IN THE SUPREME COURT OF THE UNITED STATES

No. _____

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G.W., a minor, by and through her guardian ad litem, Nicole Ward;
NICOLE WARD; and TRACY L. HENDERSON,
Applicants,
v.
CORONADO UNIFIED SCHOOL DISTRICT, et al.,
Respondents.

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EMERGENCY APPLICATION FOR AN ADMINISTRATIVE STAY AND STAY PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI

(28 U.S.C. § 2101(f); Sup. Ct. R. 22 & 23)

To the Honorable Elena Kagan,
Associate Justice of the Supreme Court of the United States
and Circuit Justice for the Ninth Circuit

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Applicants respectfully apply, under 28 U.S.C. § 2101(f) and Supreme Court Rules 22 and 23, for (1) an immediate administrative stay and (2) a stay pending the filing and disposition of a petition for a writ of certiorari seeking review of two unpublished opinions of the Court of Appeal of California, Fourth Appellate District, Division One (Case Nos. D082619 and D083991).

This application seeks to stay: (a) enforcement and collection of the trial court's anti-SLAPP attorney-fee awards entered against Applicants G.W. and Nicole Ward (totaling $104,090.07, consisting of a $68,238.62 fee award plus an additional $35,851.45 appellate-fee award); (b) enforcement of the Court of Appeal's sanctions order entered against Applicant Tracy L. Henderson (requiring payment of $13,000 and imposing State Bar reporting consequences); and (c) any related enforcement proceedings (including levies, liens, writs of execution, debtor examinations, or other collection measures) while Applicants seek Supreme Court review.

The requested stay is necessary to preserve this Court's ability to meaningfully consider Applicants' forthcoming petition for certiorari, which will present unusually important questions about compelled orthodoxy, viewpoint discrimination, due process, and the jurisdictional limits of California's anti-SLAPP statute when deployed—through forfeiture "re-framing"—to extinguish civil-rights claims without the defendants carrying their statutory burden.

RELEVANT PROCEEDINGS AND ORDERS

1. San Diego County Superior Court, Case No. 37-2022-00034756-CU-NP-CTL (Pollack, J.).

• Action filed: August 25, 2022. App. SA000070.

• Order granting four anti-SLAPP motions and striking the complaint: May 12, 2023. App. SA000046–SA000055.

• Post-judgment fee awards entered under Cal. Civ. Proc. Code § 425.16(c). App. SA000033; SA000067.

2. Court of Appeal of California, Fourth Appellate District, Division One.

• Case No. D082619 (Opinion I): Opinion filed September 19, 2024 (unpublished), affirming the anti-SLAPP order. App. SA000003.

• Case No. D083991 (Opinion II): Opinion filed September 29, 2025 (unpublished), affirming the fee awards and sua sponte sanctioning counsel Tracy L. Henderson. App. SA000028; SA000042.

• Remittitur issued January 6, 2026. (Emergency Ex Parte Application to Temporarily Stay Enforcement at 2 (Jan. 23, 2026).) App. SA000045.

3. Trial-court stay proceedings.

• Emergency ex parte application to temporarily stay enforcement filed January 23, 2026. App. SA000068–SA000069.

• Superior Court denied a temporary stay after hearing on January 26, 2026. App. SA000070.

4. Supreme Court review.

• Applicants intend to file a petition for a writ of certiorari by March 30, 2026.

JURISDICTION

This Court has jurisdiction to review the final judgments of the state courts under 28 U.S.C. § 1257(a). This application for a stay is authorized by 28 U.S.C. § 2101(f) and Supreme Court Rule 23. Applicants sought emergency stay relief in the trial court. The Court of Appeal has issued its remittitur, and California's Supreme Court review proceedings have concluded, making it impracticable to obtain effective relief below before enforcement occurs.

