

RELATED TO NOS. 25-7626 AND 25-7627

IN THE SUPREME COURT OF THE UNITED STATES

IN RE DEVIN RANDOLPH, PETITIONER

**EMERGENCY APPLICATION TO THE HONORABLE BRETT M. KAVANAUGH,
ASSOCIATE JUSTICE AND CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT
UNDER SUPREME COURT RULE 22 AND, TO THE EXTENT A STAY OR PAUSE IS
REQUIRED, RULE 23**

**FOR A TEMPORARY ADMINISTRATIVE STAY OF NONESSENTIAL APPELLATE
PROCEEDINGS AND FOR LIMITED DIRECTIONS CONCERNING THE COMPLETE
CONFERENCE RECORD**

From the United States Court of Appeals for the Sixth Circuit, No. 26-3747
Originating in the United States District Court for the Southern District of Ohio, No. 2:25-cv-284
Related Supreme Court Matters: Nos. 25-7626 (Mandamus) and 25-7627 (Prohibition)

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QUESTIONS PRESENTED

1. Whether, after Applicant sought a temporary stay from both the District Court and the Sixth Circuit and both courts declined to halt the proceedings, a short administrative stay is appropriate under Rules 22 and 23 to preserve the status quo while this Court considers related Rule 20 matters already distributed for the September 28, 2026 Conference.
2. Whether the stay request should be evaluated in light of its documented medical component—including physician-directed restrictions on typing, writing, prolonged computer use, and repetitive wrist activity—rather than as a request based only on the existence of pending Supreme Court proceedings.
3. Whether limited direction is appropriate to ensure that any timely, accepted corrective supplemental filing and supporting material associated with Nos. 25-7626 and 25-7627 is accurately associated with those matters and promptly made available to Chambers before conference consideration, consistent with the Court’s Rules and published filing and distribution procedures.
4. Whether a temporary stay should preserve this Court’s ability to consider the neutral-forum relief already expressly requested in the pending Rule 20 mandamus and prohibition matters and Exhibit A, including reassignment or transfer to a neutral federal district such as the Southern District of New York if the Court concludes that such relief is lawful, necessary, and warranted by the extraordinary-writ record.

EMERGENCY RELIEF REQUESTED

Applicant Devin Randolph respectfully submits this application to the Circuit Justice under Supreme Court Rule 22 and, to the extent a stay or pause is required, Rule 23. Applicant seeks narrow interim relief, not an adjudication of the underlying employment claims, default issue, disputed settlement, counsel-disqualification issue, or factual allegations concerning any public or private person.

Applicant asks for a temporary administrative stay of nonessential proceedings in Sixth Circuit No. 26-3747 through this Court's September 28, 2026 Conference and for a short period after the first order or orders disposing of, holding, or otherwise acting on Supreme Court Nos. 25-7626 and 25-7627. The stay may expressly permit the Sixth Circuit to resolve Applicant's pending in forma pauperis request and to take purely administrative or record-preservation action, while pausing merits briefing, dismissal or filing-restriction requests, and other nonessential rulings that could materially alter the appellate posture before this Court acts.

Applicant further requests, to the extent the Circuit Justice deems appropriate, limited direction that the Clerk associate and transmit to Chambers any timely and compliant supplemental or corrective material that has been accepted for filing in Nos. 25-7626 and 25-7627 before conference consideration. Applicant does not contend that every paper tendered to the Clerk must be accepted, or that Rule 15.8 by its text governs Rule 20 petitions. He asks only that accepted materials be accurately associated and routed, and that any deficiency preventing distribution be identified so it can be corrected promptly.

The application is in aid of the Court's consideration of already-pending extraordinary-writ matters under 28 U.S.C. § 1651(a), and invokes 28 U.S.C. § 2101(f) and Rule 23 only to the extent those authorities permit a stay of the judgment or proceedings connected with the judgment now on appeal. If relief is better considered by the full Court, Applicant respectfully requests referral under Rule 22.5.

STATEMENT OF THE CASE AND CHANGED PROCEDURAL POSTURE

Applicant's underlying civil action is *Randolph v. Bath & Body Works, Inc.*, S.D. Ohio No. 2:25-cv-284. The District Court entered final dismissal on July 17, 2026 through ECF Nos. 103 and 104. Applicant filed a notice of appeal, and the Sixth Circuit docketed No. 26-3747. Related Supreme Court Rule 20 matters, Nos. 25-7626 and 25-7627, concern a petition for a writ of mandamus and a petition for a writ of prohibition arising from the same underlying litigation.

They were distributed on August 6, 2026 for the Court's September 28, 2026 Conference.

Applicant does not contend that distribution predicts the merits; its significance here is timing and preservation of the Court's ability to consider the pending matters on a stable record.

On June 24, 2026, the Office of the Clerk returned Applicant's earlier filing titled "Emergency Application Under Rule 22." The Clerk's letter expressly stated that the application "was received June 24, 2026" and was being returned because the matter first had to be reviewed by a United States court of appeals or the highest state court in which a decision could be had, citing 28 U.S.C. §§ 1254, 1257, and 2101(f). The letter further stated: "Even a stay pending certiorari before judgment requires you to first seek the same relief at the Court of Appeals." The correspondence was issued in the name of Clerk Scott S. Harris and signed "By: Robert Meek." It also stated that, at that time, the docket showed no notice of appeal to the Sixth Circuit and no attempt to seek a stay there. That specific procedural circumstance has now changed. Applicant filed a notice of appeal; the Sixth Circuit docketed No. 26-3747; Applicant moved in that court for a stay of appellate proceedings; and on September 17, 2026, the Sixth Circuit denied the stay. Applicant does not contend that the June 24 letter promised relief once those steps were completed. He submits only that he has now taken the precise lower-court step the Clerk's June 24 correspondence identified as a prerequisite to renewed consideration of stay relief.

The Sixth Circuit's September 17 order also states that no briefing schedule will issue until that court grants Applicant pauper status or the \$605 filing fee is paid, and that the IFP motion will be submitted "in the normal course." The following day, the Sixth Circuit granted Applicant's separate motion to accept a corrected pro se brief while again stating that no appellee briefing schedule would issue until IFP is resolved or the fee is paid. This sequence matters to the equities: a short stay through the September 28 Conference would not interrupt an existing merits briefing schedule because the Sixth Circuit itself has said that no such schedule will issue while IFP remains unresolved.

I. RULE 23.3 IS NOW SATISFIED BECAUSE STAY RELIEF WAS SOUGHT BELOW AND DENIED

Rule 23.3 requires a stay applicant to explain why relief is unavailable elsewhere and, except in the most extraordinary circumstances, to seek the requested relief first in the appropriate court or courts below. Applicant has now done that at both levels available to him. The District Court denied the stay in ECF No. 100. The Sixth Circuit denied the appellate abeyance request in Document 15. Copies of those orders should accompany this application, together with the underlying stay motion. The June 24, 2026 Clerk correspondence from Robert Meek identified that same sequence as the reason the earlier Rule 22 application was returned; the present application is submitted after completion of that sequence.

Applicant therefore does not ask the Circuit Justice to bypass an available lower-court process. The District Court has entered final judgment. The Court of Appeals has the appeal, but it has declined to pause the matter pending this Court's September 28 consideration. The only emergency relief requested here is a short preservation measure so that the Supreme Court's already-scheduled consideration is not overtaken by additional nonessential appellate action or by avoidable medical burden in the days immediately preceding conference.

Rule 22.1 provides that an application to an individual Justice is filed with the Clerk and transmitted promptly to the Justice concerned when the Justice has authority to grant the relief. Rule 22.3 directs that the application be addressed to the Justice allotted to the Circuit from which the case arises. Ohio lies within the Sixth Circuit, and this application is therefore directed to Justice Kavanaugh as Circuit Justice.

II. THE REQUESTED STAY HAS ALWAYS INCLUDED MEDICAL ACCESS AND ACCOMMODATION

The Sixth Circuit's September 17 order describes Applicant's motion as a request to hold the appeal in abeyance pending disposition of "two mandamus petitions." That description captures the pendency of the Supreme Court matters, but it does not recite the medical component of the

requested pause. It also does not distinguish the two Rule 20 matters: No. 25-7626 is the mandamus matter, while No. 25-7627 is the prohibition matter. Applicant respectfully requests that the present application clarify both points.

