastings on the property. Over the next two years, Hoopes made continuous good

faith efforts to communicate with the County, to determine the property's entitlements and to pursue administrative options to resolve any disputes.

Hoopes's efforts at compliance and resolution were met with vague and inconsistent answers from the County as to whether wine tastings were permissible under its SWE. Hoopes sought materials for an amended permit if one was needed, but the County refused that request. Hoopes also requested an administrative hearing seeking a written determination of the land use entitlements but was told there was no process for one. Napa County advised that if officials determined a violation occurred, the County would issue a citation. No citation was ever issued. In January of 2021 Hoopes applied to expand the outdoor tasting area; in March the state ABC authorized that expansion and re-affirmed that Hoopes's wine tasting activities were not in conflict with local zoning ordinances.

B. Procedural History

On October 20, 2022, Napa County sued Ms. Hoopes and the winery in superior court claiming that the wine tasting activities at the Oasis violated the Napa County Code because they exceeded the scope of its SWE. But the County was unable to point to any specific nuisance or any provision of the County Code that had been violated, relying instead on a theory of public nuisance per se.

Napa County requested a preliminary injunction and was denied. Undeterred, the County continued to pursue the litigation, racking up over \$2,250,000 in private attorney fees rather than relying on its multiple staff attorneys or enforcing through an administrative hearing, where fines would have been capped. Twelve months after

the conclusion of an 11-day bench trial, while Lindsay Hoopes was hospitalized following the delivery of her premature twin children (and after the County refused to agree to continuances despite her hospitalization), the superior court entered a preliminary injunction barring Hoopes from conducting tastings, which are the winery's primary means of revenue and small wineries' only hope of securing foot traffic or sales. The preliminary injunction was then stayed by the court of appeal via an interlocutory appeal and petition for writ of supersedeas.

Throughout the litigation, Hoopes argued that the fines and fees sought by the County, which at one point reached over \$8,000,000, were an excessive fine in violation of the Eighth Amendment—since they far exceeded Hoopes's culpability, far exceeded any known nuisance action, harmed no one, and would render Hoopes destitute. Before the court of appeal could rule on the expedited interlocutory appeal of the preliminary injunction, the superior court entered an identical permanent injunction and final judgment, including \$1,525,000 in civil penalties and over \$2,250,000 in attorney fees—despite never having held a hearing on Hoopes's ability to pay. The total monetary penalty of \$3,960,013.05 was imposed jointly and severally against the LLC, LP, and Lindsay Hoopes individually. App. 026a. In addition to appealing the judgment, Ms. Hoopes is currently appealing the imposition of alter ego liability.

Hoopes filed a motion to vacate the judgment based on the Excessive Fines Clause and again requested a hearing on ability to pay. The superior court denied this motion and stated that the excessive fines arguments, which had never been explicitly addressed, had been addressed “implicitly.” App. 038a. Hoopes filed motions for a stay

and requested a waiver of the bond due to indigency. The superior court entered a stay of the permanent injunction, meaning the winery could offer tastings throughout the appeal, and stayed the monetary judgment through April 9, 2026, but denied the bond waiver. App. 041a-050a.

Hoopes filed notice of appeal on March 30, 2026, and filed a petition for writ of supersedeas in the court of appeal on April 2, 2026, requesting an immediate stay of the monetary judgment. App. 052a-102a. The court of appeal granted a temporary stay of the fines on April 8, 2026. App. 103a. Before the appeal could be briefed, the court of appeal dissolved the stay of the fines and denied the petition for writ of supersedeas, on May 29, 2026, without warning. App. 104a. The result is that the winery may currently engage in the very activity Napa County says is so serious that it warrants nearly \$4,000,000 in fines that must be recouped immediately.

Hours after the stay was dissolved, Hoopes filed a petition for writ of mandate in the California Supreme Court seeking an emergency stay. App. 105a-154a. The California Supreme Court denied that petition on June 10, 2026. App. 155a.