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STANDARD FOR A STAY

A stay pending the filing and disposition of a petition for certiorari is warranted where there is a reasonable probability that certiorari will be granted, a fair prospect that the judgment below will be reversed, and a likelihood that irreparable harm will result absent a stay. The Court also considers where the balance of equities and the public interest lie. *See, e.g., Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (*per curiam*).

STATEMENT OF THE CASE

A. The lawsuit challenges compelled orthodoxy and punitive enforcement against a student protester.

In early 2022, Coronado Unified School District ("CUSD") maintained a school masking mandate that had been adopted prior to the start of the school year. G.W.—a student—objected and engaged in a protest by removing her mask as a form of expressive conduct and politely refusing to wear a face covering when told to do so. App. SA000056; SA000058. According to the complaint and record, during her six-week protest period, CUSD responded harshly by excluding her from classrooms and, at times, requiring her to remain outdoors in the scorching heat and freezing cold away from other students; she was repeatedly bullied and belittled in front of her peers; she was often denied instruction; and she was treated like a "leper" for simply refusing to wear a surgical mask that she knew, based on her independent research, had zero impact on the spread of COVID-19. App. SA000056–SA000057; SA000060–SA000061. G.W. "left campus in tears," and her mother ultimately withdrew her from the District. App. SA000059; SA000057. Applicants allege that this escalating treatment—directed at a child because of the expression of her dissenting viewpoint—amounted to punitive coercion and child abuse aimed at compelling government orthodoxy. App. SA000057; SA000061.

Applicants then filed this action (August 25, 2022) against CUSD and numerous officials and employees seeking to vindicate First Amendment rights (including the right to dissent and protest arbitrary government mandates), to challenge viewpoint discrimination and compelled conformity of thought, and to obtain relief for the harms inflicted on G.W. and her family. App. SA000070.

B. Four anti-SLAPP motions were filed; the trial court relied on extra-record "facts," judicial notice, and personal experience.

Four groups of defendants filed four, virtually identical anti-SLAPP motions under Cal. Civ. Proc. Code § 425.16, seeking to strike the civil-rights complaint at the threshold and to obtain mandatory attorney-fee awards. App. SA000046–SA000055. At the May 12, 2023 hearing, the trial court repeatedly treated disputed questions of fact as established and invoked its own personal experience to resolve issues that the anti-SLAPP framework required it to accept as alleged in the complaint. App. SA000053; SA000062–SA000066. For example, after analogizing G.W.'s presence on campus to an armed student, the court stated:

> THE COURT: . . . What if the school said you can't have – you can't come in with a gun? Could she come marching in with a gun? …
>
> MS. HENDERSON: Your Honor, you're analogizing a gun to a healthy child. Kids go to school every day in America healthy. . . .
>
> THE COURT: Guns kill and so does COVID.
> App. SA000062–SA000063.

The trial court then announced it would take judicial notice of disputed scientific propositions, disputed facts, and relied on personal knowledge:

> MS. HENDERSON: . . . Your ruling based on that part of it [referring to whether G.W. was a danger to her peers], your Honor, requires medical testimony, and there's no medical testimony before this Court that says that there's an asymptomatic carrier situation.
>
> THE COURT: I'll take judicial notice of it.

MS. HENDERSON: Of a medical expert's testimony?

THE COURT: I will take judicial notice that COVID can be transmitted by an asymptomatic carrier. I'll take judicial notice of it.

MS. HENDERSON: Your Honor, I rather we set this for an evidentiary hearing and we'll put experts on so that the Court can make a ruling.

THE COURT: No, I'll take judicial notice of it.

MS. HENDERSON: Well, just for the record, your Honor, plaintiff objects.

THE COURT: Okay. All right. Just for the record, your objection is overruled.

. . .

MS. HENDERSON: . . . What they should have done is if she was sick, send her home. What they should have done is stuck her in the corner six feet away, your Honor, so she could learn. Instead what they did, Judge, is they moved an entire class out - -

THE COURT: They were protecting that class.

