FILED
OCT 29 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 26-659

IN THE
SUPREME COURT OF THE
UNITED STATES

CONGHUA YAN,
Petitioner,

v.

THE STATE OF TEXAS, ET AL.,
Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

Conghua Yan
Petitioner, pro se
2140 E Southlake Blvd, Suite L-439
Southlake, Texas 76092
214-228-1886
arnold200@gmail.com

QUESTIONS PRESENTED

Petitioner sought personal damages and prospective relief for a judge's alleged property deprivations. The panel treated adjudicatory character as defeating jurisdiction and left immunity undecided. It also affirmed dismissal with prejudice of federal claims against two attorneys as duplicative, and affirmed dismissal of RICO claims against four nonbriefing defendants on pleading grounds not reached below while sustaining denial of amendment as futile.

1. (a) Whether adjudicatory conduct alone defeats Article III adversity in a personal-capacity § 1983 damages suit for completed injuries, foreclosing the immunity exception for acts in the clear absence of all jurisdiction recognized in *Stump v. Sparkman*, 435 U.S. 349 (1978), and *Mireles v. Waco*, 502 U.S. 9 (1991).

(b) Whether *Whole Woman's Health v. Jackson*, 595 U.S. 30 (2021), makes adjudicatory character alone sufficient to defeat Article III adversity for official-capacity prospective § 1983 relief, or requires examining the officer's relation to the challenged conduct and requested relief.

2. Whether a court may dismiss a second action with prejudice for claim splitting without comparing the transactions alleged in each action and determining whether concealment prevented their earlier assertion in the first; and whether any such dismissal must preserve prosecution in the first action against that dismissal's own preclusive effect.

3. Whether, under *Singleton v. Wulff*, 428 U.S. 106 (1976), briefing on one appellee's objections affords a fair opportunity to address other defendants' separately alleged conduct before appellate affirmance on pleading grounds not reached below and denial of amendment as futile.

PARTIES TO THE PROCEEDING

Petitioner Conghua Yan was the plaintiff in the district court and the appellant in the court of appeals.

Respondents, all defendants below and appellees in the court of appeals, are:

The State of Texas;

Leslie Starr Barrows, in her individual capacity;

William Albert Pigg, in his individual capacity;

Lori L. DeAngelis, in her individual capacity and official capacity as Associate Judge;

Panopyra PLLC, a private company;

Fuyan Wang, in her individual capacity;

Jiayin Zheng, in her individual capacity; and

Yuanli Tang, in her individual capacity.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual. No corporate disclosure statement is required of petitioner under Supreme Court Rule 29.6.

RELATED PROCEEDINGS

Yan v. The State of Texas, No. 4:24-cv-00579-O (N.D. Tex.). Judgment entered March 6, 2025; motion to alter or amend judgment denied June 11, 2025.

Yan v. The State of Texas, No. 25-10752 (5th Cir.). Judgment entered August 20, 2026; panel rehearing and rehearing en banc denied September 16, 2026.

Related litigation relied upon below (Yan I): *Yan v. State Bar of Texas*, No. 4:23-cv-00758-P (N.D. Tex.). The Fifth Circuit dismissed the earlier appeal, *Yan v. State Bar of Texas*, No. 24-10543, for lack of appellate jurisdiction on September 29, 2025; mandate issued October 20, 2025. The district court entered a separate final judgment March 10, 2026. Appeals *Yan v. Pigg*, No. 25-11370 (filed December 22, 2025), and *Yan v. State Bar of Texas*, No. 26-10286 (docketed April 2, 2026), were consolidated for briefing and oral argument by order of June 1, 2026 (5th Cir.). This petition does not seek review of those separate proceedings.

TABLE OF CONTENTS

Questions presented i
Parties to the proceeding ii
Corporate disclosure statement ii
Related proceedings iii
Table of authorities vii
Opinions below 1
Jurisdiction 1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2
Statement of the case 3
A. The complaint sought damages and prospective relief for an order allegedly memorializing an adjudication that never occurred 3
B. The claims against the attorneys allege distinct property deprivations and concealment 4
C. The district court dismissed the claims against DeAngelis without prejudice and those against Barrows and Pigg with prejudice 4
D. The panel affirmed on Article III, claim-splitting, and RICO pleading grounds 5
E. Petitioner challenged the dismissals and sought rehearing and publication 7
Reasons for granting the petition 8
I. The panel's Article III rule would make the immunity exception *Stump* and *Mireles* preserve unreachable. Rule 10(c) 9
A. *Windsor* measures adversity by the parties' stake in the relief sought, which here is personal compensation 9
B. Judicial character cannot erase the exception for complete absence of jurisdiction 12

C. Circuit decisions expressly recognize damages standing and separately address judicial immunity. Rule 10(c). 14
D. The panel extends a constitutional bar that scholars identify as incompatible with *Pulliam* and § 1983. Rule 10(c). 17
E. The Court can correct Article III and leave the preserved immunity issues for remand 18
II. The circuits disagree over the constitutional or statutory basis for dismissing prospective suits against adjudicatory judges. Rules 10(a) and 10(c). 21
A. The panel extended *Whole Woman's Health* without addressing the officer's relation to the prospective relief sought. Rule 10(c). 23
B. Texas's immunity does not resolve the separately pleaded claim against the judicial officer 24
C. The alleged recurring wage withholding supports remand of the prospective-relief claim 25
III. Claim splitting should not let dismissal of the second suit bar prosecution in the first. Rules 10(a) and 10(c). 26
A. Claim splitting requires comparison of the instruments, acts, and injuries alleged in each action 27
B. Alleged concealment requires examining whether the claim could be presented earlier..... 29
C. Any surviving dismissal should preserve *Yan I* against this judgment's own preclusive effect 30
IV. Appellate discretion must preserve a fair opportunity to defend the complaint before amendment is foreclosed. Rules 10(a) and 10(c). ..32

V. This case permits resolution of the challenged federal rules while leaving liability and equitable remedies for remand. 34
A. The panel decided the challenged grounds, and petitioner sought rehearing 34
B. Unpublished status does not prevent review of the challenged federal rules 35
C. Vacatur would restore the omitted inquiries and permit effective relief..... 36
Conclusion 37
Appendix contents..... 1a
A. Court of appeals opinion, August 20, 2026..... 2a
B. District court adoption order, March 6, 2025.... 10a
C. Findings and recommendation, January 16, 2025..... 12a
D. Reconsideration denial, June 11, 2025..... 42a
E. Rehearing and publication denial, September 16, 2026..... 45a
F. District court judgment, March 6, 2025..... 46a
G. Order accepting amended en banc petition, September 8, 2026..... 48a
H. Second Amended Complaint excerpts 49a
I. *Yan I* order and judgment, March 10, 2026..... 59a
J. Pertinent Texas Family Code provisions 61a
K. Pertinent federal statutes and regulation..... 63a
L. *Yan I* Third Amended Complaint excerpts..... 65a
M. Scholarly excerpts on suits against judges 68a
N. Official-capacity and prospective-relief allegations 70a
O. Amended en banc petition excerpts..... 73a
P. *Yan I* amendment order, September 18, 2023... 75a

TABLE OF AUTHORITIES

Cases

Adams v. Cal. Dep't of Health Servs., 487 F.3d 684 (9th Cir. 2007) 31
Adams v. McIlhany, 764 F.2d 294 (5th Cir. 1985) 14
Allen v. DeBello, 861 F.3d 433 (3d Cir. 2017) 16, 22
Antoine v. Byers & Anderson, Inc., 508 U.S. 429 (1993) 18
Armadillo Hotel Grp., L.L.C. v. Harris, 84 F.4th 623 (5th Cir. 2023) 28
Ballard v. Wall, 413 F.3d 510 (5th Cir. 2005) 15
Bauer v. Texas, 341 F.3d 352 (5th Cir. 2003) 5, 11, 17
Bell v. Hood, 327 U.S. 678 (1946) 13, 21
Century Surety Co. v. Blevins, 799 F.3d 366 (5th Cir. 2015) 33
Clark v. Sweeney, 607 U.S. 7 (2025) 33
Collins v. Daniels, 916 F.3d 1302 (10th Cir. 2019) 14–15
Comm'r v. McCoy, 484 U.S. 3 (1987) 36
Curtis v. Citibank, N.A., 226 F.3d 133 (2d Cir. 2000) 29
Cutter v. Wilkinson, 544 U.S. 709 (2005) 21
Davis v. Tarrant Cnty., 565 F.3d 214 (5th Cir. 2009) 14
Ex parte Young, 209 U.S. 123 (1908) 7, 25
FDA v. All. for Hippocratic Med., 602 U.S. 367 (2024) 11
Forrester v. White, 484 U.S. 219 (1988) 18
Frazier v. Prince George's Cnty., No. 24-1380 (4th Cir. June 18, 2025) 15–16