REASONS FOR GRANTING THE APPLICATION

Lindsay Hoopes, Hoopes Family Winery Partners, LP, and Hoopes Vineyard LLC request a stay of the monetary judgment issued by the Superior Court of Napa County during the pendency of the appeal to conclude either upon the denial of a timely filed petition for certiorari from this Court or a final decision in the case following a grant of certiorari. Collection of the monetary judgment will force liquidation for both the winery and Lindsay Hoopes before the appeal can be heard, forcing the sale of the vineyard

property, dissolution of the business the constitutional lawsuit seeks to save, and imperiling the lawsuit. Hoopes can legally continue operating the Oasis, performing the same activities for which the fines are imposed, pursuant to the stay of injunction which was granted to avoid irreparable harm to the business. But without a stay of the monetary judgment, that protection is meaningless. The same irreparable harm, or worse, will be wrought by premature collection of the monetary judgment.

Hoopes presented a stay request to the superior court, the court of appeal, and the California Supreme Court, requesting immediate relief. App. 041a-051a, 052a-102a, 105a-154a. The superior court granted a stay through April 9. App. 041a-051a. The court of appeal initially granted a stay but dissolved the stay on May 29. App. 103a-104a. On the next business day, June 1, Napa County issued a writ of execution to collect nearly \$4,000,000 from both the winery and Lindsay Hoopes individually, forging ahead with its imminent destruction of the winery even though the case on appeal has not yet been briefed, let alone decided. The California Supreme Court denied Hoopes' request for emergency stay on June 10. App. 155a.

The appeal challenges both whether the judgment should have been imposed in the first place under state law as well as whether the fines are excessive in violation of the Eighth Amendment to the United States Constitution.

A Circuit Justice may grant an application for emergency stay of a state court order, pending disposition of an appeal in state court through final disposition in the U.S. Supreme Court, when there has been a sufficiently final denial of stay from the highest state court, *see, e.g., Malliotakis v. Williams*, 146 S. Ct. 809 (2026); *Nat'l Socialist*

Party of America v. Skokie, 432 U.S. 43, 44 (1977) (per curiam), or when “necessary or appropriate in aid of [the Court’s] jurisdiction[.]” 28 U.S.C. § 1651(a).

I. THIS CASE RAISES IMPORTANT QUESTIONS OF CONSTITUTIONAL LAW

Hoopes’s claim under the Eighth Amendment is likely to succeed on the merits; the superior court entered a nearly \$4,000,000 judgment without applying the proportionality analysis required by *Bajakajian*, without regard to Hoopes’s inability to pay, and in ignorance of the punitive nature of shifted attorney fees. App. 035a-038a. And Hoopes can show there is a “fair prospect that a majority of this Court will either grant a petition for a writ of certiorari and reverse the order below.” *See Hollingsworth v. Perry*, 558 U.S. 183, 191 (2010) (per curiam), because this case presents at least two “important question[s] of federal law that ha[ve] not been, but should be, settled by this Court,” and on which the lower courts are divided. *See* Sup. Ct. R. 10(c).

The first question is: can a defendant be required to pay an excessive fine before their timely appeal challenging the fine as excessive in violation of the Eighth Amendment can be heard? The superior court committed several errors related to Hoopes’s Excessive Fines claim: it refused to hold a hearing or even hear evidence related to Hoopes’s inability to pay (App. 035a-037a), it assumed the \$2,250,000 attorney fee award was not subject to an excessive fines analysis (App. 038a), and it did not perform the proportionality analysis required by *Bajakajian* as to the entire judgment. *United*

States v. Bajakajian, 524 U.S. 321 (1998). Indeed, when Hoopes once again raised the issue on the motion to vacate, the superior court held that the Statement of Decision’s discussion of penalties “implicitly” addressed the constitutional standard—even though the decision didn’t engage in an excessive fines analysis at all. App. 038a, 016a-019a. Those questions are important, and Hoopes should not be forced to pay the fine before they are resolved. Allowing collection of a fine before it has been reviewed under the Excessive Fines analysis turns the protective “shield” of the excessive fines clause into tissue paper. *Timbs v. Indiana*, 586 U.S. 146, 153 (2019).

This Court has long recognized that the existence of a right means there must be a remedy. As far back as *Marbury v. Madison*, 5 U.S. 137, 163 (1803), the Court has said that, “[t]he government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.” But here, once the fines are collected, a complete remedy for an Excessive Fines Clause violation will become impossible—the property will be sold, assets will be liquidated, and the business will be permanently closed.