MS. HENDERSON: From what? A healthy, smiling child?

THE COURT: I'm telling you - - look, I know you disagree, but I am taking judicial notice that COVID can be transmitted from an asymptomatic carrier to someone else. It can. . . . She had no constitutional right to wear [*sic*] a mask into school, putting others at risk.

MS. HENDERSON: This isn't about the constitutionality of masks, your Honor. There's no such thing. There's no law, there's no ordinance. This is about her going to school in protest of what - - of a policy she doesn't like.

THE COURT: at which time she's putting others at risk. You keep forgetting. This is not a *Tinker versus Des Moines*. If she came to school with a T-shirt that said on it, "Down with masks," and she was not allowed to come in, that would be your case. But once her form of protest is in fact doing something that puts the physical safety of others at risk, it ends.

MS. HENDERSON: There's no evidence of that, your Honor.

THE COURT: There is evidence of it. I'm taking judicial notice that COVID can be transmitted asymptomatically. Okay.

> MS. HENDERSON: There's no evidence that she had COVID. Whether it can be transmitted asymptomatically or not is irrelevant, respectfully, your Honor.
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> THE COURT: You don't have to prove - - no, there's no evidence that she didn't have COVID.
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> . . .
>
> THE COURT: . . . What we have here is we've got her behavior putting other people's health at risk. That's the - - that's the big difference[when compared to *Tinker*].
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> MS. HENDERSON: There's no evidence of that, your Honor, none.
>
> THE COURT: Well, maybe if I take judicial notice for the 15th time today, you'll understand where I'm coming from. I believe, and I think that it's well supported in the scientific literature - - in fact, it's common knowledge - - that you can have asymptomatic transmission of COVID. A transmitter can be not symptomatic but still transmit it to other people. And as a result of that, when the school has a mask policy, they can't create an exception for those people - - or they're not required to create an exception for people who appear to be asymptomatic. I know people who got COVID through asymptomatic transmission. . . .
>
> MS. HENDERSON: Respectfully, your Honor - -
>
> THE COURT: I'm not considering that.
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> MS HENDERSON: -- there's no evidence she was asymptomatic.
> App. SA000064.

The court repeatedly signaled a prejudgment of the merits, including by describing the case as "frivolous" and the Defendants' conduct as "reasonable" and "legal as a matter of law" and labeling G.W. as a "political pawn." App. SA000065–SA000066.

The court's written minute order likewise relied on contested assumptions about asymptomatic transmission (labeling G.W. as dangerous to her classmates due to asymptomatic transmission, despite the complaint alleging, and her sworn statements confirming, that she was perfectly healthy throughout her protest), rejected Applicants' allegations regarding the non-

disruptive nature of G.W.'s protest, and treated compelled mask compliance and punitive exclusion as legally unimpeachable. App. SA000053; SA000056–SA000057.

C. Appeal I: the Court of Appeal "re-framed" defendants' Prong One burden as a plaintiff forfeiture while conceding that it lacked the factual basis required to satisfy § 425.16.

On appeal, the Court of Appeal affirmed the anti-SLAPP order in an unpublished opinion (D082619). App. SA000003. Crucially, however, the court acknowledged that it could not perform the threshold "Prong One" analysis—i.e., whether each claim "arises from" protected activity—without the very material that § 425.16 requires the moving defendants to provide (which they did not do): a specific identification and factual showing as to the statements and actions allegedly constituting protected activity. The court stated (emphasis added):

> "[W]ithout a proper factual summary of the allegations against [each of the Defendants], including the statements each was alleged to have made regarding the mask mandate[,]" the court "[***could not***] assess whether the claims against each of these defendants arose from protected activity[.]"
> App. SA000013.