Goodley v. Greene, No. 21-13978 (11th Cir. Sept. 9, 2022) (unpublished) 15
Green v. Mansour, 474 U.S. 64 (1985) 25
Hafer v. Melo, 502 U.S. 21 (1991) 10
H.J. Inc. v. Nw. Bell Tel. Co., 492 U.S. 229 (1989) 33–34
In re Justs. of Sup. Ct. of P.R., 695 F.2d 17 (1st Cir. 1982) 12, 22
In re L.D.C., No. 13-17-00053-CV (Tex. App.—Corpus Christi–Edinburg Dec. 13, 2018) (mem. op.) 20
Kaiser Aluminum & Chem. Corp. v. Bonjorno, 494 U.S. 827 (1990) 22
Kellogg v. Nichols, 170 F.4th 20 (2d Cir. 2026) (per curiam) 15
Kellogg v. Nichols, No. 23-8093 (2d Cir. June 30, 2026) (opinions respecting denial of rehearing en banc) 16
Kremer v. Chem. Constr. Corp., 456 U.S. 461 (1982) 31
Lebron v. Nat'l R.R. Passenger Corp., 513 U.S. 374 (1995) 35
Lindke v. Tomlinson, 31 F.4th 487 (6th Cir. 2022) 19, 22
L-Tec Elecs. Corp. v. Cougar Elec. Org., Inc., 198 F.3d 85 (2d Cir. 1999) 30
Lucky Brand Dungarees, Inc. v. Marcel Fashions Grp., Inc., 590 U.S. 405 (2020) 28–29
Machetta v. Moren, 726 F. App'x 219 (5th Cir. 2018) 5, 11–12, 24
Maestri v. Jutkofsky, 860 F.2d 50 (2d Cir. 1988) 13
Margolin v. Nat'l Ass'n of Immigr. Judges, 608 U.S. 339 (2026) 33
Mireles v. Waco, 502 U.S. 9 (1991) ..... i, 8–9, 12

Nelson v. Adams USA, Inc., 529 U.S. 460 (2000) 34
Nevada v. Hicks, 533 U.S. 353 (2001) 8, 13
Oreck Direct, LLC v. Dyson, Inc., 560 F.3d 398 (5th Cir. 2009) 30
Pamon v. U.S. Postal Serv., No. 26-10010 (5th Cir. May 28, 2026) 31
Pittman v. Moore, 980 F.2d 994 (5th Cir. 1993) 30–31, 35
Pulliam v. Allen, 466 U.S. 522 (1984) 8, 11, 17, 21, 23–24
Quern v. Jordan, 440 U.S. 332 (1979) 25
Reule v. Jackson, 114 F.4th 360 (5th Cir. 2024) 5, 12
Rockett ex rel. K.R. v. Eighmy, 71 F.4th 665 (8th Cir. 2023) 20
Rockett v. Eighmy, No. 25-1664 (8th Cir. Oct. 13, 2026) 20
R.W.T. v. Dalton, 712 F.2d 1225 (8th Cir. 1983) 22
Sam v. Richard, 887 F.3d 710 (5th Cir. 2018) 36
Simmons v. Conger, 86 F.3d 1080 (11th Cir. 1996) 15
Singleton v. Wulff, 428 U.S. 106 (1976) ..... i, 32
Soc'y of Separationists, Inc. v. Herman, 959 F.2d 1283 (5th Cir. 1992) (en banc) 14
Sprint Commc'ns, Inc. v. Jacobs, 571 U.S. 69 (2013) 26
Steel Co. v. Citizens for a Better Env't, 523 U.S. 83 (1998) 5–6, 13
Stump v. Sparkman, 435 U.S. 349 (1978) ..... i, 8–9, 12, 16, 18, 20–21
Sup. Ct. of Va. v. Consumers Union of U.S., Inc., 446 U.S. 719 (1980) 24
Taylor v. Sturgell, 553 U.S. 880 (2008) 31

TransUnion LLC v. Ramirez, 594 U.S. 413 (2021) 11
United States v. Sineneng-Smith, 590 U.S. 371 (2020) 33
United States v. Windsor, 570 U.S. 744 (2013) 8–10, 17
Venture Glob. Eng'g, LLC v. Satyam Comput. Servs., Ltd., 730 F.3d 580 (6th Cir. 2013) 30
Verizon Md. Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635 (2002) 25
Whole Woman's Health v. Jackson, 595 U.S. 30 (2021) ..... i, 8, 11, 15, 18–19, 21–23

Constitution, statutes, and rules

U.S. Const. amend. XIV, § 1 2–3
U.S. Const. art. III, § 2, cl. 1
..... i, 2, 4–16, 18–26, 34, 37
15 U.S.C. § 1673(b)(1)(A) 26
18 U.S.C. § 1964 4
28 U.S.C. § 1254(1) 1
28 U.S.C. § 1331 4
28 U.S.C. § 1367 ..... 4, 36–37
31 U.S.C. § 5324(a) 33
42 U.S.C. § 1983
..... i, 2–4, 8, 10, 12, 16–18, 22–23, 27, 35
Tex. Fam. Code § 201.005 20
Tex. Fam. Code § 201.006 20
Tex. Fam. Code § 201.007 20
Tex. Fam. Code § 201.017 20
5th Cir. R. 47.5.1 36
5th Cir. R. 47.5.2 36
5th Cir. R. 47.5.4 35
Fed. R. App. P. 32.1 35
Fed. R. Civ. P. 9(b) 33
Fed. R. Civ. P. 12(c) 6
Fed. R. Civ. P. 15(a)(2) 34
Sup. Ct. R. 10(a) 8–9, 21, 23, 26–27, 32
Sup. Ct. R. 10(c)
..... 8–9, 14, 17–18, 21, 23–24, 26–27, 32
Sup. Ct. R. 13.3 1

Other authorities

Petition for a Writ of Certiorari, *Kellogg v. Nichols*, No. 26-453 (Sept. 28, 2026) ... 9, 16–17, 24, 37

Alexandra Nickerson & Kellen Funk, *When Judges Were Enjoined: Text and Tradition in the Federal Review of State Judicial Action*, 111 Calif. L. Rev. 1763 (2023) 17–18, 24
James E. Pfander, *Judicial Review of Unconventional Enforcement Regimes*, 102 Tex. L. Rev. 769 (2024) 17, 24

PETITION FOR A WRIT OF CERTIORARI

Conghua Yan respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in No. 25-10752.

OPINIONS BELOW

The court of appeals' unpublished opinion, entered August 20, 2026, is reproduced at App. 2a–9a. The unreported district-court orders and related findings are reproduced as follows: March 6, 2025 adoption order (App. 10a–11a); January 16, 2025 findings and recommendation (App. 12a–41a); June 11, 2025 reconsideration denial (App. 42a–44a); and March 6, 2025 final judgment (App. 46a–47a). The court of appeals' September 16, 2026 order denying panel rehearing, the amended petition for rehearing en banc, and publication is reproduced at App. 45a.

JURISDICTION

The court of appeals entered judgment on August 20, 2026. Petitioner timely sought panel rehearing and rehearing en banc. On September 8, 2026, the court granted leave to file his amended petition for rehearing en banc. App. 48a; Fifth Cir. Dkt. Nos. 90–91. On September 16, 2026, it denied panel rehearing and the amended petition for rehearing en banc; no panel member or judge in regular active service requested an en banc poll. App. 45a. The time to petition runs from that denial under Rule 13.3. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article III, Section 2, Clause 1 of the Constitution provides, in pertinent part:

> "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States ..."

The Fourteenth Amendment, Section 1, provides, in pertinent part:

> "... nor shall any State deprive any person of life, liberty, or property, without due process of law ..."

42 U.S.C. § 1983 provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Pertinent Texas Family Code provisions appear at App. 61a–62a. Additional pertinent federal

statutes and regulation are reproduced in Appendix K.

STATEMENT OF THE CASE

A. The complaint sought damages and prospective relief for an order allegedly memorializing an adjudication that never occurred

Petitioner sought personal damages for completed injuries allegedly caused by an order memorializing an adjudication that never occurred. The operative complaint sued Lori L. DeAngelis, an appointed Texas associate judge, personally under 42 U.S.C. § 1983. It alleged that Wang filed no motion for the relief the June 21, 2022 order purported to memorialize, and that no notice, hearing, or open-court rendition on that request preceded the order. Second Am. Compl. ¶¶ 2, 53–55, 62–63, 105, ECF No. 9; App. 49a, 54a, 56a, 58a. The complaint identified Barrows as the drafter, alleged that Pigg forged petitioner's signature, and alleged that DeAngelis signed the instrument. *Id.* ¶ 104; App. 57a–58a. It alleged that defendants entered the order without service, that Pigg never informed petitioner of the signed order, and that petitioner did not become fully aware of it until March 2024. It also alleged that concealment deprived petitioner of appellate review. *Id.* ¶¶ 2, 61; App. 49a, 55a–56a.

The complaint alleged that the loss of use of petitioner's marital home and the withholding of his wages without notice or an opportunity to be heard deprived him of property without due process under the Fourteenth Amendment. It sought monetary relief from DeAngelis, Barrows, and Pigg in their individual capacities. Second Am. Compl. ¶¶ 53–55,

61–63, 66–68, 72; App. 54a–57a. The complaint also named DeAngelis in her official capacity and described Texas as sued through that capacity; its specified prospective injunctions were directed to Texas. *Id.* ¶¶ 8–9, 53, 73–81; App. 54a, 57a, 70a–72a.