“Magna Carta required that economic sanctions ‘be proportioned to the wrong’ and ‘not be so large as to deprive [an offender] of his livelihood.’” *Timbs*, 586 U.S. at 151 (quoting *Browning-Ferris Indus. of Vt. v. Kelco Disposal, Inc.*, 492 U.S. 257, 271 (1989)); see also 4 W. Blackstone, Commentaries on the Laws of England 372 (1769) (“[N]o man shall have a larger amercement imposed upon him, than his circumstances or personal estate will bear . . .”). Sale of the vineyard is more than a

loss of property, it is the destruction of Hoopes's livelihood—their business is grape-growing on that land, harvesting, and turning those grapes into wine. Particularly in winemaking, where the terroir is deeply tied to the wine and this family's legacy, the land is a necessary instrumentality of that livelihood and imparts unique characteristics that cannot be replicated elsewhere. Blackstone equated an excessive fine, meaning one that is larger than a man is able to pay, to life imprisonment. 4 Blackstone Commentaries at *373. If Hoopes is right that the County's exorbitant fine for conduct that harmed no one is excessive, money damages will not be adequate compensation for the total destruction of their family legacy as winemakers—it is a life sentence that cannot be commuted. Once the property is sold and the business is made insolvent by premature collection of the excessive fine, no compensation can make up for that loss.

Allowing the collection of a ruinous fine before its constitutionality has been determined guts the Eighth Amendment protections that this Court only held is incorporated against the states in 2019. *Timbs*, 504 U.S. at 149 (Thomas, J., dissenting). Most litigants facing an excessive fine will never make it to this Court due to the financial and emotional toll of appellate litigation. But for Ms. Hoopes's relentless determination, legal experience, and acquisition of pro bono counsel, she would not have made it this far. Now, through its mulish insistence on the immediate collection of millions in fines, the County seeks to make it difficult, if not impossible, to get a full remedy at all. A stay is needed to ensure that the guarantee against excessive fines is not an empty promise, and to preserve Hoopes's ability to pursue

her arguments about a recently incorporated Clause that needs defining by this Court.

The second question this case presents is whether courts must consider a defendant's ability to pay in the excessive fines analysis. On that question, there is a clear circuit split. The First and Eighth Circuits, and the Supreme Courts of California, Washington, and Colorado, have held that courts must consider the defendant's ability to pay before imposing a fine under the Excessive Fines analysis. *See, e.g., United States v. Emerson*, 107 F.3d 77, 81 (1st Cir. 1997) (reducing penalty based on defendant's "limited financial resources."); *United States v. Lippert*, 148 F.3d 974, 978 (8th Cir. 1998) ("defendant's ability to pay is a factor under the Excessive Fines Clause."); *People v. Kopp*, 580 P.3d 1055, 1068-69 (Cal. 2025) (court must consider defendant's inability to pay before imposing court assessments); *Colorado Dep't of Lab. & Emp. v. Dami Hosp., LLC*, 442 P.3d 94, 102, as modified on denial of reh'g (Colo. 2019) ("courts considering whether a fine is constitutionally excessive should consider ability to pay in making that assessment."); *City of Seattle v. Long*, 493 P.3d 94, 116 (Wash. 2021) ("ability to pay inquiry is necessary" in excessive fines analysis).

But while "[a] number of modern state and federal courts have joined the chorus of legal scholars to conclude that the history of the clause and the reasoning of the Supreme Court strongly suggest that considering ability to pay is constitutionally required," the Ninth and Eleventh Circuits have gone the other way. *Long*, 493 P.3d at 112-13; *see, e.g., Pimentel v. City of Los Angeles*, 115 F.4th 1062,

1072 (9th Cir. 2024), *cert. denied sub nom. City of Los Angeles, California v. Pimentel*, 145 S. Ct. 2735 (2025) (declining to incorporate a means-testing requirement for claims arising under the Excessive Fines Clause); *Yates v. Pinellas Hematology & Oncology, P.A.*, 21 F.4th 1288, 1318 (11th Cir. 2021) (Newsom, J., concurring) (“the Excessive Fines Clause, as originally understood, directs our attention to two discernible and instructive guideposts: (1) the proportionality between a fine and an offense, a factor that we have traditionally considered, and (2) the relationship between a fine and an offender’s ability to pay it, one that we have not.”)