Yet rather than deny the anti-SLAPP motions for failure of the moving parties' proof, the Court of Appeal faulted Applicants for an alleged appellate "forfeiture" (faulting Applicants for not explaining each statement and action that the Defendants claimed "arose from" protected activity, despite this burden being the Defendants to carry for de novo review) and then proceeded to affirm. App. SA000013. This forfeiture "re-framing" inverted the anti-SLAPP statute's burden allocation, and effectively authorized dismissal and mandatory fee-shifting despite the court's own admission that it lacked the factual predicate to satisfy Prong One. App. SA000013. This is not a mere legal error; as explained below, it is an act in excess of the court's statutory jurisdiction and a denial of due process through a novel procedural bar. Walker v. Birmingham (1967) 388 U.S. 307; Shelley v. Kraemer (1948) 334 U.S. 1.

D. Fee awards and Appeal II: over $100,000 in fees were awarded, and the Court of Appeal *sua sponte* sanctioned counsel for challenging the court's own jurisdictional defect.

After the anti-SLAPP dismissal, respondents obtained attorney-fee awards totaling $104,090.07 ($68,238.62 in trial-court fees plus $35,851.45 in appellate fees). App. SA000033; SA000067. Applicants appealed, collaterally attacking the dismissal and prior appeal for lack of jurisdiction. App. SA000028. In a second unpublished opinion (D083991), the same panel for the California Court of Appeal affirmed the fee awards and declared the appeal "frivolous." It then *sua sponte* imposed sanctions against Applicants' counsel Tracy L. Henderson for pressing the jurisdictional and analytical defects described above:

> We conclude this appeal is frivolous…. We impose sanctions against appellants' counsel Tracy L. Henderson … in the amount of $13,000…. The clerk is directed to report Ms. Henderson to the State Bar…. Ms. Henderson is directed to report this sanctions order to the State Bar.
> App. SA000042.

After the California Supreme Court declined review, the remittitur issued January 6, 2026, triggering imminent enforcement. The sanctions are due February 6, 2026. App. SA000042; SA000045.

E. Enforcement is imminent; the trial court denied a temporary stay.

Respondents have threatened immediate collection of the fee awards. On January 23, 2026, Applicants filed an emergency *ex parte* application in the trial court seeking a temporary stay to permit review in this Court. The Superior Court denied the request after hearing on January 26, 2026. Absent intervention, Applicants face immediate enforcement measures and the irreversible professional and reputational consequences of the sanctions order.

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REASONS FOR GRANTING A STAY

I. Applicants have a reasonable probability of certiorari and a fair prospect of reversal.

This case presents a recurring and nationally significant problem: the use of expedited, fee-shifting procedural devices to label compelled orthodoxy as "protected First Amendment activity" in order to extinguish First Amendment claims challenging government compulsion and viewpoint discrimination. It also presents an unusual jurisdictional defect. California's anti-SLAPP statute authorizes dismissal and mandatory attorney-fee shifting only if defendants carry their Prong One burden to show that they are being sued for statements and actions amounting to constitutionally protected activity. Here, the Court of Appeal admitted it could not assess Prong One "without … the statements each [defendant] was alleged to have made," yet it affirmed anyway by reframing the defendants' missing showing as a plaintiff "forfeiture." App. SA000013. That is a due-process problem and an *ultra vires* use of a summary-dismissal statute carrying severe financial and professional penalties.

A. The anti-SLAPP dismissals and fee awards rest on a failure to satisfy the statute's jurisdictional predicate, which the Court of Appeal excused through an unprecedented forfeiture rule that itself violates due process.

California's anti-SLAPP statute authorizes extraordinary relief—early dismissal and mandatory fee-shifting—only when defendants satisfy defined statutory prerequisites. The threshold requirement, known as Prong One, demands that the moving defendant "identify the activity each challenged claim rests on and demonstrate that that activity is protected by the statute." *Bonni v. St. Joseph Health Sys.*, 11 Cal.5th 995, 1009 (2021). This is the defendant's burden. *Baral v. Schnitt*, 1 Cal.5th 376, 396 (2016) ("The burden is on the defendant to identify the activity that each challenged claim rests on."); *Barry v. State Bar of California*, 2 Cal.5th 318, 321 (2017); *Park v. Bd. of Trustees of Cal. State Univ.*, 2 Cal.5th 1057, 1061 (2017).

