

No. \_\_\_\_\_

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IN THE  
*Supreme Court of the United States*

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Adam Bereki,  
*Petitioner.*

v.

Supreme Court of California,  
*Respondent.*

Canjian Hou, Citizens Bank, N.A., MTC Financial, Inc.  
(Real Parties In Interest)

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**APPENDIX**

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# Appendix A

In the Appellate Division of the Superior Court of California  
for the County of Orange

Consolidated Case Nos.:  
30-2025-1482941 (Lead Case) and 30-2025-01487778

---

Adam Bereki,  
Appellant.

v.

Canjian Hou,  
Respondent.

---

**APPLICATION FOR TRANSFER/ RE-ASSIGNMENT TO  
FOURTH DISTRICT COURT OF APPEAL**  
Per Cal. Code of Civil Proc. § 396(b)

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**APPLICATION FOR TRANSFER/ RE-ASSIGNMENT TO FOURTH  
DISTRICT COURT OF APPEAL PER CCP § 396(b)**

Appellant Adam Bereki respectfully applies for an order transferring the above-captioned consolidated appeals (Case Nos. 30-2025-01482941 (main case) and 30-2025-01487778), arising from an unlawful detainer action (Superior Court Case No. 30-2025-01459684), to the Fourth District Court of Appeal, Division 3, pursuant to Code of Civil Procedure (CCP) § 396(b).

Appellant timely filed notices of appeal. During preparation of the opening brief, Appellant discovered that the Appellate Division of the Superior Court lacks subject matter jurisdiction because: (1) the amount in controversy exceeds \$35,000 (claimed damages approximately \$1.5 million), exceeding the limited civil case threshold (CCP § 85); and (2) the case involves a title dispute, which cannot be adjudicated in a limited civil case (CCP § 580(b)(3); *Asuncion v. Superior Ct.*, 108 Cal.App.3d 141 (1980)).

Appellant's Verified Opening Brief, attached as Appendix A along with a Motion to File an Oversized Brief, incorporated herein, details these jurisdictional defects. Pursuant to CCP § 396(b), this Court has a mandatory duty to transfer the appeal to the Fourth District Court of Appeal, which has jurisdiction (*Padilla v. Dep't of Alcoholic Beverage Control*, 43 Cal.App.4th 1151 (1996)). Section 396(b) provides:

“If the superior court lacks jurisdiction of an appeal or petition, and a court of appeal or the Supreme Court would have jurisdiction, the appeal or petition shall be transferred to the court having jurisdiction...”

Appellant has a fee waiver on file and will reapply with the Fourth District Court of Appeal. Transfer will not prejudice Respondent.

Appellant respectfully requests that this Court issue an order transferring the consolidated appeals to the Fourth District Court of Appeal, Division 3, pursuant to CCP § 396(b).

DATED: October 6, 2025

Respectfully filed,  
  
Adam Bereki

# Appendix A

In the Appellate Division of the Superior Court of California  
for the County of Orange

Consolidated Case Nos.:  
30-2025-1482941 (Lead Case) and 30-2025-01487778

---

Adam Bereki,  
Appellant.

v.

Canjian Hou,  
Respondent.

---

**APPLICATION TO FILE OVERSIZED BRIEF,  
DECLARATION OF ADAM BEREKI IN SUPPORT  
&  
VERIFIED OPENING BRIEF ON APPEAL**

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## **APPLICATION TO FILE OVERSIZED BRIEF**

Appellant Adam Bereki respectfully moves this Court, pursuant to California Rules of Court, rule 8.204(c)(6) and rule 8.50 for permission to file an Appellant's Opening Brief exceeding the 14,000-word limit set forth in California Rules of Court, rule 8.204(c)(1). Appellant requests permission to file a brief not exceeding 26,400 words. This request is necessitated by the complexity and novelty of the issues presented in this consolidated appeal, which challenges five specific orders, a determination regarding the Orange County Sheriff's Department's service of a void writ of possession (effectively a sixth order), and three Constitutional challenges to California Code of Civil Procedure § 632, the abuse of discretion standard of review, and the excess of jurisdiction doctrine. These issues require detailed analysis of Constitutional provisions, statutory frameworks, case law, and their application to the extensive factual and procedural record of this case.