B. The claims against the attorneys allege distinct property deprivations and concealment

The claims against Barrows and Pigg challenge more than their participation in the divorce. Petitioner alleged that they procured the order excluding him from his home and withholding his wages, and concealed its entry. Second Am. Compl. ¶¶ 53–55, 61–63, 66–68; App. 54a–57a. He also alleged that Barrows used an attorney-held account for Panopyra cash transactions, helped conceal those transactions, and instructed Wang to open additional accounts. *Id.* ¶¶ 27–28, 31; App. 51a–52a. Part III compares those alleged acts with the retirement-fund transactions pleaded in the earlier action.

C. The district court dismissed the claims against DeAngelis without prejudice and those against Barrows and Pigg with prejudice

Petitioner filed this action on June 20, 2024, invoking federal-question jurisdiction under 28 U.S.C. § 1331 for his claims under 42 U.S.C. § 1983 and the civil RICO statute, 18 U.S.C. § 1964, and supplemental jurisdiction under 28 U.S.C. § 1367. Second Am. Compl., Part II, ECF No. 9, at 5. He filed the operative complaint on October 10, 2024. The magistrate judge recommended dismissal on January 16, 2025. As to DeAngelis, the recommendation found no Article III controversy and separately

concluded that judicial immunity would apply even if standing existed. App. 26a–31a.

The district court accepted the recommendation over petitioner's objections and entered final judgment on March 6, 2025. App. 10a–11a, 46a–47a. The judgment dismissed the claims against DeAngelis and Wang, Panopyra, Zheng, and Tang without prejudice. It dismissed the claims against Barrows and Pigg with prejudice and the state-law claims without prejudice. App. 46a–47a. The court denied petitioner's timely motion to alter or amend the judgment on June 11, 2025, leaving the case closed. App. 42a–44a.

D. The panel affirmed on Article III, claim-splitting, and RICO pleading grounds

The Fifth Circuit affirmed on August 20, 2026. It held that a litigant and a judge acting in an adjudicatory capacity lack an Article III case or controversy, relying on *Reule v. Jackson*, 114 F.4th 360, 365–66 (5th Cir. 2024), *Bauer v. Texas*, 341 F.3d 352, 359–61 (5th Cir. 2003), and *Machetta v. Moren*, 726 F. App'x 219, 220 (5th Cir. 2018). App. 3a–4a. The panel said the order "followed a hearing at which he personally appeared" and treated the instrument as confirming DeAngelis's adjudicatory role despite petitioner's authenticity challenge. App. 3a–5a. Its explanation did not identify the hearing's subject or explain its connection to the particular adjudication allegedly memorialized in the order.

The panel then affirmed the dismissal of all claims against DeAngelis. Its footnote expressly declined to address judicial immunity because, in its view, jurisdiction was absent. App. 4a n.1. It cited *Steel Co. v. Citizens for a Better Environment*, 523

U.S. 83, 98 (1998), for that sequencing. Thus, the judgment on petitioner's personal-capacity damages claim rests on Article III nonadversity, not an appellate holding that DeAngelis is immune.

The panel separately affirmed dismissal of the claims against Barrows and Pigg as duplicative. It rejected res judicata because the record did not establish an earlier final judgment, but treated the alleged entry of a fraudulent temporary order in the divorce as the common nucleus of operative facts. App. 4a–5a.

For Wang, Panopyra, Zheng, and Tang, the panel rejected duplication and *Younger* abstention but affirmed on predicate and continuity deficiencies and sustained denial of amendment as futile. It also affirmed declining supplemental jurisdiction after all federal claims were dismissed. App. 5a–9a. Petitioner identified these defendants' nonparticipation on appeal and challenged the substituted grounds on rehearing. Amended C.A. En Banc Pet. 10, 18–23.

Yan v. State Bar of Texas, No. 4:23-cv-00758-P (N.D. Tex.) (*Yan I*), was already on appeal when petitioner filed this action. Barrows C.A. Br. 3. This action was already on appeal when *Yan I*'s mandate issued on October 20, 2025. *Id.* at 1; *Yan I*, ECF No. 174. On March 10, 2026, the court dismissed *Yan I* with prejudice after granting Pigg's Rule 12(c) motion and denying amendment. ECF Nos. 224–225; App. 59a–60a. Petitioner appealed March 30, 2026. ECF No. 230. That judgment is separately under review in No. 26-10286.

E. Petitioner challenged the dismissals and sought rehearing and publication

The personal-damages claim was pleaded, challenged on appeal, and dismissed on Article III grounds. The complaint sought monetary relief from DeAngelis personally. Second Am. Compl. ¶¶ 53, 66–68, 72. Petitioner challenged standing and immunity in his opening brief, and the panel expressly decided that her adjudicatory role defeated jurisdiction over all claims. Pet. C.A. Opening Br. 28–31, 41–45; App. 3a–4a & n.1. The accepted amended en banc petition expressly challenged extending nonadversity to personal damages even if the conduct was adjudicatory. Amended C.A. En Banc Pet. 7, 12–17.

The official-capacity claim was also pleaded and defended on appeal. The complaint named DeAngelis in both capacities and requested prospective relief; petitioner's opening brief defended that relief under *Ex parte Young*. ECF No. 9, ¶¶ 8–9, 53, 73–82; Pet. C.A. Opening Br. 40–41; App. 54a, 57a; App. 70a–72a. DeAngelis's appellee brief addressed official-capacity relief and expressly distinguished the district court's sovereign-immunity ruling concerning Texas. DeAngelis C.A. Br. 15–16 & n.5.

The September 8 order granted leave to file the amended en banc petition, which renewed the Article III objection. App. 48a; Amended C.A. En Banc Pet. 7, 12–17. The court denied rehearing and publication on September 16, 2026. App. 45a. The claim-splitting objections were also presented in the opening brief and panel rehearing petition. Pet. C.A. Opening Br. 38–40; C.A. Panel Reh'g Pet. 21–22.

Petitioner distinguished the transactions and alleged that he became fully aware of the concealed order only in March 2024. Second Am. Compl. ¶¶ 2,

61; Pet. C.A. Opening Br. 38–40; C.A. Panel Reh'g Pet. 21–22. The panel rejected res judicata because the record did not establish an earlier final judgment, but affirmed claim splitting as to Barrows and Pigg. App. 4a–5a.

REASONS FOR GRANTING THE PETITION

The panel's Article III rule defeats personal financial adversity and makes this Court's judicial-immunity exception unreachable in federal damages actions. Rule 10(c) review is warranted because that rule conflicts with the principles established in *Windsor*, *Hicks*, and *Stump*. *Windsor* recognizes a controversy over money the defendant otherwise refuses to pay. *United States v. Windsor*, 570 U.S. 744, 758–59 (2013). *Hicks* separates personal immunity from jurisdiction. *Nevada v. Hicks*, 533 U.S. 353, 373 (2001). *Stump* preserves an immunity exception for judicial acts taken in the clear absence of all jurisdiction. *Stump v. Sparkman*, 435 U.S. 349, 357 n.7 (1978); *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991). Yet the panel made adjudicatory character sufficient to defeat jurisdiction and expressly reserved immunity. App. 3a–4a & n.1. Its rule would foreclose the exception even where complete absence of jurisdiction could be established. The Court should resolve that conflict and remand the reserved immunity questions.

The same categorical rule also foreclosed prospective relief without resolving the distinctions drawn in *Pulliam*, *Whole Woman's Health*, and § 1983. Question 1(b) asks the Court to define that constitutional boundary under Rule 10(c). The circuits' acknowledged disagreement over jurisdictional or statutory dismissal supplies a related reason for review under Rule 10(a). See Part

II. The pending *Kellogg* petition presents the prospective-relief issue in a licensing setting; Question 1(a) separately presents the extension to personal damages.

The with-prejudice dismissal of the attorney claims separately warrants review under Rule 10(c). A shared divorce proceeding cannot replace comparison of the transactions alleged in each action or examination of whether concealment prevented their earlier assertion. The Court should require those inquiries and, alternatively, protect prosecution in the earlier action against this judgment's own preclusive effect. Each question permits relief without deciding ultimate liability.

The separate RICO disposition warrants review under Rules 10(a) and 10(c) because authority to affirm on another ground does not dispense with a fair opportunity to answer materially different applications of pleading requirements. See Part IV.

I. The panel's Article III rule would make the immunity exception *Stump* and *Mireles* preserve unreachable. Rule 10(c).

A. *Windsor* measures adversity by the parties' stake in the relief sought, which here is personal compensation

DeAngelis's own financial liability is the object of this federal suit. Petitioner demanded compensation from her personally for completed injuries. ECF No. 9, ¶¶ 53, 66–68, 72; App. 54a, 56a–57a. Her appellate brief acknowledged the demand for compensatory and punitive damages, then invoked the statute-challenge rule and asserted that petitioner's adversary was his wife. DeAngelis C.A. Br. 3–4, 9–11. The parties' competing interests in that

compensation do not disappear because DeAngelis adjudicated the underlying divorce.

The United States agreed with Windsor's constitutional position but withheld the tax refund she sought. Because a judgment would require payment the Government otherwise refused to make, the parties retained a controversy sufficient for Article III. 570 U.S. at 758–59. Here, a judgment awarding personal compensation would likewise determine whether DeAngelis must pay petitioner for the alleged injuries. Her role in the earlier proceeding does not answer whether she is adverse to that demand in this one.

