

No. 26-5488

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

STEPHANIE LYNNE BROWN, as mother, guardian,
and next friend of minor K.M.K.; in her own capacity,
Plaintiff-Appellant,

v.

WASHINGTON INTERSCHOLASTIC ACTIVITIES ASSOCIATION, ET AL.,
Defendants-Appellees.

On Appeal from the U.S. District Court
for the Western District of Washington
Case No. 3:26-cv-05616-DGE

**APPELLANTS STEPHANIE LYNNE BROWN AND K.M.K.'S
RULE 27-3 CERTIFICATE FOR EMERGENCY MOTION
RELIEF REQUESTED BY SEPTEMBER 25, 2026**

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(ii) Facts showing the nature and existence of the emergency.

Appellant K.M.K., a female high-school wrestler, was unknowingly matched against a biological male in a match last season. She lost the match and, along the way, was sexually assaulted. She and her mother Appellant Stephanie Brown sought a preliminary injunction to prevent Appellees from forcing her to compete against a biological male during the wrestling season that starts this fall and to require Appellees to give Brown notice and the right to opt K.M.K. out of any matches against biological males. The district court denied that preliminary injunction.

That denial threatens to inflict irreparable injury on Appellants. Appellees' policy violates Brown's constitutional right to make decisions

about K.M.K.’s health and safety, “cut[ting] out the primary protectors of [K.M.K.’s] best interests” and inflicting “irreparable harm.” *Mirabelli v. Bonta*, 607 U.S. 492, 496–97 (2026) (per curiam). K.M.K. will also be subject to further sex discrimination in violation of Title IX during the upcoming wrestling season. As the Supreme Court just explained, because of boys’ inherent physical advantages, “allowing biological males to play on ... girls’ sports teams” presents “particularly severe” “safety risks” to girls “in contact sports” and “put[s] female athletes at a serious disadvantage” competitively. *West Virginia v. B.P.J.*, 146 S. Ct. 2356, 2372 (2026).

To preserve constitutional rights and prevent further discriminatory harm to K.M.K., this Court should stay the injunctions pending appeal. On Monday, the district court denied Appellants’ emergency motion for an injunction pending appeal.

(iii) Why the motion could not have been filed earlier.

Appellants filed their notice of appeal on August 25, 2026, just two days after the district court’s order. Appellants filed their district-court motion for an injunction pending appeal pursuant to Fed. R. App. P. 8(a)(1) the next day. The motion requested the district court rule by September 2. On August 31, the district court denied the motion. Three days later, Appellants filed their motion to stay in this Court.

(iv) Notice and service on the opposing parties' counsel.

Appellants served via the district court's electronic filing system their notice of appeal and district court motion for stay pending appeal on opposing counsel the day they were filed. That motion notified Appellees that Appellants intended to file a motion for an injunction pending appeal in this Court if the district court did not grant the requested relief. Appellees filed oppositions to that motion in the district court. Counsel will email a PDF copy of this motion to Appellee's counsel immediately after it is filed.

(v) Whether relief was first sought in the district court.

Appellants first sought relief in the district court on August 26, 2026. The district court denied that relief in relevant part on August 31, 2026.

Dated: September 3, 2026

Respectfully submitted,

By: /s/ John J. Bursch

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