The medical component predates the appeal. In ECF No. 99, titled “Plaintiff’s Statement Regarding Medical Accommodation, Sealed Review, Supreme Court Review, Rule 26(f), and Procedural Fairness,” Applicant expressly linked the requested Supreme Court stay to medical accommodation, sealed review, treatment, therapy, accident-related limitations, possible surgery, and access to court. ECF No. 100 understood the filing that way: it described ECF No. 99 as seeking a stay of discovery and deadlines, reconsideration of medical accommodation and scheduling, and a stay pending Supreme Court review.

Applicant’s physician documentation was directed to the activities required by litigation. The record describes restrictions on typing, writing, prolonged computer use, and repetitive wrist activity because those activities could aggravate the condition and interfere with healing. Conservative treatment and therapy were being used in an effort to avoid surgery, while surgery remained a possible next step if treatment failed. Applicant’s broader accident-related fatigue and reduced sustained energy were consequences of the automobile accident; speech therapy and rehabilitation were being used to help Applicant adjust to and manage those limitations, not as the cause of them.

The medical issue is therefore not whether Applicant can ever speak on a telephone, make an isolated filing, or obtain intermittent clerical help. The question is whether the courts may treat those isolated acts as proof of unrestricted capacity while disregarding physician-directed limits on the repetitive physical work needed to litigate. ECF No. 106 later stated that the physician-directed restriction against typing and writing had “no bearing on his ability to attend a telephone call.” Applicant seeks review of whether that conclusion addressed the full medical circumstances.

Applicant does not claim an unconditional right to preferred scheduling, indefinite delay, or appointed counsel. He invokes the constitutional importance of meaningful access to judicial process and asks only that documented medical restrictions not be converted into procedural forfeiture before the record is accurately settled. See *Tennessee v. Lane*, 541 U.S. 509, 532-34 (2004) (discussing the fundamental importance of access to courts and a meaningful opportunity to be heard).

III. ECF NOS. 100 AND 101 USED PROXY INDICATORS OF CAPACITY BEFORE THE PHYSICIAN EVIDENCE WAS INCORPORATED

ECF No. 100, entered by Magistrate Judge S. Courter M. Shimeall on June 17, 2026, denied the relief requested in ECF No. 99 and relied in part on Applicant's demonstrated ability to "prepare lengthy filings," "communicate by telephone," and "obtain clerical assistance." The same order also stated that a future medical-emergency request could be supported by corresponding treatment records or a signed note from a treating medical professional, together with Applicant's sworn declaration. Thus, the District Court itself identified treating-provider evidence as an appropriate form of proof while simultaneously drawing capacity inferences from the existence of filings, calls, and assistance.

Applicant does not contend that ECF No. 100 ignored the particular June 29 physician package before it had been delivered; ECF No. 100 was entered twelve days earlier. The narrower problem is sequencing. The capacity-based reasoning in ECF No. 100 was carried into the same-day Report and Recommendation at ECF No. 101, which relied on "in-person filings, voluminous filings, and phone calls, and emails to Chambers" in assessing Applicant's conduct. The physician documentation was later received by the District Court before Judge Watson entered ECF No. 103, yet ECF No. 106 acknowledged that those medical materials had not originally been docketed. The unresolved question is therefore whether the final dismissal

adopted medical-capacity assumptions before the treating-provider evidence was actually available to, and considered by, the judicial officer making the final determination.

The existence of a filing did not establish that Applicant personally typed, assembled, transported, or docketed every document. ECF No. 100 itself acknowledged that Applicant could obtain clerical assistance from others. The later record identifies concrete examples of that assistance. ECF No. 102 and Applicant's supporting clarification identify Coltin Rohn as a temporary representative who physically delivered documents to the Southern District of Ohio on June 30, 2026. Other filings explain that Applicant relied intermittently on assistance for typing, printing, scanning, organization, and transmission. Applicant was medically directed to avoid typing, writing, prolonged computer use, and repetitive wrist activity during the relevant period. Limited assistance therefore tends to explain how filings could continue despite the restriction; it does not establish unrestricted capacity to perform the prohibited repetitive work himself. Applicant therefore does not contend that ECF No. 100 literally stated that he worked alone; the challenged inference is that the volume and manner of filings demonstrated his own unrestricted capacity despite the acknowledged assistance.

A signed physician note is not self-executing and does not automatically require a stay or continuance. But it is material evidence when a court's decision turns on whether a litigant's noncompliance was willful or blameworthy. Under *Schafer v. City of Defiance Police Department*, 529 F.3d 731, 737 (6th Cir. 2008), willfulness, bad faith, or fault is a central factor in a Rule 41(b) dismissal. Due process likewise protects a meaningful opportunity to be heard at a meaningful time and in a meaningful manner. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971). *Tennessee v. Lane*, 541 U.S. 509, 532-34 (2004), is cited here for the constitutional importance of access to courts and a meaningful opportunity to be heard, not for a contention that Title II of the ADA directly governs the federal judiciary. Where the court itself required treating-provider support and the provider evidence

was later in the court's possession before final dismissal, the handling and consideration of that evidence bear directly on access, fault, and procedural fairness.

The Court of Appeals has not yet entered a merits ruling adopting the District Court's medical-capacity reasoning. Bath & Body Works' Document 14 argued that ECF No. 106 and the post-dismissal docketing of the medical records at ECF No. 105 eliminated the need for further record clarification, while Applicant's Document 16 explained why receipt before dismissal but docketing only afterward leaves the central question unresolved. The Sixth Circuit's September 17 stay order did not decide that dispute or make findings concerning Applicant's medical capacity. Applicant therefore does not ask this Court to find appellate bias from the present record. He asks for a short stay so that an unresolved medical-record and access question is not compounded by further proceedings before it is meaningfully addressed.

Judge Watson's final dismissal at ECF No. 103 did not identify the treating physician's note or state that the note had been reviewed before the Report and Recommendation was adopted. ECF No. 106 later acknowledged that the medical records were received before ECF No. 103 but had not originally been docketed. The present record therefore does not establish that Judge Watson had the physician's restriction before him when he adopted the dismissal recommendation. That matters because the physician had directed Applicant to avoid typing, writing, prolonged computer use, and repetitive wrist activity through August 4, 2026, unless modified by later evaluation, and expressly requested reasonable accommodation. The note further explained that those restrictions were medically necessary for healing and that surgery could be considered if conservative treatment failed. Applicant asks that the courts evaluate that provider evidence rather than infer unrestricted capacity merely from the existence of filings, telephone calls, or assistance from others.

IV. THE MEDICAL-RECORD DISCREPANCY IS CONCRETE AND REMAINS UNRESOLVED

The medical-record issue is not based solely on Applicant's belief that a filing was overlooked. The District Court's own later order creates the discrepancy. Applicant's June 29, 2026 package was delivered to the Southern District of Ohio and addressed to Magistrate Judge Shimeall. A separate June 30 filing became ECF No. 102 and documented receipt. ECF No. 103 then dismissed the remaining claim.

After dismissal, however, Judge Michael H. Watson entered ECF No. 106. That order acknowledged that correspondence from Kevin Carpenter and the attached medical records, later docketed as ECF No. 105, "were received before the Court issued" ECF No. 103. ECF No. 106 further acknowledged that the information had not originally been docketed and stated that it was then docketed under seal "to preserve the record for appeal." The objective issue is therefore what happened to the medical materials between receipt and dismissal, whether they were available to the judicial officer making the relevant medical and dismissal determinations, and whether later docketing cured any consequence of their earlier absence from the docketed record.

Applicant has preserved recorded communications with District Court Clerk's Office personnel concerning whether the physician note or sealed medical material could be located in the electronic system. Applicant has not asked the Sixth Circuit to infer misconduct from those recordings. His Rule 10(e) motion instead asks for an objective record-settlement process or limited remand to determine receipt, routing, indexing, sealing, visibility, and judicial availability. That is the appropriate posture because an appellate court ordinarily reviews a record rather than conducting first-instance discovery or factfinding.

This application likewise does not ask the Circuit Justice to declare that a judge, magistrate judge, or clerk committed a criminal act, intentionally altered a record, or concealed medical evidence. Those conclusions are not established by the present record. The narrower and sufficient point is that ECF No. 106 itself confirms pre-dismissal receipt and post-dismissal

docketing, while recorded Clerk communications raise a legitimate question about what the court's system displayed in the interim. A short stay permits that record issue to be handled through orderly appellate procedures rather than under continuing deadline pressure.