Hafer v. Melo distinguishes the capacity in which an official acted from the capacity in which she is sued. 502 U.S. 21, 26–27 (1991). The Court rejected the premise that the official authority enabling an injury also insulates the officer from personal suit. *Id.* at 27–28. Officials claiming absolute immunity must justify that protection for the particular governmental function. *Id.* at 28–29. Here, the panel treated DeAngelis's adjudicatory role in the underlying proceeding as eliminating jurisdiction over a claim seeking compensation from her personally. App. 3a–4a & n.1. *Hafer* addressed § 1983 and the Eleventh Amendment, not Article III. Question 1(a) asks whether Article III nevertheless makes that same official character sufficient to foreclose personal damages before immunity is considered.

The complaint alleges a conventional damages controversy. It attributes lost income and housing expenses to DeAngelis's participation in the challenged order and seeks compensation from her personally. ECF No. 9, ¶¶ 66–68, 72; App. 56a–57a.

Those alleged monetary losses are concrete injuries, and a judgment requiring her to compensate petitioner would redress them. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 425 (2021); *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 380–81 (2024). Standing must be assessed for each claim and form of relief. *TransUnion*, 594 U.S. at 431. The panel's adjudicatory premise does not answer that inquiry.

Whole Woman's Health's nonadversity conclusion rested on a different controversy: a challenge to a statute brought against judges who would neutrally adjudicate private claims under it. *Whole Woman's Health v. Jackson*, 595 U.S. 30, 39–40 (2021). It did not decide adversity when the federal plaintiff seeks compensation from the judge personally. The panel carried the former conclusion into the latter controversy without accounting for the judge's own financial stake. *Whole Woman's Health* itself distinguished *Pulliam* because the injunction concerned the judge's enforcement of her own rule, rather than her processing of cases under state statutory law. *Id.* at 42. *Pulliam v. Allen* stated the statute-challenge principle as an Article III limit on injunctive relief. 466 U.S. 522, 538 n.18 (1984). Neither decision makes judicial function alone dispositive of a controversy over personal compensation.

The panel's other authorities likewise concern different claims and remedies. *Bauer v. Texas* addressed official-capacity declaratory relief concerning a guardianship statute. 341 F.3d 352, 354, 358–61 (5th Cir. 2003). *Machetta v. Moren* sought injunctive and declaratory relief; although its plaintiff denied challenging a statute, the court identified an attack on Texas's best-interest-of-the-

child standard. 726 F. App'x 219, 220 (5th Cir. 2018). *Reule v. Jackson* involved the vexatious-litigant scheme and nominal damages against the judge in official and administrative capacities. 114 F.4th 360, 363–66 (5th Cir. 2024). None resolved adversity over personal financial liability.

The doctrine's originating decision did not adjudicate damages adversity. *In re Justices of the Supreme Court of Puerto Rico* reviewed prospective statutory challenges after the damages claims against the judges had been dismissed. 695 F.2d 17, 19–20 (1st Cir. 1982). It dismissed the membership and dues claims under its construction of § 1983, expressly declining to rest its decision directly on Article III. *Id.* at 22.

B. Judicial character cannot erase the exception for complete absence of jurisdiction

Judicial character alone cannot establish immunity. *Stump v. Sparkman* gives the example of a probate judge limited to wills and estates who tries a criminal case: the judge acts in the clear absence of jurisdiction and lacks judicial immunity. 435 U.S. 349, 357 n.7 (1978). The act remains adjudicatory; the defect is authority to undertake it. *Mireles v. Waco* preserves separate exceptions for nonjudicial actions and judicial actions taken in the complete absence of all jurisdiction. 502 U.S. 9, 11–12 (1991).

The panel's rule would prevent that inquiry. It held that "[t]here is no case or controversy between a litigant and a judge acting in an adjudicatory capacity." App. 3a. Under that rule, *Stump*'s probate judge would defeat a suit for personal damages by the very criminal adjudication for which immunity is unavailable. The panel applied its rule to dismiss all

claims against DeAngelis and expressly declined immunity. App. 3a–4a & n.1. Article III should not make this Court's exception unreachable in federal damages litigation merely because the challenged act was adjudicatory.

Maestri v. Jutkofsky demonstrates the exception's practical operation. The Second Circuit discussed the probate-judge example and reversed immunity for a judge who knowingly issued arrest warrants outside his territorial jurisdiction. 860 F.2d 50, 52–53 (2d Cir. 1988). The warrants were judicial acts; complete absence of jurisdiction defeated immunity. On rehearing, petitioner argued that the panel's Article III rule would prevent courts from reaching that exception. Amended C.A. En Banc Pet. 16; App. 74a.

The panel's reliance on *Steel Co.* does not resolve the personal-damages question. App. 4a n.1. *Steel Co. v. Citizens for a Better Environment* requires jurisdiction first but distinguishes an arguable federal claim from entitlement to relief. 523 U.S. 83, 89, 98 (1998); *Bell v. Hood*, 327 U.S. 678, 682–83 (1946). *Hicks*, although addressing tribal jurisdiction, rejected treating absolute- and qualified-immunity defenses as jurisdictional. 533 U.S. at 373. Petitioner alleged completed injuries redressable by compensation from DeAngelis personally. Whether her adjudicatory role nevertheless eliminates Article III adversity is the constitutional question the Court should resolve before immunity; *Steel Co.*'s sequencing rule does not answer it.

C. Circuit decisions expressly recognize damages standing and separately address judicial immunity. Rule 10(c).

Davis v. Tarrant County expressly held that an attorney had standing to challenge his rejection from a court-appointment list, classified the challenged conduct as judicial, and separately held the individual-capacity claims barred by immunity. 565 F.3d 214, 221, 225–26, 228 (5th Cir. 2009). The court described that conduct as "intimately connected to a judge's adjudicatory role." *Id.* at 226. *Davis* shows that judicial character for immunity purposes does not, by itself, eliminate standing.

The Fifth Circuit's en banc decision in *Society of Separationists, Inc. v. Herman* involved contempt adjudication during jury selection. It distinguished standing for damages from standing for prospective relief, denied prospective relief because another encounter was speculative, and separately affirmed immunity from damages. 959 F.2d 1283, 1285–86, 1288–89 (5th Cir. 1992). *Adams v. McIlhany* similarly separated damages immunity from Article III limits on equitable relief. 764 F.2d 294, 297–300 (5th Cir. 1985). These decisions require attention to the particular claim and remedy.

The Tenth Circuit expressly recognized damages standing in *Collins v. Daniels*, a suit against judicial officers in their individual capacities: "When Collins filed suit, she had standing to seek damages for the alleged deprivation of her constitutional rights." 916 F.3d 1302, 1314 (10th Cir. 2019). It independently examined jurisdiction and reaffirmed damages standing before turning to immunity. *Id.* at 1314–15. The court left intact the judicial-immunity ruling because the plaintiffs had abandoned their challenge

to it. *Id.* at 1316–17. Judicial character therefore did not prevent recognition of a controversy over personal compensation, even though immunity ultimately barred recovery. *Collins* predates *Whole Woman's Health* and did not expressly decide judicial nonadversity.

Goodley v. Greene supplies a concrete post-*Whole Woman's Health* comparison. A probate litigant sued a judge individually for damages arising from hearings and orders after recusal. The Eleventh Circuit rejected the district court's conclusion that the complaint inadequately alleged Article III injury in fact. It then classified the acts as judicial, examined the state court's jurisdiction for immunity purposes, and affirmed on immunity. No. 21-13978, slip op. at 3 n.2, 4–5 (11th Cir. Sept. 9, 2022) (unpublished). Thus, the alleged judicial conduct could supply the injury necessary for standing even though immunity ultimately barred recovery.

Circuit decisions also apply the limits of judicial immunity to personal damages claims arising from judicial acts. *Kellogg v. Nichols* affirmed immunity from individual-capacity damages and separately applied Article III nonadversity to official-capacity declaratory and injunctive relief. 170 F.4th 20, 25 (2d Cir. 2026) (per curiam). *Simmons v. Conger* examined absence of jurisdiction before holding the judge immune from personal damages. 86 F.3d 1080, 1084–85 (11th Cir. 1996). *Ballard v. Wall* likewise examined that exception after finding judicial conduct. 413 F.3d 510, 514–17 (5th Cir. 2005).

The relief sought also distinguishes the broader nonadversity language in *Frazier v. Prince George's County*: the plaintiffs sought only declaratory relief against the judges. No. 24-1380, slip op. at 11 (4th

Cir. June 18, 2025). *Allen v. DeBello* treated judges as improper Section 1983 defendants in an equitable challenge to custody standards and expressly declined to rest on Article III. 861 F.3d 433, 440–43 & n.49 (3d Cir. 2017). Neither decided adversity over a judge's personal liability for damages.

Six judges dissented from denial of rehearing en banc in *Kellogg*, warning that assigning licensing decisions to judges could shield those decisions from federal review. *Kellogg v. Nichols*, No. 23-8093, dissent at 1–2 (2d Cir. June 30, 2026) (Sullivan, J.). Judge Nathan concurred in denying rehearing but separately questioned using immunity reasoning to determine Article III adversity and warned against insulating administrative functions by assigning them to judges. *Id.*, concurrence at 1–2, 10–11 (Nathan, J.). Petitioner invoked that distinction below. Amended C.A. En Banc Pet. 15. The disagreement concerns the constitutional boundary of federal review, not merely whether particular conduct receives immunity.