This Application is based on the attached Memorandum of Points and Authorities, the Declaration of Adam Bereki, and the Opening Brief on Appeal annexed hereto as Appendix 1.

DATED: October 7, 2025

Respectfully filed,  
  
Adam Bereki

# MEMORANDUM OF POINTS AND AUTHORITIES

## I. Introduction

California Rules of Court, rule 8.204(c)(1), limits an appellant's opening brief in a civil appeal to 14,000 words. However, rule 8.204(c)(6) authorizes the presiding Justice of this Court to permit the filing of a longer brief for good cause. Good cause exists where the appeal involves complex, novel, or Constitutional issues, compounded by the consolidation of multiple appeals, which require extensive discussion to adequately present the arguments and ensure a complete record for review (see, e.g., *In re S.C.*, 138 Cal.App.4th 396, 405 (2006) (granting permission to file oversize brief due to complexity of issues); e.g. *Weck v. Los Angeles County Flood Control Dist.*, 89 Cal.App.2d 278, 282 (1948) (noting that consolidated appeals may involve multiple parties and issues, justifying relief such as oversize briefs when sought from the reviewing court).

This consolidated appeal arises from two separate cases: (1) the unlawful detainer (UD) case (Superior Court Case No. 30-2025-01459684, Appellate Div. Case Nos. 30-2025-1482941 and 30-2025-01487778), challenging the default judgment entered on March 18, 2025, and subsequent orders denying motions to vacate and for reconsideration; and (2) the related 2015 case (Superior Court Case No. 30-2015-00805807), challenging intermediate and post-judgment orders denying *ex parte* applications for stay and vacatur. The appeal specifically contests five orders: (1) the UD default judgment (March 18, 2025, CT 23–24), (2) the UD minute order denying vacatur (May 21, 2025, CT 134–135), (3) the UD minute order denying reconsideration (May 23, 2025, CT 145), (4) the 2015 case minute order denying stay (March 18, 2025, RJN Ex. 15.1), and (5) the 2015 case minute order denying reconsideration (May 22, 2025, RJN

Ex. 15.3). Additionally, it seeks a determination regarding the Orange County Sheriff's Department's service of a void writ of possession (CT 26–28), effectively a sixth order, which facilitated an unconstitutional taking. The appeal also raises two novel Constitutional challenges to: (1) California Code of Civil Procedure § 632, and (2) the excess of jurisdiction doctrine. These challenges necessitate detailed analysis of Constitutional provisions (e.g., Cal. Const., Art. I, §§ 7, 9, 19, 26; U.S. Const., Art. VI, § 2), statutory frameworks, case law, and their application to the extensive factual record. Without an extension, Appellant cannot fully develop these arguments, potentially prejudicing his right to a meaningful appeal and violating due process (Cal. Const., Art. I, § 7). The requested 26,400-word limit is modest and tailored to the issues.

## **II. Good Cause Exists for the Extension**

### **A. The Consolidated Appeal Involves Six Orders Across Two Cases**

The appeal challenges five specific orders and seeks a determination on the Sheriff's service of a void writ, effectively a sixth order, across two consolidated cases, necessitating comprehensive analysis:

1. **UD Default Judgment (March 18, 2025, CT 23–24):** This judgment is challenged as void due to the UD court's lack of subject matter jurisdiction over a complex title dispute and damages exceeding \$35,000 (CCP §§ 85(a), 580(b)(3); *Asuncion v. Superior Court* (1980) 108 Cal.App.3d 141, 146–147), compounded by extrinsic fraud and due process violations (*Windsor v. McVeigh* (1876) 93 U.S. 274).
2. **UD Minute Order Denying Vacatur (May 21, 2025, CT 134–135):** This order, issued by Commissioner Snuggs-Spraggins without stipulation, ignored

unopposed evidence of clerk misconduct and jurisdictional defects, violating Cal. Const., Art. VI, § 21 (*Reisman v. Shahverdian* (1984) 153 Cal.App.3d 1074, 1096–1097).