V. A SHORT ADMINISTRATIVE STAY IS WARRANTED

This Court has treated a stay as an exercise of judicial discretion governed by the likelihood of eventual relief, irreparable injury, the equities, and the public interest. See *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010); *Nken v. Holder*, 556 U.S. 418, 434 (2009). Applicant recognizes that Rule 20 relief is extraordinary and that distribution for conference does not imply a likely grant. He nevertheless submits that the combination of an imminent conference, a concrete lower-court record discrepancy, active medical restrictions, and an appellee's pending request in the Court of Appeals for dismissal or filing restrictions supplies sufficient reason for a brief preservation order.

First, the pending Rule 20 matters present serious questions already preserved in the record: the operative-pleading and service/default sequence; the medical-record handling acknowledged in ECF No. 106; the Rule 41(b) dismissal entered while physician restrictions were active; and the unresolved EEOC compliance-monitoring and settlement chronology. Applicant does not ask this application to decide those issues. He asks only that their review not be rendered less useful by additional lower-court procedural consequences during the final days before conference.

Second, the medical risk is not speculative in the ordinary sense. The physician documentation warned that repetitive wrist activity associated with litigation could aggravate the condition and interfere with healing. Applicant has already had to coordinate therapy, specialist care, and rehabilitation while preparing time-sensitive filings. A short pause protects against requiring avoidable repetitive work during a medically documented period without prejudging the ultimate merits of any accommodation request.

Third, the equities favor a narrow stay. The Sixth Circuit has already stated that no appellee briefing schedule will issue until IFP is resolved or the fee is paid. The requested stay therefore would not suspend an active merits briefing schedule. It can also be written to permit the Sixth Circuit to decide IFP and preserve the record while pausing only nonessential merits activity, dismissal or vexatious-filer relief, and other action that could materially change the posture before September 28.

Fourth, orderly administration favors knowing what action, if any, this Court takes before the parties and the Court of Appeals expend resources on overlapping issues. If the Supreme Court denies extraordinary relief, the ordinary appeal can continue. If the Court grants, holds, calls for a response, or otherwise acts in a manner affecting the posture, the Sixth Circuit can proceed with the benefit of that direction.

VI. THE COURT SHOULD HAVE THE COMPLETE ACCEPTED CONFERENCE RECORD

Applicant has repeatedly sought confirmation that corrective supplemental filings and supporting exhibits were properly associated with Nos. 25-7626 and 25-7627. The concern is administrative and record-based: what was received, what was accepted, what was returned, what was associated with each pending matter, and what was transmitted to Chambers. Applicant does not ask the Circuit Justice to infer bad faith from inconsistent or unclear communications by Clerk's Office personnel.

The Clerk's March 2026 scheduling memorandum states, in its cert-stage context, that it addresses "the practices and procedures for distribution of cert-stage filings to the Justices for consideration." It further states that, when a reply arrives after distribution but before conference, "it will be distributed to Chambers immediately upon docketing," and that "the petition, briefs in opposition/support and any other filings in the case will be forwarded to Chambers on the same day that the case is included on a conference list." Applicant recognizes that the memorandum is

written for cert-stage practice and does not contend that it expands Rule 15.8 to Rule 20 proceedings. He cites it only as the Clerk's published description of the importance of prompt Chambers distribution of accepted conference-stage materials.

Applicant also recognizes an important limitation in the Court's March 2026 electronic-filing guidelines: registration is limited to members of the Supreme Court Bar and attorneys appointed under the Criminal Justice Act. Applicant is pro se and is not asking for electronic-filing access to which he is not entitled. Because he must rely on paper submission and Clerk's Office processing, accurate receipt, association, and routing are especially important.

The Clerk's June 26, 2026 correspondence previously advised Applicant, in substance, that new matter submitted while the Supreme Court matters remained pending should be presented as a supplemental brief and comply with Rule 15.8. Applicant followed that direction in later submissions. Because Rule 15.8 by its text addresses certiorari petitions, Applicant does not ask the Circuit Justice to declare through this emergency application that Rule 15.8 independently governs Rule 20 matters. He asks instead for a practical direction: if a corrective supplemental brief or supporting material is accepted in these pending matters, it should be associated with the correct docket number and promptly transmitted to the appropriate Chambers before conference; if it is not acceptable, Applicant should be told the specific deficiency so that he can attempt a timely correction.

Applicant respectfully requests a written administrative confirmation, through the Clerk's Office or such direction as the Circuit Justice deems appropriate, identifying whether the Justices or their Chambers received the supplemental briefs, corrected supplemental briefs, and accompanying exhibits or supporting materials that were accepted for filing in Nos. 25-7626 and 25-7627. Applicant seeks confirmation of distribution only; he does not seek disclosure of any Justice's deliberations, vote, internal communications, or confidential Chambers material.

For any supplemental brief, corrected supplemental brief, exhibit, or supporting submission that was tendered but was not accepted or was not transmitted to Chambers, Applicant respectfully requests written identification of that item and, if applicable, the filing deficiency or administrative status so that he can attempt a timely correction before conference. This request is tied to the Clerk's prior direction concerning supplemental filings and to the Court's published distribution guidance. Applicant does not contend that every paper tendered to the Clerk must be accepted; he asks that materials accepted under the Court's Rules and Clerk instructions be accurately associated with the proper docket and that the distribution status of those accepted materials be confirmed in writing.

VII. THE SIXTH CIRCUIT ORDER SHOULD BE READ WITH PRECISION

The September 17 order denied the motion to hold the appeal in abeyance and then stated:

"Because the district court revoked the plaintiff's ability to proceed on appeal in forma pauperis, no briefing schedule will issue until this court has granted the plaintiff pauper status on appeal or he has paid the \$605 appellate filing fee." The "because" clause most naturally explains the absence of a briefing schedule; the order does not separately state why the pending Supreme Court conference, overlap of issues, or medical burden did not justify the requested abeyance.

The order was entered "pursuant to Rule 45(a), Rules of the Sixth Circuit," under the Clerk's name, and the transmittal letter states that "The Court issued the enclosed Order." The document does not identify an individual judge or panel. Applicant does not contend that the Clerk personally adjudicated the motion. He requests only enough clarity to identify accurately the judicial disposition being presented to this Court.

Applicant also wishes to state the timing accurately. Bath & Body Works filed its omnibus response on September 14. Federal Rule of Appellate Procedure 27(a)(4) provides a seven-day period for a reply. Applicant filed his reply on September 17, and the stay-denial order also bears September 17. The public materials presently before Applicant do not establish which

was considered first. Applicant therefore does not assert that Rule 27 categorically prohibited prompt action. He relies on the compressed sequence only as additional reason for a brief pause so that the Court of Appeals does not continue to resolve consequential issues while the Supreme Court matters are days from conference.

VIII. NEUTRALITY AND THE EXISTING RULE 20 REQUEST FOR REASSIGNMENT OR TRANSFER TO A NEUTRAL REGION

Applicant has raised broader concerns in the pending Rule 20 filings concerning representation, potential conflicts, the EEOC settlement/compliance-monitoring chronology, judicial reassignment, Ohio institutional relationships, and whether a neutral forum is necessary. Those concerns are relevant here because the emergency stay preserves the Court's ability to consider the relief already requested, but Applicant does not ask this Rule 22 application to make first-instance factual findings that any private person influenced, threatened, or controlled any judge, clerk, agency, or public official, or that any person committed a crime. The narrower request is to preserve the pending Rule 20 transfer/reassignment issue for the Court's consideration on the record submitted in those matters.

Applicant also distinguishes between an allegation of actual bias and a request designed to preserve the appearance of justice. Under 28 U.S.C. § 455(a), a federal justice, judge, or magistrate judge must disqualify when impartiality might reasonably be questioned. Separately, 28 U.S.C. § 2106 authorizes an appellate court, when a matter is properly before it, to remand and require such further proceedings as may be just under the circumstances. The Sixth Circuit treats reassignment on remand as an extraordinary remedy and considers whether the original judge could put aside previously expressed views, whether reassignment is advisable to preserve the appearance of justice, and whether the resulting duplication would be disproportionate to the gain in fairness. *Solomon v. United States*, 467 F.3d 928, 935 (6th Cir. 2006). See also *John B. v. Goetz*, 626 F.3d 356, 365 (6th Cir. 2010).