Until defendants carry this burden, the statute does not authorize dismissal or fees. This is not a mere procedural nicety; it is the jurisdictional predicate for invoking the anti-SLAPP remedy. Cal. Civ. Proc. Code § 425.16(b)(1); *Navellier v. Sletten*, 29 Cal.4th 82, 88 (2002). When courts grant anti-SLAPP relief without the required threshold showing, they act "in excess of jurisdiction," rendering the resulting orders subject to collateral attack. *Abelleira v. Dist. Ct. of Appeal*, 17 Cal.2d 280, 288-89 (1941); *People v. Am. Contractors Indem. Co.*, 33 Cal.4th 653, 660-61 (2004).

Here, defendants filed and the trial court granted four virtually identical anti-SLAPP motions that failed to identify, with any particularity, the specific statements or conduct by each defendant that allegedly constituted protected activity. The trial court instead accepted generalized assertions that all of the defendants' claims "arose from" enforcement of the masking policy, without specifying which defendant made which statement or took which action, and without demonstrating how each such act qualified as protected speech or petitioning. App. SA000053; SA000048–SA000055.

The Court of Appeal recognized this deficiency. It acknowledged that it "could not assess whether the claims against each of these defendants arose from protected activity" without "a proper factual summary of the allegations against [each defendant], including the statements each was alleged to have made regarding the mask mandate." App. SA000013. This admission should have compelled reversal. If the appellate court conducting de novo review could not assess Prong One, then Prong One was not satisfied, and the anti-SLAPP motions should have been denied.

Instead, the Court of Appeal manufactured a novel forfeiture rule. It faulted Applicants—the plaintiffs opposing the motions—for failing to provide the factual summary that defendants

were required to supply. App. SA000004. It then affirmed dismissal and the mandatory fee awards despite its own acknowledgment that the statutory predicate had not been established.

1. The forfeiture rule applied below is not adequate to preclude federal review.

A state procedural rule is inadequate to bar federal review when it is applied in a novel, unexpected, or inconsistent manner. *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 457–58 (1958); *Lee v. Kemna*, 534 U.S. 362, 376 (2002). The rule must be "firmly established and regularly followed" before it can constitute an independent state ground foreclosing this Court's jurisdiction. *Walker v. Martin*, 562 U.S. 307, 316 (2011) (quoting *Beard v. Kindler*, 558 U.S. 53, 60-61 (2009)).

No published California decision *has ever held* that a plaintiff-appellant must construct the defendant-movant's Prong One showing as a condition of obtaining appellate review. To the contrary, California's anti-SLAPP jurisprudence *uniformly* places the Prong One burden on the defendant, with courts independently assessing whether that burden was carried. *See Baral*, 1 Cal.5th at 396; *Bonni*, 11 Cal.5th at 1009. A plaintiff who opposes an anti-SLAPP motion is not required to identify the protected activity; the plaintiff's role is to demonstrate probability of prevailing once the defendant has made the threshold showing.

The Court of Appeal's demand that Applicants provide "a proper factual summary" of defendants' allegedly protected conduct—and its use of Applicants' failure to do so as grounds for affirmance—was unprecedented. Applicants had no notice that such a showing was required of them, because California law assigned that burden to their adversaries. A procedural default rule sprung for the first time on appeal cannot constitute an adequate state ground. *Ford v. Georgia*, 498 U.S. 411, 423–24 (1991).

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2. The forfeiture rule is not independent of the federal question.

A state procedural ground is not "independent" when it is intertwined with the merits of the federal claim. *Ake v. Oklahoma*, 470 U.S. 68, 75 (1985); *Enterprise Irrigation Dist. v. Farmers Mut. Canal Co.*, 243 U.S. 157, 164 (1917). Here, the forfeiture holding and the due process claim are inextricably linked.