The certiorari petition in *Kellogg* challenges nonadversity in the licensing context but expressly leaves the individual-capacity damages-immunity ruling unchallenged. Pet. for a Writ of Certiorari at i, 6, *Kellogg v. Nichols*, No. 26-453. This case presents the additional extension to personal damages: the panel invoked Article III and expressly declined immunity. App. 3a–4a & n.1. Petitioner presented that distinction on rehearing, which the Fifth Circuit denied without an en banc poll. Amended C.A. En Banc Pet. 3, 14–15, 17; App. 45a, 73a. Question 1(b) concerns the related prospective-relief boundary. Question 1(a) asks whether nonadversity can make *Stump*'s immunity exception unreachable in a

personal-damages action, a question *Kellogg*'s petition does not present.

D. The panel extends a constitutional bar that scholars identify as incompatible with *Pulliam* and § 1983. Rule 10(c).

Published scholarship challenges the prospective-relief premise the panel extended to personal damages. Alexandra Nickerson and Kellen Funk argue that a categorical constitutional bar to prospective suits against adjudicative judges conflicts with *Pulliam* and Section 1983's text. *When Judges Were Enjoined: Text and Tradition in the Federal Review of State Judicial Action*, 111 Calif. L. Rev. 1763, 1815–16 (2023); App. 68a. Their survey expressly identifies *Bauer*'s nonadversity approach alongside Fifth Circuit and district-court decisions recognizing that immunity does not itself bar declaratory relief. *Id.* at 1815 n.301, 1820 n.325.

A judge's role in the underlying case does not settle her interests as a defendant. James E. Pfander invokes historical writs against judges and possible exposure to remedial orders enforceable by contempt. *Judicial Review of Unconventional Enforcement Regimes*, 102 Tex. L. Rev. 769, 801–02 (2024); App. 69a. He cites *Windsor* for the resulting personal adversity. *Id.* at 802 n.205. That analysis directs attention to the judge's stake in the requested relief, not merely her adjudicatory role.

The panel's interpretation removes adjudicatory conduct from Congress's remedial scheme before its conditions can operate. Congress's 1996 amendment restricted injunctions against officers acting judicially to cases involving violation of a declaratory decree or unavailability of declaratory relief; it did

not impose the same restriction on declarations. 42 U.S.C. § 1983. Nickerson and Funk argue that courts defeat this choice when they deny relief because the defendant acted in the very judicial capacity the statute addresses. They urge courts to honor Congress's decision to preserve relief against judicial officers rather than afford those defendants special protection. 111 Calif. L. Rev. at 1815–16, 1826–28; App. 68a. That criticism directly concerns Question 1(b). The panel's extension to personal damages adds another consequence: *Stump*'s exception cannot be considered even if the alleged judicial acts occurred in the clear absence of all jurisdiction. Rule 10(c) review would resolve the constitutional premise that forecloses both inquiries.

E. The Court can correct Article III and leave the preserved immunity issues for remand

Even if the challenged conduct was adjudicatory, the Court can decide whether that characterization alone defeats adversity over personal damages. Petitioner's separate challenge to the conduct's actual function remains preserved for remand. Pet. C.A. Opening Br. 28–31, 41–44; Pet. C.A. Reply Br. 20–22; Amended C.A. En Banc Pet. 9, 12–17.

Forrester requires analysis of the particular function, not judicial title alone. *Forrester v. White*, 484 U.S. 219, 227–29 (1988). *Antoine* identifies judicial immunity's touchstone as "performance of the function of resolving disputes between parties, or of authoritatively adjudicating private rights." *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 435–36 (1993) (citation omitted). *Whole Woman's Health* likewise examined judges' role in resolving private claims under a challenged statute, but its

adversity inquiry remains distinct from immunity. 595 U.S. 30, 39–42 (2021).

Lindke did not dispense with identifying the proceeding actually adjudicated. It examined the judge's statutory role in evaluating a private party's request, and its factual predicate was undisputed. *Lindke v. Tomlinson*, 31 F.4th 487, 490 n.1, 493 (6th Cir. 2022). Its express holding concerned a challenge to a state statute brought against a judge who merely construed and applied that statute. *Id.* at 495. It did not decide adversity over personal damages or authorize resolving a disputed adjudicatory premise against the claimant.

Petitioner's reply distinguished the report identifying him as the movant from the later instrument reciting a hearing on Wang's motion. Pet. C.A. Reply Br. 20–22 (citing ROA.657 ¶ 29 and ROA.24-10543.1171). The complaint alleges that Wang's recited request was never filed, noticed, or heard. App. 49a, 54a, 56a, 58a. The panel nevertheless treated the instrument as having followed a hearing without identifying that hearing's subject. App. 3a–4a. A hearing on petitioner's request does not establish adjudication of Wang's different purported request without the connection the panel omitted. The Court can correct the Article III rule while leaving that preserved factual and functional inquiry for remand.

The panel treated the challenged order as establishing adjudicatory capacity without addressing petitioner's pleaded challenge to DeAngelis's statutory authority as an associate judge. App. 3a–4a, 55a–56a, 61a–62a. The state district court's jurisdiction over the divorce does not itself identify DeAngelis's delegated powers.

Petitioner disputed her authority as an appointed associate judge under Texas Family Code §§ 201.005, 201.006, and 201.007, including the applicable referral and power to perform this act. Pet. C.A. Opening Br. 41–44; ECF No. 9, ¶ 58 & nn.5–7; App. 55a. Appendix J reproduces the relevant provisions and identifies the version governing the underlying suit. App. 61a–62a. Section 201.017's immunity provision does not confer those powers. Whether the alleged defect amounts to complete absence of jurisdiction or excess of authority remains an immunity question under *Stump*, 435 U.S. at 356–62. Texas courts distinguish an associate judge's statutory role from independently vested constitutional authority to render final orders. *In re L.D.C.*, No. 13-17-00053-CV, slip op. at 12–13 (Tex. App.—Corpus Christi–Edinburg Dec. 13, 2018) (mem. op.).

Rockett ex rel. K.R. v. Eighmy illustrates the act-specific inquiry in a personal-damages suit arising from a custody case. The Eighth Circuit classified a pick-up order as judicial, examined Missouri law to distinguish subject-matter jurisdiction from statutory authority, and upheld immunity for that order. 71 F.4th 665, 672–73 (8th Cir. 2023). It separately allowed the claim concerning the judge's courthouse detention of the children to proceed because that conduct was nonjudicial. *Id.* at 670–72. The court applied the immunity framework; it did not decide Article III nonadversity.

The later jury verdict and damages concerned that separate courthouse-detention conduct, not the immune pick-up order. *Rockett v. Eighmy*, No. 25-1664, slip op. at 2–4 & n.2 (8th Cir. Oct. 13, 2026). The distinction shows why identifying the challenged

act matters. Here, whether Texas's referral and enumerated-power provisions establish a jurisdictional limit or a limit on authority remains an immunity question under *Stump*, not an answer supplied by the label "adjudicatory."

The Court can vacate the Article III dismissal and leave immunity for remand. The judgment dismissed DeAngelis without prejudice, and the panel expressly declined to decide immunity because it found no jurisdiction. App. 4a n.1, 46a–47a. The district court addressed immunity only on the premise that standing existed. App. 29a–31a. *Bell v. Hood* reversed a jurisdictional dismissal while leaving the right to recover for further determination. 327 U.S. 678, 680, 682–85 (1946). *Cutter v. Wilkinson* likewise left defenses unaddressed by the court of appeals for further proceedings. 544 U.S. 709, 718 n.7 (2005). Review on the panel's adjudicatory premise preserves petitioner's challenges to the conduct's actual function and DeAngelis's authority to undertake it.

II. The circuits disagree over the constitutional or statutory basis for dismissing prospective suits against adjudicatory judges. Rules 10(a) and 10(c).

Question 1(b) presents an important federal question: whether adjudicatory character alone closes the federal forum to prospective claims against judicial officers. Rule 10(c). *Pulliam* rejected judicial immunity as a bar to such relief, while *Whole Woman's Health* distinguished the neutral adjudication of claims under a challenged statute. The panel made adjudicatory character conclusive. Here, the complaint expressly named DeAngelis in both capacities, alleged recurring wage withholding

without due process, and sought prospective safeguards concerning court documents, notice, and de novo hearings. ECF No. 9, ¶¶ 8–9, 53, 60, 63, 66, 73–82; App. 54a, 56a–57a, 70a–72a. The panel dismissed all claims under Article III after classifying the conduct as adjudicatory. App. 3a–4a. Review would determine whether adversity must instead be examined in relation to the official conduct and prospective relief at issue.

The Sixth Circuit expressly declined to follow the First and Third Circuits' nonconstitutional approach. *In re Justices* construed § 1983 and declined to rest dismissal on Article III. 695 F.2d at 22–23. *Allen* followed that approach. 861 F.3d at 443 n.49. After *Whole Woman's Health*, *Lindke* considered those decisions but chose jurisdictional dismissal, reasoning that a court cannot bypass an Article III defect to reach the merits. 31 F.4th at 494–95. That was an express choice of a different doctrinal ground, not merely a different result.