Applicant does not contend that an adverse ruling, standing alone, proves bias. See *Liteky v. United States*, 510 U.S. 540, 555 (1994). He does, however, clarify that transfer or reassignment outside the present Ohio setting is not a new request created by this Rule 22 application. The pending Rule 20 materials and Exhibit A already ask this Court to reassign or transfer the underlying matter to a neutral judge and region, expressly including the Southern District of New York if necessary to restore confidence in neutral adjudication and meaningful access to court. The corrected Rule 20 petition likewise frames the requested extraordinary relief to include reassignment or transfer to a neutral judge and region. The temporary stay requested here is therefore designed in part to preserve this Court's ability to consider relief that is already before it in Nos. 25-7626 and 25-7627, rather than allowing the appellate posture to change materially before conference.

Applicant respectfully asks the Court to consider that existing Rule 20 and Exhibit A request under the authorities governing extraordinary writs and lawful further proceedings. The All Writs Act, 28 U.S.C. § 1651(a), authorizes the Supreme Court to issue writs necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law; Rule 20 requires exceptional circumstances and the absence of adequate relief elsewhere. To the extent the matter is before the Court for review, 28 U.S.C. § 2106 permits the Court to remand and require further proceedings that are just under the circumstances. Applicant recognizes that any actual interdistrict transfer must also conform to applicable venue law, including 28 U.S.C. § 1404(a), and he does not ask Rule 20 to override those statutory limits. He requests that, if the Court concludes the extraordinary-writ showing is satisfied and transfer or reassignment is legally available, it grant or direct the lawful neutral-forum relief already requested, including the Southern District of New York if appropriate. Alternatively, the Court may preserve or direct consideration of reassignment to a neutral judicial officer, including an outside-circuit designation mechanism if legally warranted. See 28 U.S.C. § 292(d).

Similarly, Applicant does not ask the Court to decide in this application that Bath & Body Works was necessarily in default. The narrower appellate question is whether ECF No. 21 validly suspended the acknowledged August 20, 2025 response deadline in light of the then-existing Rule 15 posture. If the stay was valid, default did not arise from that deadline; if it was legally ineffective, the consequence is a matter for appellate review or remand. The same neutral

approach applies to the Vorys conflict issue and the disputed EEOC settlement: they remain preserved questions, not findings requested on emergency papers.

Applicant likewise does not contend that “compliance monitoring” by itself proves that an employer lied to investigators, required reinstatement or compensation, or eliminated the need for litigation. The preserved issue is the unexplained chronology: a Right-to-Sue determination, a compliance-monitoring designation, and a later communication referring to a “fully executed Settlement Agreement,” followed by counsel’s later representation that the agreement was a two-party EEOC/employer agreement to which Applicant was not a party. The application relies on that sequence only to explain why the pending Supreme Court matters and the ordinary appeal overlap.

If factual development regarding record custody, representation chronology, authentication of recordings, or other disputed matters becomes necessary, Applicant recognizes that the Court of Appeals ordinarily does not conduct discovery in the first instance. His pending appellate motions therefore request record settlement or limited remand where appropriate. A temporary stay preserves the ability of the proper court to perform that function after this Court acts.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Circuit Justice:

1. temporarily stay nonessential proceedings in Sixth Circuit No. 26-3747 through the September 28, 2026 Conference and for fourteen days after the first Supreme Court order or orders acting on Nos. 25-7626 and 25-7627, while permitting the Sixth Circuit to resolve IFP and take purely administrative or record-preservation action;
2. to the extent appropriate, direct or confirm that every timely, compliant, and accepted supplemental brief, corrected supplemental brief, exhibit, and supporting material associated with Nos. 25-7626 and 25-7627 has been associated with the correct matter and transmitted

- to the Justices or their Chambers before conference consideration, and provide written confirmation of that distribution; if an item was not accepted or not transmitted, identify the item and any applicable filing deficiency or administrative status so Applicant may attempt a timely correction;
3. recognize for purposes of the stay application that the lower-court stay requests included documented medical-accommodation and access-to-court concerns, not merely the existence of pending Supreme Court proceedings;
 4. preserve for the Court's consideration in the pending Rule 20 matters the neutral-forum relief already requested in Exhibit A and the mandamus/prohibition filings, including reassignment or lawful transfer to a neutral federal district such as the Southern District of New York if the Court concludes that extraordinary relief is warranted and the applicable venue and jurisdictional requirements are satisfied; and
 5. alternatively, refer this application to the full Court under Rule 22.5 or grant such narrower interim relief as is necessary to preserve the Court's ability to consider the pending matters on an accurate and stable record.

Respectfully submitted,



/s/ Devin Randolph

Devin Randolph

Applicant, Pro Se

450 Alder Drive East, Apt. 302

Gahanna, Ohio 43230

(614) 828-7284

devinrandolph@myyahoo.com

Dated: September 21, 2026

DECLARATION OF DEVIN RANDOLPH

I, Devin Randolph, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge:

1. I am the Applicant and the pro se appellant in Sixth Circuit No. 26-3747.
2. Supreme Court Nos. 25-7626 and 25-7627 arise from the same district-court litigation and have been distributed for the September 28, 2026 Conference.
3. I sought a stay from the District Court and later from the Sixth Circuit. Both courts declined to grant the requested stay.
4. My physician documentation restricted repetitive wrist activity, including typing and writing, warned that such activity could aggravate the condition and interfere with healing, and reflected treatment undertaken in an effort to avoid surgery.
5. I have relied on intermittent help with certain filing-related tasks, for example docketing and assembling materials. Coltin Rohn assisted with a June 30, 2026 physical courthouse delivery. That help is not continuous legal representation or full-time clerical support.
6. I have repeatedly attempted to confirm whether medical and corrective supplemental materials were received, associated with the correct matter, and available for judicial review. I seek a short preservation period and written confirmation that supplemental briefs, corrected supplemental briefs, and accompanying exhibits accepted for filing in Nos. 25-7626 and 25-7627 were transmitted to the Justices or their Chambers before conference; I do not seek disclosure of judicial deliberations.

Executed on September 21, 2026.


/s/ Devin Randolph
Devin Randolph

APPENDIX / EXHIBIT INDEX

The attachments to this emergency application are limited to the specific lower-court and Sixth Circuit materials identified below. These documents are being physically submitted with this application because they bear directly on the Rule 22/23 stay request and the present appellate posture. Older Supreme Court materials already submitted in Nos. 25-7626 and 25-7627 are referenced in this application but are not being physically resubmitted merely by being referenced.

Appendix A: Sixth Circuit Document 2 (attached as filed).

Appendix B: Sixth Circuit Document 8 (attached as filed).

Appendix C: Sixth Circuit Document 15, including the September 17, 2026 order denying the motion to hold the appeal in abeyance.

Appendix D: Sixth Circuit Document 12 (attached as filed).

Appendix E: Sixth Circuit Document 17, including the September 18, 2026 order granting the motion to accept the corrected pro se brief.

Appendix F: Sixth Circuit Document 13 (attached as filed).

Appendix G: Sixth Circuit Document 16 (attached as filed).

Appendix H: Sixth Circuit Document 9 (attached as filed), which contains a copy of the corrected supplemental brief referenced in the appellate materials.

Appendix I: S.D. Ohio ECF No. 99, Plaintiff's Statement Regarding Medical Accommodation, Sealed Review, Supreme Court Review, Rule 26(f), and Procedural Fairness.

Appendix J: S.D. Ohio ECF No. 100, the June 17, 2026 order denying the relief requested in ECF No. 99.

**PREVIOUSLY SUBMITTED SUPREME COURT MATERIALS — REFERENCED,
NOT REATTACHED**

Applicant separately references the Supplemental Briefs, Corrected Supplemental Briefs, and accompanying exhibits and supporting materials previously submitted in Supreme Court Nos. 25-7626 and 25-7627. Except to the extent a copy is already contained within one of the Sixth Circuit documents listed above, those previously submitted Supreme Court materials are not being duplicated as appendices to this emergency application.

Applicant respectfully requests written confirmation identifying which of those previously submitted supplemental briefs, corrected supplemental briefs, exhibits, and supporting materials were accepted for filing, associated with the correct docket number, and transmitted to the Justices or their Chambers before conference consideration. If any such item was not accepted or not transmitted, Applicant respectfully requests identification of the item and any applicable filing deficiency or administrative status under the applicable Rules, so that he may attempt a timely correction.

This distinction is intentional: the ten appendices identified above are the documents physically accompanying this application; the earlier Supreme Court materials are referenced so that the Clerk can confirm the completeness of the materials already submitted and routed for consideration.