Applicants' federal claim is that the anti-SLAPP rulings deprived them of due process by imposing mandatory dismissal and fee-shifting without the required threshold determination. The forfeiture holding is the mechanism by which the state courts avoided making that determination. To decide whether the forfeiture rule was properly applied, this Court must necessarily consider whether due process permits a state court to skip the statutory predicate analysis while still imposing the statute's penalties. The procedural ruling and the constitutional question cannot be disentangled.

3. The forfeiture rule, as applied, independently violates due process.

Even if the forfeiture holding were adequate and independent under ordinary circumstances, its application here violates the Due Process Clause for three reasons.

First, due process requires that before a State imposes severe financial penalties through a specialized procedural mechanism, the statutory prerequisites for that mechanism must actually be satisfied. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Anti-SLAPP is not an ordinary procedural device. It authorizes early termination of litigation, strips plaintiffs of discovery rights, and imposes mandatory, non-discretionary attorney-fee awards that can reach into six figures—as they did here. When a statute carries such severe automatic consequences, the private interest in accurate adjudication is at its apex. A rule that excuses courts from determining whether

defendants carried their threshold burden—while still imposing the full weight of the statute's penalties—denies plaintiffs the process they are due.

Second, the forfeiture rule, as applied here, conscripts plaintiffs into constructing their opponents' case. Standard forfeiture doctrine penalizes a party for failing to raise arguments available to that party. But Prong One is the movant's burden. Applicants cannot "forfeit" the right to have defendants satisfy their own statutory obligation. Requiring plaintiffs to identify defendants' protected activity—and penalizing them when they fail to do so—transforms the adversarial system into one where plaintiffs must both oppose the motion and make the motion for their adversaries. That is not forfeiture; it is a due process violation.

Third, the forfeiture rule operates to insulate anti-SLAPP rulings from meaningful appellate review whenever defendants' moving papers are vague or conclusory. Under the Court of Appeal's approach, a defendant can file a boilerplate motion asserting that "the claims arise from protected activity," obtain dismissal from a trial court that does not scrutinize the assertion, and then defeat any appeal by arguing that the plaintiff failed to identify the specific deficiencies in the defendant's showing. This creates a one-way ratchet: vague motions are affirmed because plaintiffs did not supply the missing specificity, while specific motions are reviewed on their merits. The rule systematically disadvantages civil-rights plaintiffs and denies them the "fair opportunity to be heard" that due process guarantees. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970).

B. The rulings below further violated due process by treating government compulsion and viewpoint-based discrimination as "protected activity," inverting the First Amendment.

Even setting aside the forfeiture problem, the substantive anti-SLAPP rulings raise profound First Amendment concerns warranting this Court's review.

The anti-SLAPP statute protects defendants who are sued for engaging in speech or petitioning activity on matters of public concern. Cal. Civ. Proc. Code § 425.16(b)(1), (e). Its

purpose is to prevent the chilling of protected expression through retaliatory litigation. *Id.* § 425.16(a). The statute was never designed to shield government officials who punish citizens for expressing dissenting viewpoints.

Yet that is precisely how it was deployed here. Applicants sued because school officials excluded G.W. from classrooms, subjected her to public humiliation, and imposed escalating discipline—not for any disruptive conduct, but for the content of her protest against the masking mandate. (App. 6a-13a.) The officials' conduct was governmental enforcement action, undertaken pursuant to official policy, directed at suppressing a student's dissenting viewpoint. Such conduct is the antithesis of protected expression; it is the very evil the First Amendment prohibits. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) ("If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in matters of opinion or force citizens to confess by word or act their faith therein.").