The Eighth Circuit also followed the improper-defendant approach while expressly reserving Article III. *R.W.T. v. Dalton*, 712 F.2d 1225, 1232–33 & n.10 (8th Cir. 1983), abrogated in part on other grounds by *Kaiser Aluminum & Chem. Corp. v. Bonjorno*, 494 U.S. 827 (1990). Its reservation adds another example of resolving the statutory question without deciding constitutional nonadversity.

The disagreement concerns the required ground of dismissal, not simply whether the particular prospective claims proceeded. The earlier decisions reserved the constitutional question; *Lindke* decided it. Similar dispositions do not eliminate that difference: Congress can alter a statutory restriction but cannot remove an Article III bar through

ordinary legislation. Rule 10(a) supports resolving the disagreement over the doctrinal ground; Rule 10(c) independently supports deciding whether adjudicatory character alone forecloses § 1983's prospective remedies.

A. The panel extended *Whole Woman's Health* without addressing the officer's relation to the prospective relief sought. Rule 10(c).

The panel classified the challenged order as adjudicatory and dismissed every prospective claim on that basis. App. 3a–4a. *Whole Woman's Health* addressed judges who would neutrally adjudicate private claims under a challenged statute. 595 U.S. at 39–40. It distinguished *Pulliam* because that case concerned judicial immunity and an injunction against the judge's enforcement of a rule she had created herself, rather than her processing of cases under state statutory law. *Id.* at 42. *Pulliam* held that judicial immunity did not foreclose prospective relief even when the officer acted judicially, while preserving distinct Article III and equitable limits. 466 U.S. at 537–42 & 538 n.18. The panel did not address DeAngelis's relation to the alleged continuing deprivation or the prospective relief requested. Under Rule 10(c), the Court should require the lower court to consider that connection before dismissing the claim against DeAngelis based on adjudicatory character, leaving the availability of particular remedies for remand.

Congress's conditions on judicial injunctions cannot operate if adjudicatory capacity itself defeats jurisdiction. For acts taken in a judicial capacity, Section 1983 restricts injunctions unless a declaratory decree was violated or declaratory relief was unavailable. 42 U.S.C. § 1983. That proviso does

not impose the same restriction on declarations. Petitioner distinguished the statutory injunction restriction when addressing *Machetta* on rehearing. C.A. Panel Reh'g Pet. 11. Nickerson and Funk question a categorical judicial-capacity bar in light of this text and *Pulliam*, while Pfander's account of historical writs supplies a further reason to examine the constitutional boundary. *See supra* Part I.D. The question under Rule 10(c) is whether Article III independently requires exclusion of the very judicial conduct for which Congress specified those remedial conditions.

The same judicial officers can be proper defendants for one function and immune for another. In *Supreme Court of Virginia v. Consumers Union of United States, Inc.*, legislative immunity protected promulgation of the challenged rules, but the officers' independent enforcement authority made them proper defendants for declaratory and injunctive relief. 446 U.S. 719, 734–36 (1980). *Kellogg*'s petition likewise challenges the use of immunity's judicial-function test to defeat Article III adversity, though in a licensing setting. Pet. for Cert. 26–28, No. 26-453.

B. Texas's immunity does not resolve the separately pleaded claim against the judicial officer

Texas's immunity does not dispose of the separately pleaded claim against DeAngelis. The opening brief defended nine prospective remedies against the state actor's official capacity, a position Texas itself quoted. Pet. C.A. Opening Br. 40–41; State C.A. Br. 11; see Pet. C.A. Reply Br. 33–34. DeAngelis's brief likewise acknowledged the injunctive claims and stated that the district court's sovereign-immunity ruling did not include her.

DeAngelis C.A. Br. 15–16 & n.5. The panel's discussion of petitioner's reply concession concerned Texas and explained that *Ex parte Young* does not authorize suit against the State itself. App. 8a.

Ex parte Young directs attention to the officer's connection with the challenged enforcement. 209 U.S. 123, 157–60 (1908). In assessing that exception, courts examine whether the complaint alleges an ongoing federal violation and seeks relief properly characterized as prospective, without deciding the violation's merits in that inquiry. *Verizon Md. Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635, 645–46 (2002). The panel's categorical Article III ruling left those questions unresolved; they should be addressed on remand.

C. The alleged recurring wage withholding supports remand of the prospective-relief claim

Petitioner alleged repeated deprivation, not merely the continuing consequences of a completed lawsuit. He alleged new withholding every two weeks and challenged the premise that the end of the state case eliminated the need for prospective relief. ECF No. 9, ¶¶ 60, 66; App. 56a; App. 70a–72a; Pet. C.A. Opening Br. 35–37, 40–41. The recommendation treated the state case as completed when rejecting *Young* but ongoing when invoking *Younger* as to other defendants. App. 25a, 38a–39a. *Green v. Mansour* recognizes prospective relief directed at continuing federal violations. 474 U.S. 64, 68 (1985). *Quern v. Jordan* permits appropriate notice ancillary to prospective relief, supporting examination of the requested notice separately from the demand to void identified orders. 440 U.S. 332, 347–49 (1979). The opening brief also invoked the support-garnishment

requirements of 15 U.S.C. § 1673(b)(1)(A). Pet. C.A. Opening Br. 41.

A family-law setting and the *Middlesex* factors alone do not establish abstention. *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69, 78, 81–82 (2013). DeAngelis urged *Younger* as an alternative while acknowledging that the district court's abstention ruling concerned other defendants. DeAngelis C.A. Br. 15–16 & n.4. Petitioner challenged both interference and the application of *Sprint*'s exceptional categories. Pet. C.A. Opening Br. 35–37. Petitioner's due-process theory attributes injury to alleged fabrication, concealed entry, and deprivation of notice and review. ECF No. 9, ¶¶ 54–65; App. 54a–56a; App. 70a–72a. On remand, the court should determine whether the requested relief would interfere with any pending state proceeding.

The Court should decide Question 1(b) alongside the personal-damages question and leave the availability of particular injunctions for remand. The panel expressly reserved immunity and did not decide DeAngelis's alternative defenses. App. 4a n.1; DeAngelis C.A. Br. 15–17. Correcting the categorical Article III ground would permit separate consideration of the officer's relation to the alleged continuing violation, the statutory conditions on judicial injunctions, and the effect of particular remedies on any pending state proceeding.

III. Claim splitting should not let dismissal of the second suit bar prosecution in the first. Rules 10(a) and 10(c).

Dismissal in favor of an earlier action should preserve the opportunity to litigate there. The panel rejected res judicata because *Yan I* lacked the

required finality, yet affirmed the with-prejudice dismissals of Barrows and Pigg without a reservation protecting prosecution in *Yan I*. App. 4a–5a, 46a–47a. Rule 10(c) warrants settling the preclusive limits of dismissals entered to manage concurrent federal suits. Claim identity and availability determine whether the second suit is duplicative; a reservation prevents its dismissal from becoming an independent bar in the first. That consequence also supports supervisory review under Rule 10(a).

A. Claim splitting requires comparison of the instruments, acts, and injuries alleged in each action

The attorney § 1983 claims allege different instruments and deprivations of property. *Yan I* alleged that Barrows and Pigg diverted $25,000 each and restricted access to retirement funds. *Yan I* Third Am. Compl. ¶¶ 302, 304, 319, 322; App. 66a–67a. Its June 21, 2022 allegation concerned a writ signed by Judge Wells garnishing U.S. Bank retirement funds. *Id.* ¶ 99; App. 65a–66a. This action alleges that a June 21 order signed by DeAngelis caused home exclusion and wage withholding. App. 49a, 54a, 56a–57a. Petitioner preserved that comparison. Pet. C.A. Opening Br. 38–40; C.A. Panel Reh'g Pet. 21–22. Barrows linked DeAngelis's order to the November 2021 report cited in *Yan I*. Barrows C.A. Br. 18–19. The reply disputed that link by contrasting the report's identification of Yan's motion with the later instrument's recital of a hearing on Wang's motion. Pet. C.A. Reply Br. 20–22. Matching dates do not establish matching transactions.

The panel did not explain how Barrows's alleged participation in the cash scheme duplicated the retirement-fund claims. It described alleged cash

laundering beginning in 2018, before the divorce, as an independent Panopyra claim that did not challenge the family order's validity. App. 6a n.4. Yet it treated the attorneys' RICO claims as litigation over the temporary order. App. 4a–5a. *Yan I* alleged retirement-fund diversion and identified the Barrows Firm and State Bar of Texas as enterprises. *Yan I* Third Am. Compl. ¶¶ 99, 141; App. 65a–66a. This complaint alleges that Barrows used an attorney-held account for Panopyra cash transactions, helped conceal those transactions, and instructed Wang to open additional accounts. Second Am. Compl. ¶¶ 27–28, 31; App. 51a–52a. Petitioner distinguished her roles in the schemes on appeal. Pet. C.A. Opening Br. 38–40. Her involvement in both proceedings does not establish that the business-cash transactions and retirement-plan distributions are the same claim.