Only this Court can resolve the split of authority and answer these important constitutional questions. This Court should grant the stay to preserve Hoopes’s ability to secure that resolution and ensure they are fully made whole in the event that they prevail.

II. FAILURE TO ISSUE THE STAY IRREPARABLY HARMS HOOPES

A stay is necessary to prevent irreparable harm to a small family business and mother of four small children, who will be made personally insolvent and destitute as punishment for activities that never harmed anyone, and that the County not only tolerated for decades, but directly benefitted from via collection of sales tax among other public benefits.

Hoopes has no hope of paying the judgment; this would have been apparent in an ability to pay hearing, as was requested multiple times.

Because the judgment is not only imposed against the LLC and LP, but also against Lindsay Hoopes personally, collection will force her into insolvency. She will be

deprived of her constitutional right under the Eighth Amendment, which alone will cause irreparable harm. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976) (the loss of constitutional rights “for even minimal periods of time, unquestionably constitutes irreparable injury.”); *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026) (“The denial of plaintiffs’ constitutional rights during the potentially protracted appellate process constitutes irreparable harm.”) What’s more, she will suffer irreparable harm from the complete loss of a business she and her father have built over the past four decades. *See Harmoni Int’l Spice, Inc. v. United States*, 211 F. Supp. 3d 1298, 1307 (Ct. Int’l Trade 2017) (citing *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 932 (1975) (“Bankruptcy or substantial loss of business is irreparable harm because, in addition to the obvious economic injury, loss of business renders a final judgment ineffective, depriving the movant of meaningful judicial review.”) The Hoopes Family will be forced to sell the Oasis vineyard property—indeed they have already been forced to sell their historic vineyard property which included their family home in 2023 to fund the litigation and keep the business afloat. “Normally the mere payment of money is not considered irreparable, but that is because money can usually be recovered from the person to whom it is paid.” *Philip Morris USA Inc. v. Scott*, 561 U.S. 1301, 1304 (2010) (Scalia, J., in chambers) (internal citation omitted). The Oasis vineyard property, by contrast, once sold off to pay the judgment or seized by Napa County, cannot be recovered.

Alteration of the status quo, by allowing collection of the judgment, is particularly inappropriate here where it runs the risk of “operat[ing], in effect, as a final judgment[.]”

See Trump v. Sierra Club, 588 U.S. 930, 931-32 (2019) (Breyer, J., concurring in part and dissenting in part). The stay of the permanent injunction was meant to prevent irreparable harm to the business; allowing collection of the monetary judgment to move forward causes the same, or greater, irreparable harm. The permanent injunction would shut down most of the business but would leave open the possibility of reopening later upon a successful appeal; once the property is sold to pay the monetary judgment there is no going back.

The harm to applicants outweighs any effect that the Court's stay may have on respondents. Napa County will be able to collect the judgment after the complete resolution of this case, if the judgment is found to be constitutional and properly imposed. The property is not going anywhere.

III. RELIEF FROM THIS COURT IS THE ONLY OPTION THAT REMAINS

Applicants have sought a stay from the Superior Court, the Court of Appeal and the California Supreme Court, and received final decisions from all of them. App. 041a-050a, 104a, 155a; *cf. Yeshiva Univ. v. YU Pride All.*, 143 S. Ct. 1 (2022) (denying emergency relief where applicants still had at least two avenues for expedited or interim state court relief). There has therefore been a final decision from the California Supreme Court, the highest state court from which a decision could be had, on the request for emergency stay. App. 155a. This plainly clears the bar for jurisdiction set by this Court. *See Malliotakis*, 146 S. Ct. at 809 (granting emergency relief to applicants where no state appellate court had ruled on their applications for stay).

Though Hoopes will make best efforts to expedite review in the appellate court, that alone is not sufficient. Napa County is already acting to collect the judgment and only a swiftly granted stay from this Court can provide the necessary relief. The defendants have demonstrated that they cannot post bond, and their pleas for consideration of their inability to pay have fallen on deaf ears. Absent relief from this Court, Hoopes—the winery, the family business, and the woman—will be decimated.

CONCLUSION

This Court should grant the application and stay the Superior Court's imposition of monetary fines.

DATED: June 18, 2026.

Respectfully submitted,

/s/ Anastasia P. Boden

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