PROOF OF SERVICE

I, Devin Randolph, declare that, upon mailing of this filing, I will serve the accompanying **Emergency Application under Supreme Court Rules 22 and 23**, upon those persons presently identifiable for Supreme Court service purposes.

Applicant also identifies certain additional persons or entities for preservation and service-clarification purposes only. Applicant respectfully submits that the lower court has not yet properly identified the operative complaint or the defendants properly included in the action. Accordingly, as to any proposed, disputed, or unresolved parties, Applicant preserves the position that service obligations cannot be finally determined until the operative complaint and proper defendant list are identified. Applicant will comply with any further service obligations determined to be required after those issues are resolved.

The names and addresses of those served, or identified for preservation and service-clarification purposes, are as follows:

Vorys, Sater, Seymour & Pease LLP

52 East Gay Street

Columbus, OH 43215

Counsel of record for Bath & Body Works, Inc.; also identified in proposed ECF No. 52-1.

Petitioner preserves the Vorys / Bath & Body Works representation and service issue.

Bath & Body Works, Inc.

Three Limited Parkway

Columbus, OH 43230

Listed for preservation due to service, operative-complaint, party-identity, default, and representation issues. Petitioner preserves the position that proper service and default obligations cannot be accurately determined until the lower court properly identifies the operative complaint and proper defendant list.

Victoria's Secret & Co.

Four Limited Parkway

Reynoldsburg, OH 43068

Listed for preservation and service clarification as a respondent/defendant identified in proposed ECF No. 52-1.

Premise Health Holding Corp.

5500 Maryland Way #120

Brentwood, TN 37027

Listed for preservation and service clarification as a respondent/defendant identified in proposed ECF No. 52-1 as Premise Health Holding Corp. d/b/a LBrands Wellness Center / Premise Occupational Health Services.

Dilip Gokhale, Director of the EEOC Cleveland Field Office, in his individual capacity

U.S. Equal Employment Opportunity Commission, Cleveland Field Office

Anthony J. Celebrezze Federal Building

1240 East 9th Street

Cleveland, OH 44199

Listed for preservation and service clarification as a respondent/defendant identified in proposed ECF No. 52-1 in his individual capacity.

Solicitor General of the United States

Room 5616

Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530-0001

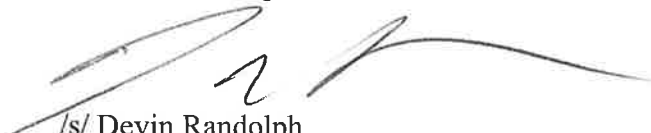
Listed for preservation only to the extent service on the United States or a federal officer is later determined to be required.

John/Jane Does 1-10

Identities presently unknown. No mailing address is presently available. Petitioner lists these parties because they were included in proposed ECF No. 52-1 and preserved for later identification if permitted.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 21st, 2026.



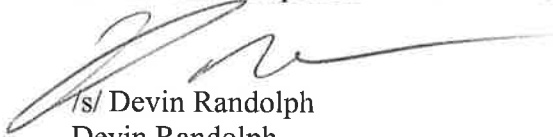
/s/ Devin Randolph

Devin Randolph

Pro Se Petitioner

CERTIFICATE OF COMPLIANCE WITH PAPER FORMAT

I certify that this application was prepared on 8½-by-11-inch paper in 12-point Times New Roman and is double spaced except for indented quotations and conventional cover, heading, signature, and address formatting, consistent with Supreme Court Rule 33.2. Because the application exceeds five pages, it includes a table of contents and table of cited authorities pursuant to Supreme Court Rule 34.2. Applicant is proceeding pro se and submits the Emergency Application in the number of paper copies directed by the Clerk's Office, consistent with the filing guidance provided by Clerk's Office staff member Pipa Fisher, together with proof of service under Supreme Court Rule 29.



/s/ Devin Randolph
Devin Randolph
Applicant, Pro Se

9-21-26

No. 26-3747

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Sep 17, 2026

KELLY L. STEPHENS, Clerk

DEVIN RANDOLPH,
Plaintiff - Appellant,

v.

BATH & BODY WORKS, INC.; VORYS
SATER SEYMOUR & PEASE LLP; EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION; SPITZ LAW FIRM, LLC,

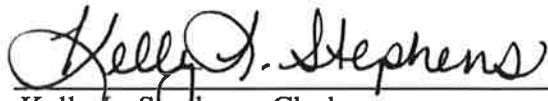
Defendants - Appellees.

ORDER

The plaintiff, proceeding without counsel, appeals the district court's judgment dismissing his civil complaint. The plaintiff moves to hold the appeal in abeyance pending the disposition of two mandamus petitions he filed at the United States Supreme Court.

Upon review, the plaintiff's motion is DENIED. Because the district court revoked the plaintiff's ability to proceed on appeal in forma pauperis, no briefing schedule will issue until this court has granted the plaintiff pauper status on appeal or he has paid the \$605 appellate filing fee.

The plaintiff's motion for pauper status on appeal will be submitted to the court in the normal course.

ENTERED PURSUANT TO RULE 45(a)
RULES OF THE SIXTH CIRCUIT

 Kelly L. Stephens, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Kelly L. Stephens
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: September 17, 2026

Mr. Oliver Daniel Frey
Vorys, Sater, Seymour & Pease
52 E. Gay Street
Columbus, OH 43215

Mr. Devin Randolph
450 Alder Drive, E.
Unit 302
Gahanna, OH 43230

Re: Case No. 26-3747
Devin Randolph v. Bath & Body Works, Inc., et al
Originating Case No. 2:25-cv-00284

Dear Counsel and Mr. Randolph,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Kelly Stephens, Clerk
Case Manager: Jill
Direct Dial No. 513-564-7024

Enclosure

OFFICIAL COURT OF APPEALS CAPTION FOR 26-3747

DEVIN RANDOLPH

Plaintiff - Appellant

v.

BATH & BODY WORKS, INC.; VORYS SATER SEYMOUR & PEASE LLP; EQUAL
EMPLOYMENT OPPORTUNITY COMMISSION; SPITZ LAW FIRM, LLC

Defendants - Appellees

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DEVIN RANDOLPH, Plaintiff-Appellant

v.

Case No: 26-3747

BATH & BODY WORKS, INC.; VORYS,
SATER, SEYMOUR & PEASE LLP; EQUAL
EMPLOYMENT OPPORTUNITY COMMISSION;
SPITZ LAW FIRM, LLC,
Defendants-Appellees

MOTION FOR PAUPER STATUS

I move to waive the payment of the appellate filing fee under Fed. R. App. P. 24 because I am a pauper. This motion is supported by the attached financial affidavit.

The issues which I wish to raise on appeal are:

See attached Continuation Sheet - Issues on Appeal, incorporated herein. The issues include the final dismissal and Judgment; operative-pleading and Rule 15 issues; ECF No. 21 stay, service, response-deadline, and default issues; Vorys's timing and authority of representation, appearance, defendant status, conflict, notice, and communication issues; accuracy of the earlier Magistrate Judge Deavers proceedings and the later Magistrate Judge Shimeall proceedings; EEOC compliance monitoring, the Right-to-Sue determination, and the disputed settlement agreement; medical accommodation, medical capacity, physician restrictions, and need for assistance; receipt, routing, sealing, docketing, and consideration of medical materials under ECF Nos. 102, 103, 105, and 106; lower-court matters documented in the previously submitted Supreme Court Exhibits B and C; additional medical information provided through the Supreme Court proceedings and the contents -

Signed: [Signature]

Date: 9/2/2026

Address: 450 Alder Drive East #302

Gahanna, Ohio 43230

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DEVIN RANDOLPH, Plaintiff-Appellant

Case No: 28-3747

BATH & BODY WORKS, INC., WORKS, ENTER
SENIOR & PEASE LLP, EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION: SPTZ LAW FIRM, LLC,
Defendants-Appellees

MOTION FOR PAPER STATUS

I have to make the payment of the *apolliter stings* fee under Fed. R. App. P. 25 because I am a pauper. This motion is supported by the attached financial affidavit.

The issues which I wish to raise on appeal are:

[illegible]

Signed: _____ Date: 07/22/06

Address: 450 Alder Drive East #302

Gahmann, Chris 43230

1. *What does each of the following mean?*
 2. *What is the difference between a primary and a secondary source?*
 3. *What is the difference between a primary and a secondary source?*

Fraser

RECEIVED

**UNITED STATES COURT OF APPEALS
SEP 03 2026 FOR THE SIXTH CIRCUIT**

KELLY L. STEPHENS, Clerk Case No. 26-3747

DEVIN RANDOLPH,
Plaintiff-Appellant,

v.