The panel's description did not resolve those differences between the claims. It identified the common nucleus as "the entry of a temporary order in a divorce proceeding" allegedly procured by fraud to petitioner's financial detriment. App. 4a–5a. *Armadillo Hotel Group, L.L.C. v. Harris* requires examination of the factual predicates, their relationship in time, space, origin, and motivation, their suitability for a common trial, and the parties' expectations. 84 F.4th 623, 628–30 (5th Cir. 2023). That test reaches a connected series of acts, but requires identifying the acts that connect the claims. On remand, the court should identify what connects the retirement-fund writ, DeAngelis's order, and the cash transactions, then apply those factors to each attorney's alleged conduct.

Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc. rejected preclusion where the actions

challenged different conduct and therefore lacked the required common nucleus of operative facts. 590 U.S. 405, 412–15 (2020). Its separate discussion of postfiling events concerns when conduct occurred. Petitioner's March 2024 discovery allegation concerns when he learned of an earlier act. The claim here rests first on a distinct injury-producing transaction; later discovery and alleged concealment additionally bear on whether that transaction could have been presented earlier.

Curtis v. Citibank, N.A. addresses two pending actions directly. The Second Circuit required comparison of the actual claims rather than reliance on their general resemblance, and reversed the duplicative-action dismissal in part. 226 F.3d 133, 136, 138–40 (2d Cir. 2000). Its later-occurring-claim holding does not equate later discovery with later conduct. Identifying a common proceeding does not replace comparing the particular wrongs alleged. The requested remand would apply that requirement before imposing a with-prejudice bar.

B. Alleged concealment requires examining whether the claim could be presented earlier

Concealment matters when it prevents earlier presentation. The complaint alleged secret entry and nonservice of the June 21 instrument, Pigg's nondisclosure of the signed order, and full awareness only in March 2024. App. 49a, 55a–56a. Petitioner invoked concealment in opposing duplication. Pet. C.A. Opening Br. 38–40; C.A. Panel Reh'g Pet. 21–22. *Yan I* allowed further amendment only upon "extraordinary circumstances." *Yan I*, ECF No. 58 (Sept. 18, 2023); App. 75a.

Before imposing a permanent bar, the panel should have examined whether concealment prevented earlier assertion and whether the claim could be presented under the existing amendment restriction. The district court administratively closed *Yan I* on January 30, 2024, reopened it on April 10, and dismissed it on April 23. *Yan I*, ECF Nos. 139, 146, 148. When this action was filed, the earlier dismissal and denial of reconsideration were on appeal. Barrows C.A. Br. 3; *Yan I*, ECF No. 155.

Claim-preclusion decisions make actual prevention the relevant question. The Sixth Circuit reversed a pleading-stage preclusion dismissal where the complaint plausibly alleged wrongful concealment that prevented earlier assertion. *Venture Glob. Eng'g, LLC v. Satyam Comput. Servs., Ltd.*, 730 F.3d 580, 585–88 (6th Cir. 2013). The Second Circuit likewise recognizes fraudulent concealment or inability to discover material facts with due diligence as relevant to preclusion. *L-Tec Elecs. Corp. v. Cougar Elec. Org., Inc.*, 198 F.3d 85, 88 (2d Cir. 1999). The Fifth Circuit recognizes that exception but rejected it where the information was available during the first litigation. *Oreck Direct, LLC v. Dyson, Inc.*, 560 F.3d 398, 403–04 (5th Cir. 2009). Those decisions apply claim-preclusion principles. The question is whether removing finality for docket management permits a stronger bar: dismissal with prejudice without examining the same alleged obstacle to earlier assertion.

C. Any surviving dismissal should preserve *Yan I* against this judgment's own preclusive effect

Pittman supplies the requested alternative protection. It upheld dismissal of a duplicative pro se action under the former in forma pauperis statute,

but preserved prosecution in the first action, including claims asserted in the dismissed suit; the dismissal otherwise remained with prejudice. *Pittman v. Moore*, 980 F.2d 994, 995 (5th Cir. 1993). *Pamon* recently applied that safeguard, modifying a claim-splitting dismissal to preserve an attempt to assert the claims in the first suit. *Pamon v. U.S. Postal Serv.*, No. 26-10010, slip op. at 4 (5th Cir. May 28, 2026) (per curiam) (unpublished).

Adams v. California Department of Health Services likewise explained that using dismissal of a second action to preclude the first would deny a full and fair opportunity to litigate, although the issue became moot because no such defense was asserted. 487 F.3d 684, 692 n.2 (9th Cir. 2007) (citing *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, 480–82 (1982)). Its separate virtual-representation analysis was displaced by *Taylor v. Sturgell*, 553 U.S. 880 (2008), and is not relied upon. *Pittman* and *Adams* therefore support protecting the first action from the second dismissal.

Any surviving claim-splitting dismissal should protect prosecution in *Yan I* against this judgment's own preclusive effect. This action was dismissed with prejudice as to Barrows and Pigg on March 6, 2025; *Yan I* received its separate final judgment on March 10, 2026. App. 4a–5a, 46a–47a, 59a–60a. If *Yan I*'s separate appeal restores proceedings, the reservation would preserve the opportunity to litigate there while leaving that action's independent rulings to its reviewing court.

IV. Appellate discretion must preserve a fair opportunity to defend the complaint before amendment is foreclosed. Rules 10(a) and 10(c).

The Court should vacate the RICO dismissal and denial of amendment as to Wang, Panopyra, Zheng, and Tang. After rejecting duplication and *Younger* abstention, the panel affirmed on pleading grounds overlapping Barrows's brief. App. 5a–9a. None of the four filed an appellate brief. Fifth Cir. Dkt. Nos. 53–55. On rehearing, petitioner also identified their failure to seek dismissal below. Amended C.A. En Banc Pet. 9–10, 18, 21; see App. 12a–13a. Rule 10(a) warrants supervisory review of applying one appellee's objections to other defendants while foreclosing amendment. Rule 10(c) warrants deciding what opportunity to address their separately alleged conduct must precede that disposition.

Barrows sought affirmance for herself. Her knowledge objection addressed her awareness, her structuring objection concerned transactions attributable to her, and her continuity argument concerned divorce representation. Barrows C.A. Br. 2, 20–27. The panel applied those requirements to Wang's earlier transfers and the other defendants' separate accounts. In reply, petitioner opposed first-instance resolution of the alternative pleading grounds and requested remand for district-court consideration and amendment. Pet. C.A. Reply Br. 11, 34–38.

Appellate discretion must preserve a fair opportunity to address the basis for decision. *Singleton v. Wulff* recognizes discretion, including when the answer is beyond doubt, while protecting the ordinary opportunity to present arguments. 428 U.S. 106, 120–21 (1976). This Court enforced party

presentation when courts substituted an unasserted claim or materially broader theory. *Clark v. Sweeney*, 607 U.S. 7, 9–10 (2025); *Margolin v. Nat'l Ass'n of Immigr. Judges*, 608 U.S. 339, 342–43 (2026); see *United States v. Sineneng-Smith*, 590 U.S. 371, 375–76, 380 (2020). *Century Surety Co. v. Blevins* reversed a district court's dismissal of unchallenged counterclaims without an opportunity to defend their sufficiency, although dismissal had become without prejudice. 799 F.3d 366, 369 n.1, 372–73 (5th Cir. 2015).

Remand must reach both independent grounds: insufficient predicates and lack of continuity. The panel found insufficient allegations of a fraud scheme, wires in furtherance, specified unlawful activity, knowledge of unlawful proceeds, and continuity; it also applied Rule 9(b) to financial structuring. App. 6a–8a & n.5.

The complaint identifies four China transfers by date, amount, recipient, control number, and agent, and links the transfers and false asset disclosures to Wang's obtaining exclusive possession of community property. ECF No. 9, ¶¶ 24–28, 36. It separately alleges repeated deposits and multiple accounts to evade financial requirements. *Id.* ¶¶ 25–26, 29, 31, 34. Structuring does not require criminal proceeds. 31 U.S.C. § 5324(a).

Petitioner invoked business cash activity beginning in 2018 and account use through 2024 to distinguish the other defendants' conduct from Barrows's representation. ECF No. 9, ¶¶ 23, 29, 31–34; Amended C.A. En Banc Pet. 10–11, 18–22. The panel acknowledged the earlier activity but assessed continuity through a single divorce-related objective. App. 5a–8a & n.4. *H.J. Inc. v. Northwestern Bell*

Telephone Co. recognizes continuity through related predicates over a substantial period or a threat of continued racketeering, including an ongoing business's regular use of predicate acts; multiple schemes are unnecessary. 492 U.S. 229, 240–43 (1989).

The panel also upheld denial of amendment as futile, citing earlier complaints and failure to identify curative facts. App. 9a. *Nelson v. Adams USA, Inc.* rejected predicted failure as a substitute for an opportunity to defend when liability was imposed immediately upon joinder. 529 U.S. 460, 466, 471 (2000). Petitioner challenged the substituted grounds and denial of amendment on rehearing. Amended C.A. En Banc Pet. 18–23. The Court should remand for district-court consideration of predicate sufficiency and continuity, followed by an informed ruling on any proposed amendment under Rule 15(a)(2).

V. This case permits resolution of the challenged federal rules while leaving liability and equitable remedies for remand.

These questions can be resolved without deciding whether the alleged fabrication, concealment, or racketeering occurred. They concern the legal standards governing dismissal and the opportunity to address the grounds for that disposition; factual disputes and ultimate entitlement to relief would remain for remand.

