

In the Supreme Court of the United States

Avon Capital, LLC,
a Wyoming limited liability company,
Petitioner

v.

Universitas Education LLC,
Respondent.

**EMERGENCY APPLICATION TO JUSTICE NEIL M. GORSUCH
BY PETITIONER AVON CAPITAL LLC,
A WYOMING LIMITED LIABILITY COMPANY, TO TEMPORARILY STAY
AUGUST 5, 2025 ORDER FOR DISBURSEMENT OF FUNDS**

Petitioner [1] Avon Capital, LLC, a Wyoming limited liability company (“Avon-WY” or “Petitioner”) files this Emergency [2] Application to Justice Neil M. Gorsuch to Temporarily Stay the August 5, 2025 Order for the Disbursement of Funds. Avon-WY respectfully shows the Court as follows:

I. Introduction – This Proceeding in the Supreme Court

The origin of this case is a New York Judgment against Avon Capital, LLC, a Connecticut limited liability company (“Avon-CT”) for \$6.7 million that was then registered in the Western District of Oklahoma, and is the basis for a \$6.7 million

¹ Petitioner restates that it has no parent company or publicly issued stock and no public company owns 10% or more of its stock.

² On August 8, 2025, the Tenth Circuit Court of Appeals entered an order granting a temporary stay. On August 21, 2025, an order denying the request for a stay was entered.

judgment against Avon Capital, LLC, a Wyoming entity (“Avon-WY”) that has not existed for years according to the Wyoming Secretary of State.

In the first appeal, the Tenth Circuit Court of Appeals vacated the District Court’s February 11, 2021 judgment and held that: (1) the Universitas claims became moot; and (2) the District Court lost subject matter jurisdiction and Article III Standing when the judgment registered by Universitas in the District Court expired on December 3, 2020. *Universitas Educ., Ltd. Liab. Co. v. Avon Capital, Ltd. Liab. Co.*, Nos. 21-6044, 21-6049, 21-6133, 21-6134, 2023 U.S. App. LEXIS 20356 (10th Cir. Aug. 4, 2023) The District Court immediately issued a new temporary injunction order and then a new order re-adopting its previous judgment against Avon-WY that was to be effective once the Tenth Circuit issued its mandate.

After the vacated judgment became effective upon issuance of the mandate, Avon-WY appealed to the Tenth Circuit. The Tenth Circuit affirmed the new judgment. *Universitas Educ., Ltd. Liab. Co. v. Avon Capital, Ltd. Liab. Co.*, 124 F.4th 1231 (10th Cir. 2024), Petition for Writ of Certiorari filed (No. 24-1126)).

Avon-WY filed its Petition for Writ of Certiorari on April 28, 2025. Respondent Universitas Education, LLC (“Universitas” or “Respondent”) filed a Response on June 22, 2025. Avon-WY filed its Reply on June 27, 2025. Avon-WY presents two questions to this Court:

1. Whether the Tenth Circuit erred in assuming that the District Court reacquired subject matter jurisdiction after December 3, 2020 without the filing of any claims so that the District Court

could re-enter the same findings and judgment in a case that was declared moot.

2. Whether the District Court actually reacquired personal jurisdiction over Petitioner Avon-WY after December 3, 2020 without attempted or actual service of process, which is contrary to every precedent of this Court.

Avon-WY's Petition for Writ of Certiorari is currently pending.

II. Post-Judgment Proceedings in the District Court and Tenth Circuit

On May 21, 2025, the District Court entered three Orders that are the subject of an appeal (collectively, the "May Orders"): (1) granting Universitas's motions to sell assets and awarding attorneys' fees to Universitas (App. Vol. 28 at 6769 (Doc. 761, Doc. 762) and (2) denying Phoenix's Motion to Vacate the District Court's March 29, 2024 Order modifying the injunction. (Doc. 763)) These orders are the subject of an appeal docketed in the Tenth Circuit as Case No. 25-6073 and oral argument is scheduled for September 10, 2025.