BATH & BODY WORKS, INC., et al.,
Defendants-Appellees.

**APPELLANT'S MOTION TO PROCEED IN FORMA PAUPERIS ON
APPEAL UNDER FED. R. APP. P. 24(a)(5) AND MEMORANDUM IN
SUPPORT**

Appellant Devin Randolph, proceeding pro se, respectfully moves under Federal Rule of Appellate Procedure 24(a)(5) for leave to proceed in forma pauperis on appeal without prepayment of the \$605 appellate filing fee.

Appellant submits the Sixth Circuit's completed Motion for Pauper Status and Form 4 financial affidavit with this motion. Appellant also incorporates by reference the attached Continuation Sheet — Issues on Appeal, which identifies in greater detail the issues Appellant intends to present in this appeal.

The District Court previously permitted Appellant to proceed in forma pauperis. In its July 17, 2026 Opinion and Order, ECF No. 103, however, the District Court certified that an appeal would not be taken in good faith and stated that Appellant should not be permitted to proceed in forma pauperis on appeal.

Appellant respectfully asks this Court to reach its own determination under Federal Rule of Appellate Procedure 24(a)(5). An appeal is taken in good faith when the

litigant seeks appellate review of an issue that is not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Appellant is not required at this stage to establish that he will ultimately prevail on the merits. The record presents multiple substantial and objectively reviewable questions.

I. ECF Nos. 102, 103, 105, AND 106 PRESENT A NONFRIVOLOUS QUESTION CONCERNING WHAT MEDICAL MATERIALS WERE ACTUALLY BEFORE THE DISTRICT COURT

One of the clearest issues arises from the District Court's own subsequent clarification concerning Appellant's medical documentation.

In ECF No. 103, the District Court stated that, after the deadline for objections to the Report and Recommendation, Appellant filed ECF No. 102, titled “Notice to the Court Regarding Document Received.” The District Court itself acknowledged that ECF No. 102 expressly stated that it was not an objection, but instead was:

“submitted solely to clarify the record and explain the circumstances surrounding the preparation and submission of the attached materials.”

ECF No. 102 itself explains its limited purpose even more specifically. It states:

“This Notice is submitted to document the Court's receipt of those materials.”

It further states that the Notice was submitted “solely to clarify the record.” The filing included USPS documentation reflecting delivery of a package to the

Southern District of Ohio on June 29, 2026, at 1:39 p.m., signed for as “A COURT.”

Thus, Appellant's reason for filing ECF No. 102 was not mysterious: it was intended to create a record establishing that a separate package of materials had been delivered to and received by the District Court.

The importance of that Notice became substantially clearer after entry of the final dismissal.

On July 28, 2026, the District Court entered ECF No. 106. In that Order, Judge Watson expressly stated:

“The correspondence from Kevin Carpenter ... and the medical records attached thereto, ECF No. 105, were received before the Court issued its Opinion and Order ... ECF No. 103.”

The District Court further acknowledged that it “did not originally docket that information” and then stated:

“To preserve the record for appeal, however, the Court has now docketed those records under seal as ECF No. 105.”

That subsequent acknowledgment creates a legitimate appellate question concerning whether ECF No. 103 was entered upon a complete and accurately understood medical and procedural record; what medical materials had actually been received before dismissal; whether those materials were available to and

considered by the judicial officer making the relevant determinations; and what effect the later acknowledgment in ECF No. 106 has upon the factual premises supporting dismissal.

Appellant does not ask this Court to decide those questions through this IFP motion. Their existence, however, demonstrates that this appeal is not frivolous.

II. THE DISTRICT COURT'S OWN DESCRIPTION OF THE MEDICAL RESTRICTIONS PRESENTS AN ADDITIONAL REVIEWABLE QUESTION

ECF No. 106 also stated that Appellant's physician-directed restriction against typing and writing had “no bearing on his ability to attend a telephone call.”

Appellant respectfully seeks appellate review of whether that conclusion evaluated the complete medical circumstances actually presented. Appellant's medical-accommodation position was not limited to a claim that he physically could not speak into a telephone. The record and materials identified in the attached Continuation Sheet concern restrictions upon typing, writing, prolonged computer use, repetitive wrist activity, continuing treatment, pain, fatigue, preparation and handling of extensive litigation materials, the need for assistance, and Appellant's limited physical and mental resources while continuing medical treatment.

The complete medical circumstances also included ongoing speech therapy and related rehabilitation needs. Those issues were not presented merely as isolated appointments, but as part of a broader recovery process requiring significant energy, concentration, and recovery time. Appellant's medical limitations affected

his ability to communicate, prepare legal documents, organize extensive records, participate in discovery-related proceedings, and sustain the prolonged effort required in federal litigation.

The medical materials further documented the impact of continuing symptoms, including severe headaches, fatigue, and episodes of significant pain requiring emergency medical attention. Appellant's medical condition arose following the September 27, 2025 motor vehicle accident, in which Appellant was thrown upward and then struck the windshield while the vehicle continued moving.

Appellant has continued experiencing severe back pain, headaches, fatigue, and other symptoms associated with that trauma. These symptoms affected not only physical activity but also concentration, stamina, and the ability to consistently manage complex litigation obligations.

Similarly, the fact that Appellant made telephone calls or succeeded in submitting some documents does not necessarily establish unrestricted capacity to participate in litigation. Appellant seeks review of whether the District Court properly evaluated the difference between being able to accomplish an isolated act and being medically capable of sustaining the preparation, organization, review, communication, and participation required by ongoing litigation.

The record also raises an additional question concerning whether the District Court proceeded toward discovery-related obligations without first resolving Appellant's

documented accommodation needs. Appellant had previously filed a Notice of Hardship and Diligence, ECF No. 37, identifying his accident, continuing medical limitations, and need for appropriate consideration of those limitations before further litigation obligations proceeded.

Appellant respectfully seeks review of whether there was a sufficient legal basis to move forward with discovery scheduling and related obligations before addressing those unresolved accommodation issues.

Appellant further submits that requiring continued litigation activity without first resolving the medical-accommodation issues placed him in a position where attempting to comply with court obligations could worsen his medical condition, while failing to comply could result in dismissal-related consequences. Appellant seeks review of whether that procedural posture effectively required him to choose between protecting his health and preserving his legal rights.

That is a merits question for appellate review, not a frivolous contention.

III. THE RECORD CONTAINS AN OBJECTIVE QUESTION CONCERNING RECEIPT, DOCKETING, SEALING, AND ROUTING OF THE MEDICAL MATERIALS

ECF No. 102 documented delivery of the relevant mailing. ECF No. 106 later acknowledged that the Carpenter correspondence and attached medical records had actually been received before ECF No. 103, but had not initially been docketed. Appellant's Notice of Appeal, ECF No. 107, expressly preserves appellate review of ECF Nos. 102, 103, 105, and 106 and also preserves relevant communications

and recordings concerning whether medical materials were received, docketed, sealed, or available for judicial review.

Appellant has identified recorded communications with District Court personnel reflecting uncertainty concerning whether the medical documentation was visible in the electronic system and whether sealed medical material could be located. To the extent those recordings and related materials are properly included in or used to clarify the appellate record, Appellant seeks appropriate review under the procedures available to this Court, including Federal Rule of Appellate Procedure 10(e) where applicable.

Appellant does not ask this Court at the IFP stage to determine the ultimate meaning of those recordings. The objective sequence established by the District Court's own docket is sufficient to demonstrate the nonfrivolous question: the medical records were received before ECF No. 103, were not originally docketed, and were later placed under seal specifically “to preserve the record for appeal.”

IV. THE RELATED SUPREME COURT MEDICAL SUBMISSIONS FURTHER EXPLAIN APPELLANT'S ATTEMPTS TO PRESERVE THE MEDICAL ISSUE

During the same period, Appellant was also attempting to provide medical-support information in connection with his pending Supreme Court proceedings, including No. 25-7627.

A medical-support submission identified as a “Letter of Support” was received by the Supreme Court Clerk's Office on June 30, 2026 and was returned by

correspondence dated July 1, 2026. The returned materials included medical-support information concerning Appellant's limitations.