A. The panel decided the challenged grounds, and petitioner sought rehearing

Both Article III questions concern claims presented below and expressly dismissed. Petitioner

sought personal monetary relief, challenged standing and immunity in his opening brief, and presented the distinction between personal damages and prospective relief in the accepted amended en banc petition. ECF No. 9, ¶¶ 53, 66–68, 72; Pet. C.A. Opening Br. 28–31, 41–45; Amended C.A. En Banc Pet. 7, 12–17. He also pleaded an official-capacity claim and defended prospective relief on appeal; DeAngelis answered it. ECF No. 9, ¶¶ 8–9, 53, 73–82; Pet. C.A. Opening Br. 40–41; DeAngelis C.A. Br. 15–16. Additional authorities support these preserved claims and rulings. *See Lebron v. Nat'l R.R. Passenger Corp.*, 513 U.S. 374, 379 (1995).

Petitioner challenged claim identity and invoked *Pittman*'s protection of the first suit. Pet. C.A. Reply Br. 17 ¶ 31. The opening brief compared the alleged RICO schemes and the § 1983 transactions; petitioner renewed the objection that a shared divorce setting did not establish claim identity in seeking rehearing. Pet. C.A. Opening Br. 38–40; C.A. Panel Reh'g Pet. 21–22; App. 4a–5a. The Court can require comparison of the actual claims or, alternatively, protect against this judgment's own preclusive effect.

B. Unpublished status does not prevent review of the challenged federal rules

The panel used an unpublished decision to extend nonadversity to personal damages and left its own ruling unpublished. App. 3a–5a & n.1. Its decision binds petitioner and remains citable in later cases. Fifth Circuit Rule 47.5.4 generally withholds precedential force from unpublished opinions, while Federal Rule of Appellate Procedure 32.1 permits their citation.

Unpublished status does not insulate a decision from review. In *Commissioner v. McCoy*, this Court granted certiorari and reversed an appellate order exceeding the court's authority, explaining that unpublished status "carries no weight in our decision to review the case." 484 U.S. 3, 7 (1987) (per curiam).

Petitioner sought publication under Fifth Circuit Rules 47.5.1–.2 after identifying the asserted extension and conflicts. C.A. Panel Reh'g Pet. 5, 23. The court denied publication together with rehearing on September 16, 2026. App. 45a.

C. Vacatur would restore the omitted inquiries and permit effective relief

Restoring a federal claim against DeAngelis also warrants vacating the related state-law dismissals against Barrows and Pigg. The complaint alleges that Barrows drafted the challenged order, Pigg forged petitioner's signature, and DeAngelis signed it. ECF No. 9, ¶ 104; App. 57a–58a. The district court dismissed the related state-law claims without prejudice after disposing of all federal claims, and the panel affirmed on that basis. ECF No. 63, at 22; App. 8a–9a, 46a–47a. Section 1367(a) permits jurisdiction over related claims involving additional parties. Restoring a federal claim removes the premise for declining jurisdiction under § 1367(c)(3). *Sam v. Richard* accordingly vacated dismissal of state-law claims when one federal claim survived. 887 F.3d 710, 716 (5th Cir. 2018). The Court should remand for renewed consideration of supplemental jurisdiction over these claims against Barrows and Pigg. Their federal claims remain subject to the separate claim-splitting challenge in Question 2.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court should vacate the Article III dismissal of the personal-capacity damages and official-capacity prospective claims against DeAngelis; the claim-splitting dismissals of the federal claims against Barrows and Pigg; and the RICO dismissal and denial of amendment as to Wang, Panopyra PLLC, Zheng, and Tang. It should remand for consideration of Article III, immunity, and prospective relief; comparison of the transactions alleged against the attorneys, including whether concealment prevented earlier assertion; and a meaningful opportunity to address the RICO pleading grounds and any proposed amendment. If a federal claim is restored, the Court should also vacate the related state-law dismissals against Barrows and Pigg for renewed consideration under § 1367. Alternatively, any surviving claim-splitting dismissal should preserve prosecution in *Yan I* against this judgment's own preclusive effect. If the Court grants *Kellogg* on an issue bearing on Question 1(b), petitioner alternatively requests a hold pending that decision.

Respectfully submitted,

Conghua Yan *Conghua Yan*
Petitioner, pro se
2140 E Southlake Blvd, Suite L-439
Southlake, Texas 76092
214-228-1886
arnold200@gmail.com

October 2026

STUMP'S CHECKPOINT. YAN'S SHORTCUT.

WWH — **Statute challenge before enforcement + neutral adjudicator** → **No adversity with those judges**

✕ **CONTEXT REMOVED**

YAN — **Adjudicatory conduct ALONE Personal damages too** → **No Article III controversy**

SAME START: **Challenged judicial act = Adjudicatory label**

STUMP LANE · SUPREME COURT · 1978

Challenged judicial act → **State-law jurisdiction** → **Clear absence of all jurisdiction?**

YES

NO JUDICIAL IMMUNITY
Court's example: a probate judge limited to wills and estates tries a criminal case.

NO

IMMUNITY MAY APPLY
Stump: The Court examined Indiana law and **granted immunity.**

YAN LANE · FIFTH CIRCUIT · 2026

Adjudicatory label → **BYPASS** → **Entire immunity inquiry above** → **No Article III controversy**

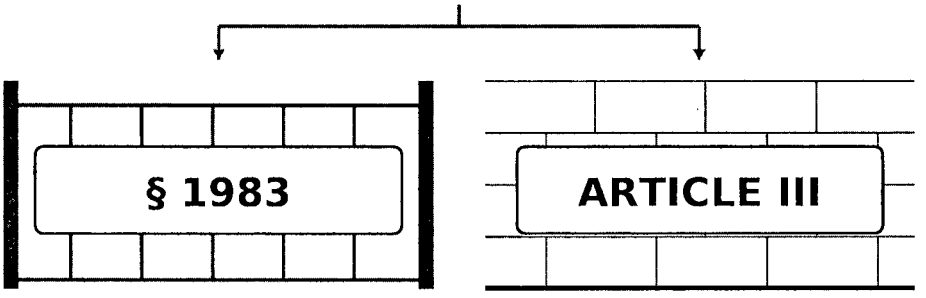
ON THIS ROUTE: IMMUNITY DOCTRINE NOT REACHED
"Because there is no jurisdiction, we do not address the merits of judicial immunity."

WWH = Whole Woman's Health v. Jackson, 595 U.S. 30, 39-42 (2021).
Stump, 435 U.S. 349, 356-62 & 357 n.7; Mireles, 502 U.S. 9, 11-12.
Yan, No. 25-10752, at 2-3 & n.1 (5th Cir. Aug. 20, 2026) (unpublished).
Appeal only. District court separately discussed immunity: FCR 14-15.

ONE FEDERAL QUESTION. TWO LEGAL GROUNDS.

Prospective relief: asking a court to stop future harm.
The disagreement concerns why the claim is barred.

A suit challenging conduct treated as adjudication



STATUTORY GROUND	CONSTITUTIONAL GROUND
Improper defendant under § 1983. **Article III left open.**	No case or controversy. **No federal jurisdiction** over this claim.
EARLIER DECISIONS	**ARTICLE III DECISIONS**
1st · In re Justices (1982) 3rd · Allen (2017) 8th · R.W.T. (1983)	2nd · Kellogg (2026) 4th · Frazier (2025) 5th · Reule (2024) 6th · Lindke (2022)

Both approaches can end the claim. Earlier cases predate *Whole Woman's Health* (2021); they did not hold that Article III standing existed.

WHY THE LEGAL GROUND MATTERS

Congress can amend § 1983. Ordinary legislation cannot override Article III.

Lindke, 31 F.4th 487, 494-95 (6th Cir. 2022), expressly chose Article III over the First and Third Circuits' statutory approach.
Allen, 861 F.3d 433, 443 n.49 (3d Cir. 2017).
Circuit examples: Kellogg, No. 23-8093, slip op. 14 n.4 (2d Cir. Mar. 5, 2026).

AN ENTIRE DOCTRINE OUT OF REACH.

Can an adjudicatory label alone defeat Article III adversity when a judge is sued personally for damages?

ADJUDICATORY CONDUCT WINDOW



Clock metaphor; not a time rule.

1 · ROLE → CONDUCT

The role supplies the adjudicatory label.

Missing inquiry alleged: **actual event, function, and legal authority.**

2 · THE LABEL BECOMES A JURISDICTIONAL WALL

Adjudicatory conduct = No Article III controversy

BEHIND THE WALL · IMMUNITY LAW NOT REACHED

BRADLEY v. FISHER	Jurisdictional limits on immunity.
STUMP v. SPARKMAN	Judicial acts can lack all jurisdiction.
FORRESTER v. WHITE	Actual function, not the official's title.
MIRELES v. WACO	Two exceptions: nonjudicial acts; complete absence of all jurisdiction.

CLAIMANTS CANNOT REACH THE IMMUNITY EXCEPTIONS

Precedent on the books. Unreachable on this route.

Bradley, 80 U.S. 335, 351-52; Stump, 435 U.S. 349, 357 n.7. Forrester, 484 U.S. 219, 227-29; Mireles, 502 U.S. 9, 11-12.