

No. 26-5308

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

ALLISON BARTON RICE
Plaintiff-Appellant, pro se,

v.

CITY AND COUNTY OF SAN FRANCISCO, et al.
Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
No. 3:19-cv-04250-LB
The Honorable Laurel Beeler

**PLAINTIFF-APPELLANT’S MOTION TO STAY BRIEFING AND
TRANSCRIPT-RELATED DEADLINES PENDING RESOLUTION OF
MOTION FOR APPOINTMENT OF COUNSEL, OR IN THE
ALTERNATIVE FOR EXTENSION OF TIME**

Plaintiff-Appellant Allison Barton Rice, appearing pro se, respectfully moves to stay the current briefing schedule and transcript-related deadlines pending the Court’s resolution of his pending Motion for Appointment of Counsel, Dkt. No. 4.

This motion is made for good cause. Rice has requested appointment of pro bono counsel in this appeal. If counsel is appointed, counsel will need to evaluate the appeal, determine the issues to be presented, determine whether any transcript designation or no-transcript notice is appropriate, and prepare the opening brief.

Requiring Rice to proceed with transcript and briefing decisions before the Court decides whether counsel will be appointed would risk unnecessary, duplicative, or inconsistent work.

I. Relevant Background

1. This appeal challenges the district court's order denying Rice's motion for relief from judgment under Federal Rule of Civil Procedure 60(b)(6). The issue on appeal is whether the district court abused its discretion in denying Rule 60(b)(6) relief.

2. On August 18, 2026, the Court issued its Docketing Notice and Time Schedule Order. Dkt. No. 2. The current schedule sets the appeal transcript order deadline for August 31, 2026, the transcript due date for September 30, 2026, the opening brief deadline for November 9, 2026, and the answering brief deadline for December 9, 2026.

3. On August 18, 2026, Rice filed a Motion and Affidavit for Permission to Proceed In Forma Pauperis. Dkt. No. 3.

4. Also on August 18, 2026, Rice filed a Motion for Appointment of Counsel. Dkt. No. 4.

5. The motion for appointment of counsel remains pending.

II. Good Cause Exists to Stay the Current Deadlines

Good cause exists to stay the current transcript-related and briefing deadlines until the Court decides Rice's pending request for appointment of counsel.

This appeal involves Rule 60(b)(6), attorney conduct, the district-court record sequence, the effect of materially altered Fair Housing Act claim framing, and the abuse-of-discretion standard of review. Rice has asked the Court to appoint counsel because he is indigent, disabled by a severe psychiatric condition, and unable to adequately manage the remaining appellate proceedings without assistance in light of the complexity of the issues.

If counsel is appointed, counsel should have the opportunity to evaluate the record, determine the proper appellate issues, decide whether any transcript designation is necessary, and prepare the opening brief. If Rice is required to make those decisions before the Court rules on the appointment motion, appointed counsel may later need to revisit or correct those decisions, creating unnecessary inefficiency.

A stay would also avoid prejudice to Rice. The transcript-order deadline is presently August 31, 2026. That deadline may require Rice to make a record-designation decision before he knows whether counsel will represent him. Because the appointment-of-counsel motion may affect how the appeal is developed, a short stay of the schedule is appropriate.

The requested stay should not materially prejudice Appellees. This appeal is at its beginning stage. No merits briefing has occurred. A stay limited to the Court's resolution of the pending appointment motion would promote orderly appellate proceedings and allow the appeal to proceed on a clear procedural footing.

In the alternative, if the Court denies appointment of counsel or declines to stay the schedule, Rice respectfully requests additional time to complete the required appellate tasks. A 30-day extension is reasonable because Rice should not be required to make transcript-designation and briefing decisions while his request for appointed counsel remains unresolved, and if counsel is denied, Rice will need time to proceed pro se despite the complexity of the Rule 60(b)(6) issues, his severe psychiatric condition, and his limited resources.

III. Requested Relief

Rice respectfully requests that the Court:

1. Stay the current transcript-related and briefing deadlines pending resolution of Rice's Motion for Appointment of Counsel, Dkt. No. 4;
2. Vacate or suspend the current August 31, 2026 transcript-order deadline, September 30, 2026 transcript due date, November 9, 2026 opening brief deadline, and December 9, 2026 answering brief deadline while the appointment motion remains pending;
3. If the Court grants the Motion for Appointment of Counsel, issue a new scheduling order allowing appointed counsel sufficient time to evaluate the record, determine whether any transcript designation or no-transcript notice is appropriate, and prepare the opening brief;
4. If the Court denies the Motion for Appointment of Counsel, grant Rice 30 days from the date of that denial to complete any transcript-related filing required

by FRAP 10(b) and Ninth Circuit Rule 10-3.1, including a transcript order or notice that no transcript will be ordered, and reset the briefing schedule accordingly;

5. Alternatively, if the Court declines to stay all deadlines, grant Rice a 30-day extension of time to complete the transcript-related requirements and a 30-day extension of the opening brief deadline; and

6. Grant any further relief the Court deems just and appropriate.

IV. Declaration in Support of Motion

I, Allison Barton Rice, declare under penalty of perjury:

1. I am the Plaintiff-Appellant in this appeal and am appearing pro se.

2. The current transcript-order deadline is August 31, 2026, the transcript due date is September 30, 2026, the opening brief is due November 9, 2026, and the answering brief is due December 9, 2026.

3. I filed my Motion for Appointment of Counsel on August 18, 2026. Dkt.

No. 4. That motion remains pending.

4. I have acted diligently. I filed this motion promptly after the Court issued its docketing notice and schedule and after filing my motion for appointment of counsel.

5. I request a stay because the Court's ruling on appointment of counsel may affect how the appeal is developed, including whether any transcript-related filing is necessary and how the opening brief should be prepared.

6. If the Court denies appointment of counsel or declines to stay the schedule, I request 30 days from the date of that ruling to complete any transcript-related filing required by FRAP 10(b) and Ninth Circuit Rule 10-3.1, and a corresponding 30-day extension of the opening brief deadline.

7. No transcript has yet been designated in this appeal, and I am not aware of any court reporter default.

8. Because of the short time before the August 31, 2026 transcript-order deadline and because I am proceeding pro se, I have not been able to determine Appellees' position before filing this motion.

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

Executed on August 19, 2026. /s/ *Allison Barton Rice*, Allison Barton Rice.

DATED: August 19, 2026

Respectfully submitted,

/s/ *Allison Barton Rice*

Allison Barton Rice
Plaintiff-Appellant, pro se

13809 Research Blvd, Suite 500 PMB 90978
Austin TX 78750

(415) 579-8208
allisonbartonrice@mac.com