Appellant does not contend that the Supreme Court's handling of those materials, by itself, establishes what the District Court received or considered. Rather, the Supreme Court materials provide context for Appellant's repeated efforts during the same period to identify where medical records had been submitted, to preserve proof concerning their receipt, and to make his medical limitations known while related proceedings were continuing.

The central appellate issue remains grounded in the District Court's own record—particularly ECF Nos. 102 and 106.

V. THE OPERATIVE-PLEADING, SERVICE, STAY, AND DEFAULT SEQUENCE ALSO PRESENTS NONFRIVOLOUS APPELLATE QUESTIONS

The appeal independently presents reviewable questions concerning the operative pleading, service, the stay entered at ECF No. 21, and Appellant's requests for default.

Bath & Body Works' own ECF No. 29 stated:

“Plaintiff's Complaint was served on Defendant Bath & Body Works, Inc. ('BBW') on July 30, 2025.”

Bath & Body Works further acknowledged:

“BBW's original deadline to serve a responsive pleading was therefore August 20, 2025.”

Bath & Body Works did not contend in that filing that it had not received service. Instead, it relied upon ECF No. 21 as the reason its response obligation had been suspended.

The appellate question is therefore not simply whether Bath & Body Works received the original complaint. Its own filing acknowledges that it did. The question includes whether ECF No. 21 lawfully suspended the response obligation arising from that already-served complaint based upon an amendment process that had not yet been completed and whether the District Court applied the proper sequence under Federal Rules of Civil Procedure 15 and 55.

ECF No. 11 was Appellant's Motion for Leave to File an Amended Complaint, with ECF No. 11-1 submitted as the proposed amended pleading. ECF No. 18 terminated ECF No. 11 as moot rather than expressly granting that motion. ECF No. 42 was not docketed as the amended complaint until November 17, 2025.

Those circumstances present a legal question concerning when and through what judicial act the proposed pleading became operative and what effect that timing had upon the previously triggered service and response obligations.

Appellant also seeks review of the representation chronology. Vorys attorneys Morgan Davis and Oliver Frey did not formally enter appearances for Bath & Body Works until August 28, 2025, after the August 20 original response date acknowledged by Bath & Body Works. Vorys itself was also at that time a named

defendant in Appellant's pleadings. Appellant seeks review of the timing and scope of Vorys's authority to represent Bath & Body Works, the firm's simultaneous party and counsel status, and any resulting representation or conflict issues.

Bath & Body Works acknowledged service of the original complaint and acknowledged the original response deadline. The appeal presents questions concerning whether the stay entered under ECF No. 21 was lawful, and whether the amendment sequence was properly resolved, and whether the District Court correctly analyzed the resulting procedural consequences.

The appeal further presents questions concerning the timing and authority of Vorys's representation, including when Vorys formally appeared, the relationship between representation in the EEOC matter and representation in the federal action, and the effect of representation chronology upon procedural obligations.

Appellant also seeks review of whether unresolved questions concerning the operative pleading affected the parties' obligations. The record presents a question regarding whether the original complaint remained the operative pleading where the motion to amend was terminated as moot rather than expressly granted, and whether later reliance upon an amended pleading occurred before the necessary procedural steps under Federal Rule of Civil Procedure 15(a)(2) were completed.

Appellant does not ask this Court through the present IFP motion to enter default or to resolve those representation issues. He identifies them because they are genuine legal and procedural questions reserved for ordinary appellate review.

VI. THIS COURT PREVIOUSLY RECOGNIZED THAT THE UNDERLYING QUESTIONS COULD BE REVIEWED IN AN ORDINARY APPEAL

The procedural posture is also significant because related issues were previously presented to this Court through petitions for extraordinary mandamus relief.

In denying extraordinary relief, this Court stated that Appellant could seek the requested relief through motions filed in the District Court, “reviewed on appeal by this court.”

Appellant has now reached that ordinary appellate stage following entry of final Judgment. His attempt to obtain the appellate review previously identified by this Court is itself inconsistent with characterizing the present appeal as lacking any good-faith appellate issue.

VII. THE COMPLETE ISSUES ON APPEAL ARE IDENTIFIED IN APPELLANT'S FORM 4 CONTINUATION SHEET

Appellant respectfully incorporates by reference the Continuation Sheet — Issues on Appeal submitted with his Motion for Pauper Status and Form 4 affidavit.

Those issues include, among other matters, the final dismissal and Judgment; the operative-pleading and Rule 15 sequence; ECF No. 21, service and default; Vorys's representation and defendant status; the earlier and later Magistrate Judge proceedings; EEOC compliance monitoring and the disputed settlement agreement;

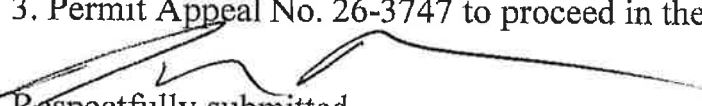
medical accommodation and physician restrictions; ECF Nos. 102, 103, 105, and 106; the receipt, routing, sealing, and consideration of medical materials; disputed District Court mailings; the denial of the requested stay pending Supreme Court proceedings; ECF No. 77 and the prior mandamus proceedings; and the additional matters preserved in ECF No. 107.

This motion is not intended to substitute for Appellant's merits brief. It is submitted only to demonstrate that the appeal presents multiple nonfrivolous factual and legal issues and therefore satisfies the good-faith requirement for proceeding in forma pauperis.

CONCLUSION

For these reasons, and based upon the financial information contained in the accompanying Form 4 affidavit, Appellant respectfully requests that the Court:

1. GRANT Appellant leave to proceed in forma pauperis on appeal under Federal Rule of Appellate Procedure 24(a)(5);
2. WAIVE prepayment of the \$605 appellate filing fee; and
3. Permit Appeal No. 26-3747 to proceed in the ordinary course.


Respectfully submitted,

/s/ Devin Randolph

Devin Randolph

Plaintiff-Appellant, Pro Se

450 Alder Drive East, Apt. 302

Gahanna, Ohio 43230

Telephone: (614) 828-7284 Date: September 2, 2026

CERTIFICATE OF COMPLIANCE

I certify that the foregoing Appellant's Motion to Proceed In Forma Pauperis on Appeal Under Fed. R. App. P. 24(a)(5) and Memorandum in Support complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A). The source Microsoft Word document reports 2,487 words for the motion, a count that includes any items Federal Rule of Appellate Procedure 32(f) would permit to be excluded. The countable text is therefore no greater than 2,487 words and is well below the 5,200-word limit. This document uses 14-point Times New Roman, a proportionally spaced serif typeface, on 8 1/2 by 11 inch paper with one-inch margins and double-spaced motion text.


/s/ Devin Randolph
Devin Randolph
Pro Se Appellant

9-2-26

CERTIFICATE OF SERVICE

I certify that on September 2, 2026, I caused a true and correct copy of the foregoing Appellant's Motion to Proceed In Forma Pauperis on Appeal Under Fed. R. App. P. 24(a)(5) and Memorandum in Support, together with the accompanying materials, to be served through the Court's electronic filing system upon all counsel of record registered to receive electronic notice in this matter.

Because this motion concerns Appellant's request to proceed in forma pauperis and issues preserved for appellate review, Appellant serves these materials through the Court's electronic filing system while preserving all arguments concerning unresolved service, representation, party-status, record-completeness, and any additional service or procedural obligations that may be required by the Court.



/s/ Devin Randolph

Devin Randolph
Pro Se Appellant

9-2-26

[illegible]

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

RECEIVED

SEP 03 2026

DEVIN RANDOLPH,
Plaintiff-Appellant,

KELLY L. STEPHENS, Clerk

v.

BATH & BODY WORKS, INC., et al.,
Defendants-Appellees.

Case No. 26-3747

**APPELLANT'S MOTION TO STAY APPELLATE PROCEEDINGS
PENDING SUPREME COURT DISPOSITION AND FOR PROMPT
CONSIDERATION**

INTRODUCTION

Appellant Devin Randolph, proceeding pro se, respectfully moves under Federal Rule of Appellate Procedure 27, Federal Rule of Appellate Procedure 2, and this Court's inherent authority to control its docket for a temporary stay of appellate merits proceedings pending disposition of Appellant's related Supreme Court matters, Nos. 25-7626 and 25-7627.

Appellant does not request that the stay prevent this Court from deciding the contemporaneously filed motions concerning pauper status, counsel, default, correction of the record, or the disputed settlement agreement. Appellant requests that those threshold matters remain available for decision if the Court chooses, and that the stay apply primarily to further merits briefing and other appellate deadlines that would require substantial duplicative work before the Supreme Court acts.