The courts below nonetheless treated the officials' enforcement conduct as "protected activity" under the anti-SLAPP statute, reasoning that it related to a matter of public concern. (App. 14a-23a; App. 3a-5a.) But the relevant inquiry under § 425.16 is not whether the *subject matter* involves public concern; it is whether the *defendant's specific conduct* constitutes protected speech or petitioning. *City of Montebello v. Vasquez*, 1 Cal.5th 409, 422 (2016); *Park*, 2 Cal.5th at 1062-63. Punishing a student for her viewpoint is not speech. Excluding a child from education to coerce ideological conformity is not petitioning. These are governmental acts of enforcement and retaliation—acts that give rise to civil-rights liability precisely because they suppress, rather than constitute, protected expression.

The rulings below collapse this distinction. They treat any government action touching on a public issue as immunized "protected activity," transforming the anti-SLAPP statute from a

shield for speakers into a sword against those who challenge government overreach. If this reasoning stands, state actors may invoke anti-SLAPP to defeat any civil-rights claim arising from policy enforcement, so long as the policy relates to a matter of public concern. That result conflicts with this Court's holdings that the First Amendment constrains government power to compel orthodoxy, *Barnette*, 319 U.S. at 642, and protects non-disruptive student protest, *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969).

C. The rulings below invert the First Amendment by treating government compulsion and punitive enforcement as "protected activity."

Applicants' forthcoming petition will also present a critically important First Amendment question. This case concerns a student's peaceful dissent against a school-imposed mandate and the government's retaliatory enforcement response. The complaint alleges that school officials excluded G.W. from classrooms, bullied and belittled her, publicly humiliated her in front of her peers, isolated her outdoors for prolonged periods in the bitter cold (often requiring her to wear a battery powered jacket with a heating mechanism to stay warm) and scorching heat, and subjected her to escalating discipline because she refused to adorn a useless face ornament that operated as a symbol of compliance. App. SA000057; SA000060–SA000061. Applicants further allege that this coercive and abusive treatment was inflicted precisely to silence G.W.'s dissenting viewpoint. App. SA000057; SA000061.

The rulings below nonetheless treated the defendants' enforcement conduct and related statements as protected petitioning/speech activity for anti-SLAPP purposes. App. SA000046–SA000055; SA000003–SA000027. In effect, the anti-SLAPP rulings declare that silencing dissent to enforce a government policy that had been adopted months earlier can qualify as "protected activity," wholly insulating State actors from civil-rights accountability while imposing mandatory fee awards on the victims.

That characterization conflicts with this Court's "fixed star" principle that government officials may not prescribe orthodoxy or compel expressions of conformity. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995); *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 564 (2011); *Rumsfeld v. Forum for Acad. & Inst. Rights, Inc.*, 547 U.S. 47, 61 (2006). It also clashes with this Court's student-speech precedent protecting non-disruptive protest. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969). If the decisions below stand, state and local officials may weaponize state anti-SLAPP statutes to recast coercive enforcement of established government policies against dissenters—including minors—as constitutionally "protected activity," while imposing mandatory fee awards that deter any challenge. In other words, absent this Court's intervention, the "fixed star" in our constitutional constellation will be extinguished.

D. The record presents serious due-process concerns about impartial adjudication.

The trial court's handling of the anti-SLAPP hearing underscores why Supreme Court review is warranted. Rather than accepting Applicants' allegations and supporting declarations as true for purposes of Prong Two (as the law requires), the court announced it would take judicial notice of disputed non-existent "facts" that require expert medical testimony about asymptomatic transmission and relied on its personal experience—"I have personal knowledge of that" (although reliance on personal knowledge was disclaimed)—to resolve contested issues. App. SA000064; SA000053. It analogized a peaceful and non-disruptive child protester (politely removing her mask as a form of expressive conduct and always declining when asked to adorn one with the words: "no thank you") to a potential shooter—"guns kill and so does COVID" (App. SA000062.)—and then labeled the suit "frivolous" and G.W. a "political pawn." App. SA000065–SA000066. It did so, despite G.W. alleging that she was perfectly healthy throughout her protest. App. SA000056.

