

No: \_\_\_\_\_

---

**In The  
Supreme Court of the United States**

---

**IN RE ERIC DRAKE**  
*Petitioner/Relator*

---

**On Petition for Writ of Mandamus to the United States  
Court of Appeals for the Fifth Circuit**

---

**PETITION FOR WRIT OF MANDAMUS**

---

Eric Drake  
Pro-Se  
10455 North Central Expressway  
Suite 109  
Dallas, Texas 75231  
214-477-9288

## QUESTIONS PRESENTED

This dispute concerns the dismissal of a defendant with prejudice, Nordstrom Inc, which was a proper defendant in the district court proceeding. Relator filed a motion for partial nonsuit, nonsuiting all defendants except Nordstrom Inc because the Relator wanted to confirm whether Nordstrom Inc was not a proper defendant in the proceeding.

Nordstrom's attorneys were untruthful to the Relator and the district court by advising the Relator and the district court that Nordstrom Inc was not a proper defendant in the district court proceeding, but evidence proved otherwise. The district court dismissed Nordstrom Inc with prejudice, but all other defendants without prejudice. Relator filed proof that Nordstrom Inc was a viable defendant into the district court's record and filed a timely Rule 60, but the district court refused to reverse its dismissal with prejudice, believing Nordstrom's attorneys that Nordstrom Inc was not a proper defendant.

Relator filed an appeal in the Fifth Circuit Appeals requesting for the court to review and reverse the with prejudice order of the district court. *See App. Ex. D.* Relator filed his brief. Nordstrom could not answer the Relator's brief without admitting that the Relator was correct, the evidence that supports the fact that Nordstrom Inc was, and still is a proper defendant was filed into the district court's record and made part of the appellate record. The clerks notified the Relator by standard U.S. mail during the holidays (New Years) of the court's order, which gave the Relator only 3-days to draft this Writ of Mandamus, and compose the Appendix. The order is annexed to Relator's Appendix, *See App. Ex. A.* The Respondents admonished Nordstrom's lawyers for their deficient and untimely pleadings, but the December 28, 2017 order also noticed the Relator that the Respondents deemed the Relator appeal as frivolous. The Relator sharply disagrees with the legal assessment that his appeal is frivolous.

Not having any other options or applicable remedies, and since the appeal is still pending, the Relator respectfully submits his Writ of Mandamus to this Honorable Court for its review and decisions. It is the Relator's opinion that no impartial judge would consider the Relator's appeal to be frivolous, as argued herein.

The Relator's questions and or issues presented are:

1). Whether Respondents erred and abused their discretion by determining that the Relator's appeal is frivolous that is supported a competent brief and with compelling and objective evidence that the Real Party in Interest cannot refute. Nordstrom's own Securities and Exchange Report proves that Nordstrom Inc was and still is a proper defendant in the Relator's personal injury case, therefore, an appeal asking the Fifth Circuit to review the district courts order is not frivolous.

2). Whether federal appellate court justices in this nation should be allowed to declare a case that has merit to be meritless or frivolous without a written opinion.

3). Whether the U.S. Supreme Court should review the federal appeals practice to encourage faith in the judicial process, proper due process, and by requiring all federal appeals court justices to write an opinion, to ensure equal protection for all litigators, especially in cases when an appellate court has deemed a case as frivolous that contains evidence that proves that the court is in error, as in the case before the Court.

4). Whether the Respondents conduct and demeanor towards a protect class of person, and or any litigator where objective evidence is ignored to sanction a nonlawyer or *pro se* litigant would demand recusals of those judges or justices.

**IDENTITY OF PARTIES AND COUNSEL**

**Relator:** Eric Drake  
*Movant in the underlying suit*

**Movant is pro-se:** Eric Drake  
Pro-Se  
10455 N. Central Expressway  
Suite 109  
Dallas, Texas 75231  
(214) 477-9288

**Respondents:** Judges Leslie Southwick, Stephen  
Higginson, and James Dennis  
Fifth Circuit Court of Appeals  
600 South Maestri Place  
New Orleans, LA 70130-3408

**Real Party in Interest:** NORDSTROM DEPARTMENT  
STORES, INCORPORATED;  
BLAKE NORDSTROM; PETER  
NORDSTROM; ERICK  
NORDSTROM; JAMES  
NORDSTROM; ENRIQUE  
HERNANDEZ, JR., Nordstrom's  
Chief Executive Officer;  
NORDSTROM, INCORPORATED

**Represented by:** Tate L. Hemingson  
Counsel for Nordstrom Inc et al  
Strasburger & Price, LLP  
901 Main Street  
Suite 6000  
Dallas, Texas 75202

---

**TABLE OF CONTENTS**

---

*Questions Presented* ..... i

*Identity of Parties and Counsel* ..... iii

*Table of Content* ..... iv

*Index of Authorities* ..... v

*Abbreviations and Record References* ..... xiii

*Jurisdiction* ..... 1

*Relief Sought* ..... 3

**PETITION FOR WRIT OF MANDAMUS**

**I. STATEMENT OF FACTS** ..... 5

**II. REALTOR’S CONDUCT IN THE DISTRICT COURT**..... 8

**III. RELATOR’S CONDUCT IN THE FIFTH CIRCUIT COURT  
WAS NOT SANCTIONABLE** ..... 9

**IV. RELATOR’S APPEAL COULD NOT BE FRIVOLOUS** ..... 10

**V. REASONS WHY THE WRIT SHOULD ISSUE** ..... 13

**VI. RELATOR INDISPUTABLE RIGHT TO WRIT** ..... 14

**VII. REASONS WHY THE COURT SHOULD GRANT WRIT** ..... 15

**A. There Is A “Reasonable Probability” That The  
Court Will Grant Relator’s Writ of Mandamus  
And A “Fair Prospect” That The Court Will  
Agree That Nordstrom’s Securities and Exchange  
Report Verifies That Relator’s Appeal Has Merit** ..... 16

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.