I. RELATED SUPREME COURT PROCEEDINGS

Appellant has related matters pending in the Supreme Court of the United States, Nos. 25-7626 and 25-7627. Those proceedings concern overlapping issues arising from the same District Court action, including the operative-pleading sequence, service and response deadlines, the District Court's stay, default, medical accommodation, sealed medical materials, and the completeness and accuracy of the lower-court record.

Appellant represents that the Supreme Court matters were distributed on August 6, 2026. The Supreme Court's published Case Distribution Schedule for the summer of 2026 assigns the August 6 IFP distribution list to the September 28, 2026 Conference. The Supreme Court's 2026 Term calendar likewise identifies September 28, 2026 as the opening conference.

II. THE SAME ISSUES ARE NOW PRESERVED IN THIS ORDINARY APPEAL

Appellant's Notice of Appeal, ECF No. 107, expressly preserves review of many of the same issues. It includes the final dismissal and Judgment; ECF Nos. 18, 21, 41, 42, 43, 69, 77, 82, 83, 84, 99, 100, 102, 103, 104, 105, and 106; the operative-pleading and default issues; medical accommodation; receipt and sealing of medical records; and the District Court's denial of the prior request for a stay pending Supreme Court proceedings.

Because the Supreme Court proceedings and this appeal overlap substantially, proceeding simultaneously with full merits briefing risks duplication and inconsistent procedural treatment. A short stay would permit the parties and this Court to know what action, if any, the Supreme Court takes before substantial additional briefing occurs.

III. A TEMPORARY STAY PROMOTES EFFICIENT JUDICIAL ADMINISTRATION

A temporary stay would conserve judicial and party resources. It would avoid requiring Appellant to reproduce extensive materials that have already been organized in the Supreme Court proceedings before it is known whether the Supreme Court will issue any order affecting the posture of the case.

The requested stay is limited. Appellant requests a stay until the Supreme Court disposes of Nos. 25-7626 and 25-7627. Alternatively, if the Court prefers a fixed event, Appellant requests a stay through the September 28, 2026 Conference and for fourteen days after the Supreme Court issues the first order or orders disposing of, holding, or otherwise acting upon those matters, so Appellant can promptly advise this Court of the result.

The limited stay also accommodates Appellant's documented medical restrictions and limited ability to type, organize, scan, and physically handle extensive litigation materials. It would reduce duplicative work without materially

prejudicing Bath & Body Works, particularly because the District Court action has already been dismissed and this appeal is now the vehicle for ordinary review.

IV. THE STAY SHOULD NOT PREVENT RESOLUTION OF THRESHOLD MOTIONS

Because Appellant is filing several threshold motions at the same time, he respectfully requests that any stay be written so that this Court retains authority to decide those motions while the merits schedule is paused. In particular, Appellant does not seek to prevent the Court from resolving his IFP request, the motion concerning Vorys, the default/remand issue, the Rule 10(e) record-correction motion, or the motion concerning the disputed settlement agreement.

This structure would preserve the status quo while allowing the Court to resolve matters that may affect how the appeal proceeds after the Supreme Court acts.

CONCLUSION

Appellant respectfully requests that the Court stay merits briefing and other nonessential appellate deadlines pending disposition of Supreme Court Nos. 25-7626 and 25-7627, or alternatively through the September 28, 2026 Conference and the ensuing Supreme Court order, while permitting this Court to resolve contemporaneously filed threshold motions. Appellant also requests prompt consideration because the Supreme Court conference is scheduled for September 28, 2026.

Respectfully submitted,

Devin Randolph

Plaintiff-Appellant, Pro Se

450 Alder Drive East, Apt. 302

Gahanna, Ohio 43230

Telephone: (614) 828-7284

Email: devinrandolph@myyahoo.com

Date: September 2, 2026

DECLARATION OF DEVIN RANDOLPH

I, Devin Randolph, declare under penalty of perjury under 28 U.S.C. § 1746 that the following is true and correct:

1. I am Devin Randolph, the Appellant in this case.
2. I have related proceedings pending in the Supreme Court of the United States identified as Nos. 25-7626 and 25-7627.
3. I understand that those matters were distributed on August 6, 2026 for the Supreme Court's September 28, 2026 Conference.
4. The Supreme Court proceedings contain materials concerning the same District Court action and overlapping issues identified in my Notice of Appeal and IFP Continuation Sheet.
5. I am proceeding pro se and have continuing medical restrictions that limit typing, repetitive wrist use, prolonged computer activity, and the physical handling and organization of extensive litigation materials.

Executed on September 2, 2026.

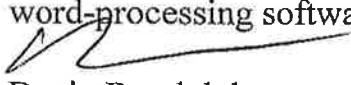
Devin Randolph

Plaintiff-Appellant, Pro Se

A handwritten signature in black ink, appearing to be 'DR' followed by a long horizontal flourish.

CERTIFICATE OF COMPLIANCE

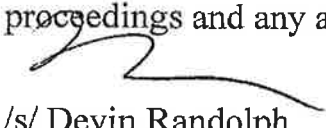
I certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 677 words, excluding the accompanying documents and items excluded by the Rules. This motion uses 14-point Times New Roman and was prepared using Microsoft Word-compatible word-processing software.


Devin Randolph

6-2-26
CERTIFICATE OF SERVICE

I certify that on **September 2, 2026**, I caused a true and correct copy of the foregoing **Appellant's Motion to Stay Appellate Proceedings Pending Supreme Court Disposition and for Prompt Consideration** to be served through the Court's electronic filing system upon all counsel of record registered to receive electronic notice in this matter.

Because this motion concerns overlapping proceedings, including pending Supreme Court proceedings and issues arising from the same District Court action, Appellant serves this motion through the Court's electronic filing system while preserving all arguments regarding the timing, scope, and effect of related proceedings and any additional service obligations that may apply.


/s/ Devin Randolph
Devin Randolph
Pro Se Appellant

7-2-26

Exhibit A
ECF No. 103 - Opinion and Order

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Devin Randolph,

Plaintiff,

v.

Bath & Body Works, Inc.,

Defendant.

Case No. 2:25-cv-284

Judge Michael H. Watson

Magistrate Judge Shimeall

OPINION AND ORDER

Devin Randolph ("Plaintiff") has prevented the Court from holding a productive discovery conference, moving at the last minute to postpone each conference scheduled between March and June 2026. See ECF Nos. 82–84, 86, 88, 90–91, 95, 98–100. Often, Plaintiff nonsensically came to the courthouse a day or two before the scheduled hearing and filed motions arguing that he was medically unable to attend a telephone conference. As noted by the Magistrate Judge's Report and Recommendation ("R&R"), Plaintiff's purported inability to participate in a telephone conference is further undermined by the multiple telephone calls he made to the Court. R&R 4, ECF No. 101. In addition to preventing necessary conferences, Plaintiff filed numerous and vexatious motions that have wasted the Court's resources and prevented meaningful progress on this single-claim case.

As such, and because Plaintiff was explicitly warned of this consequence before he missed the latest discovery conference, the Magistrate Judge has recommended that the Court dismiss Plaintiff's claim for failure to prosecute and failure to comply with the Court's Orders. R&R, ECF No. 101. The R&R notified

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Plaintiff of his right to object to that recommendation and of the consequences of failing to do so. *Id.* at 10.

The deadline to object has passed, and, in lieu of objecting, Plaintiff filed a document titled "Notice to the Court Regarding Document Received." ECF No. 102. That document argues that Plaintiff has nerve damage, that the Court has worsened the same, and that the Court has received certain prior filings. *See id.* The document is explicitly not an objection but rather "is submitted solely to clarify the record and explain the circumstances surrounding the preparation and submission of the attached materials." *Id.* at 2.

As Plaintiff failed to object to the R&R, the Court **ADOPTS** the same without conducting a *de novo* review. In the alternative, and construing ECF No. 101 generously as an objection, the Court has performed a *de novo* review, agrees with the R&R, and therefore **OVERRULES** the objection and **ADOPTS** the R&R. Accordingly, the Court **DISMISSES WITH PREJUDICE** the sole remaining claim in this case, pursuant to Federal Rule of Civil Procedure 41(b). Furthermore, the Court **CERTIFIES** that any appeal would not be taken in good faith and that Plaintiff should not be permitted to proceed *in forma pauperis* on appeal. The Clerk shall enter Judgment for Defendant and terminate this case.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT

[illegible]