The first of the May 2025 Orders (Doc. 761) orders that the assets of non-party SDM Holdings, LLC, an Oklahoma limited liability company ("SDM-OK") be sold, despite SDM-OK not being a judgment debtor, based upon the District Court's belief that it is best to wholly ignore: (1) the Wyoming Secretary of State records conclusively establishing that Avon-WY hasn't existed for many years and the District Court's 2017 Order recognizing that Avon-WY was dissolved in 2014 (Doc. 92, Order p. 3); (2) the Oklahoma Secretary of State records conclusively establishing that SDM-OK hasn't existed for many years (Doc. 577-1, Secretary of State filings listing); (3) the

Connecticut Secretary of State records conclusively establish that SDM-OK was merged into SDM Holdings, LLC, a Connecticut limited liability company (“SDM-CT”) in 2017 (Doc. 365-1, 365-2; CT listing of filings and filed June 30, 2017 Merger Agreement and Certificate of Merger); and (4) the merger documents filed in the records maintained by the Connecticut Secretary of State years ago (Doc. 365-2). The District Court also chose to ignore Universitas’s admission that it received \$18 million (although it is believed that Universitas actually was paid \$22 million), which is far greater than the \$6.7 million judgment, which results in the one satisfaction rule barring Universitas’s claims. (Doc. 761) Further, copies of the SDM-OK and SDM-CT tax returns (Doc. 365-3) that are filed under the penalty of perjury, along with the form K-1s issued to the members of SDM-OK and SDM-CT and reflecting that no form K-1s were issued by SDM-OK or SDM-CT to Avon-WY, are located in Doc. 365-3. The tax filings would be decidedly different if Avon-WY was truly in fact the 100% member of SDM-OK or SDM-CT – Avon-WY did not receive a form K-1.

On page 8, the same Order (Doc. 761) also establishes a supersedeas bond amount of \$13 million (based on accrued interest on the judgment) on the \$6.7 million judgment entered when the Tenth Circuit issued its mandate in the first appeal on September 28, 2023 – basically doubling the judgment amount for supersedeas purposes less than two years later and making it significantly more difficult to obtain a supersedeas bond due to the required bond amount.

III. Entry of the August 5, 2025 Order (Doc. 797) to Disburse Funds

Now, on August 5, 2025, the District Court entered a new Order (Doc. 797) in anticipation of the September 10, 2025 oral argument, ordering that \$650,000 purportedly belonging to nonparty/non-judgment debtor SDM-OK, which conclusively does not exist, be paid out by the manager (legal secretary) appointed by the receiver of former Avon-WY, to Universitas. If this money is paid out, Phoenix and the true owner of the cash, SDM-CT, will be unable to recover it from Universitas and Universitas's members, who state that they are destitute. (Doc. 699, Universitas Emergency Motion ¶¶ 5-8)

IV. Emergency Application for a Stay of the August 5, 2025 Order (Doc. 797)

Because oral argument on September 10, 2025 is fast approaching and the District Court made it unnecessarily more difficult to obtain a supersedeas bond, Avon-WY requests a stay of the District Court's Order to preserve this Court's jurisdiction regarding the subject of the Petition for Writ of Certiorari and also preserve the status quo – the receivership and the appointed manager, along with the third-party servicer, already prevent the removal of the funds by SDM-CT, the true owner.

V. Applicable Law – Stay Pending Appeal

“In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court.” 28 U.S.C. § 2101(f).

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"[A] court retains the power to grant injunctive relief to a party to preserve the status quo during the pendency of an appeal." *Hawaii Housing Auth. v. Midkiff*, 463 U.S. 1323, 1324 (1983).

VI. A Temporary Stay Is Needed

On August 6, 2025, an emergency motion requesting a stay was filed in the District Court. (Doc. 798) On August 8, 2025, the District Court entered an Order denying the request. (Co. 799)

On August 7, 2025, an emergency motion was filed in the Tenth Circuit in the pending appeal, Case No. 25-6073. No order regarding the emergency motion has been entered at this time.

If this money is paid out, Phoenix and the true owner of the cash, SDM-CT, will be unable to recover it from Universitas and Universitas's members, who state that they are destitute. (Doc. 699, Universitas Emergency Motion ¶¶ 5-8)

A stay will not harm Appellee because there is a receiver in place regarding former Avon-WY, who in turn has appointed a manager for former SDM-OK. The assets are managed by an independent third party, Asset Servicing Group, LLC ("ASG"), which takes its orders from the receiver/manager. ASG does not take orders from SDM-CT.

PRAYER

WHEREFORE, Petition Avon Capital, LLC, a Wyoming limited liability company, requests that this Application for Stay be granted, and for such further relief to which it is entitled.

Respectfully submitted,

s/ Jeffrey R. Sandberg

Jeffrey R. Sandberg

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ATTORNEYS FOR PETITIONER

AVON CAPITAL LLC, A WYOMING

LIMITED LIABILITY COMPANY

CERTIFICATE OF CONFERENCE

Counsel for Appellant certifies that on August 6, 2025, counsel conferred with counsel for Respondent Universitas Education, LLC, who stated Respondent opposes the relief requested by Petitioner.

s/ Jeffrey R. Sandberg

Jeffrey R. Sandberg

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