An impartial tribunal is a core component of due process. It is axiomatic that when the judge supplies extra-record facts, announces personal knowledge to negate factual allegations, and expresses obvious hostility toward the litigant and the suit, the appearance (and risk) of bias is unmistakable. The appellate courts' refusal to correct the statutory and constitutional errors and recognize the trial court's obvious bias—coupled with sua sponte sanctions against counsel for highlighting the same panel's failure to recognize the limits of its own authority—only heightens the need for this Court's intervention.

II. Applicants will suffer irreparable harm absent a stay.

Absent a stay, respondents may immediately pursue collection of $104,090.07 from a minor (now a college student) and her family. Although money judgments are sometimes compensable after the fact, the practical reality here is different: forced collection will impose immediate and potentially ruinous consequences (including liens, levies, and garnishments) and will deprive Applicants of the ability to fund and prepare their certiorari petition—making this Court's review effectively unavailable.

The harm to Applicant Tracy L. Henderson is independently irreparable. The sanctions order requires payment of $13,000 and imposes mandatory reporting to (and self-reporting requirements with) the State Bar, due on February 6, 2026. Reputational injury and professional discipline consequences cannot be fully undone even if Applicants ultimately prevail.

The unprecedented forfeiture rule applied below compounds the irreparable harm. If permitted to stand, the rule announces to civil-rights plaintiffs throughout California that they may be held responsible for deficiencies in their opponents' anti-SLAPP showings—and sanctioned for challenging such deficiencies on appeal. Attorneys considering whether to represent families like Applicants must now weigh the risk that any appeal from an anti-SLAPP dismissal will result in

professional sanctions, State Bar reporting, and personal liability, even when the appeal identifies legitimate statutory and constitutional defects. The chilling effect is immediate and ongoing. A stay is necessary to preserve not only Applicants' ability to seek review, but also to prevent the forfeiture rule from deterring other litigants and counsel during the pendency of this proceeding.

Finally, the public harm is substantial. The combination of anti-SLAPP dismissal, massive fee awards, and attorney sanctions in a student-speech case will chill other families from challenging compelled orthodoxy and government abuse of children and retaliation.

III. The equities and public interest strongly favor maintaining the *status quo*.

A stay will preserve the *status quo* for a limited period while Applicants seek this Court's review. Respondents' interests are protected by post-judgment interest and their ability to enforce promptly if certiorari is denied. By contrast, denying a stay will inflict immediate, potentially irreparable harm on Applicants and will risk mooting effective Supreme Court review through collection and professional discipline.

The public interest favors ensuring that civil-rights claims—particularly those involving children, jurisdictional limitations, due process, compelled orthodoxy, and viewpoint discrimination—are not extinguished by procedural devices applied beyond their jurisdictional limits.

REQUESTED RELIEF

For the foregoing reasons, Applicants respectfully request that the Circuit Justice:

1. Enter an immediate administrative stay; and

2. Grant a stay pending the filing and disposition of Applicants' petition for a writ of certiorari, staying enforcement of (a) the anti-SLAPP fee awards and (b) the Court of Appeal sanctions order and reporting requirements; and

3. Stay all related enforcement proceedings in the trial court and any further steps to execute or collect upon the judgments until this Court disposes of the forthcoming petition and, if granted, until final disposition on the merits.

CONCLUSION

The application should be granted.

Respectfully submitted,

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Warner Mendenhall

Counsel of Record for Applicants

Dated: February 4, 2026

CERTIFICATE OF SERVICE

I certify that on February 4, 2026, I caused a copy of this Application for an Administrative Stay and Stay Pending the Filing and Disposition of a Petition for a Writ of Certiorari to be served on counsel for Respondents as follows:

Randall L. Winet

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1215 West Vista Way

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Email: rwinet@wpgch.com

Service was made by U.S. mail and by electronic mail.

_____

Warner Mendenhall