3. **UD Minute Order Denying Reconsideration (May 23, 2025, CT 145):** This unauthorized order perpetuated the void judgment, disregarding new evidence of harm (~\$50,000 property damage, ~\$10,000 lost property, CT 144, ¶¶ 10, 12).
4. **2015 Case Minute Order Denying Stay (March 18, 2025, RJN Ex. 15.1):** Judge Hesseltine’s one-word “DENIED” ruling ignored unopposed evidence of title defects, fraud and irreparable, breaching the duty to stay UD proceedings (*Asuncion*, 108 Cal.App.3d at 146).
5. **2015 Case Minute Order Denying Reconsideration (May 22, 2025, RJN Ex. 15.3):** This order failed to address jurisdictional defects and extrinsic fraud, perpetuating due process violations (*Windsor*, 93 U.S. at 277–278).
6. **Sheriff’s Service of Void Writ (CT 26–28):** The appeal seeks a determination that Sergeant Lopez and Deputy Murillo had a mandatory duty to investigate Appellant’s complaints of Constitutional and criminal violations before enforcing the writ, which facilitated an unconstitutional taking (*Lugar v. Edmondson Oil Co.* 457 U.S. 922 (1982); *Marbury v. Madison*, 5 U.S. 137, 163 (1803); Cal. Gov’t. Code § 270).

Addressing these six orders requires detailed discussion of the procedural history, factual record, and legal authorities to establish their voidness, necessitating an extended word limit.

## **B. The Appeal Raises Two Novel Constitutional Challenges**

The appeal presents three Constitutional challenges, each requiring extensive analysis of Constitutional provisions, statutory frameworks, and case law:

1. **Challenge to CCP § 632:** The practice of issuing unexplained rulings, enabled by § 632's optional statement of decision framework, violates due process and equal protection (Cal. Const., Art. I, § 7) by permitting opaque denials (e.g., RJN Ex. 15.1; CT 134–135) that obstruct review and deprive parties of reasoned decisions (*People v. Ramirez* (1979) 25 Cal.3d 260, 269; *Ryan v. Cal. Interscholastic Fed'n* (2001) 94 Cal.App.4th 1048, 1071).
2. **Challenge to Excess of Jurisdiction Doctrine:** This doctrine unconstitutionally shields acts violating Constitutional mandates as mere procedural excesses, rather than fundamental jurisdictional defects, negating the Court's power (*Windsor*, 93 U.S. at 282; *Katzberg*, 29 Cal.4th at 309).

These challenges require comprehensive analysis of Constitutional provisions (e.g., Cal. Const., Art. I, §§ 7, 9, 19, 26; U.S. Const., Art. VI, § 2), statutory frameworks, and cases like *Windsor v. McVeigh*, *Katzberg*, and *Shapell Socal Rental Props., LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198 (2022). Condensing these arguments risks omitting critical legal and factual analysis, impairing appellate review.

## **C. The Consolidated Appeal Involves an Extensive Factual and Procedural Record**

The appeal spans two cases with complex histories, involving a void 2015 judgment, wrongful foreclosure, bankruptcy violations, and a UD action tainted by extrinsic fraud and jurisdictional defects. The brief must address:

1. **UD Case Irregularities:** The clerk's refusal to file answers (*Baske v. Burke*, 125 Cal.App.3d 38 (1981)), premature default entry violating CCP § 1013, unauthorized commissioner rulings (*Reisman*, 153 Cal.App.3d at 1096–1097), and Respondent's concealment of the title dispute (*In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980)).
2. **2015 Case Context:** The void 2015 judgment, license suspension, and denial of judicial remedies, which triggered financial ruin and a fraudulent foreclosure, rendering the UD court's jurisdiction defective (*Asuncion*, 108 Cal.App.3d at 146; *Yvanova v. New Century Mortg. Corp.* (2016) 62 Cal.4th 919, 935).
3. **Interplay of Cases:** The linkage between the 2015 case's void judgment, bankruptcy violations, and the UD action's title dispute, necessitating discussion of ~\$1.2 million equity loss and related damages (CT 43, lines 4–17; RJN Ex. 15).

The extensive record, including judicially noticed documents (RJN Ex. 1–24) and evidence of Sheriff misconduct (Ex. 2–3), requires thorough discussion to ensure a complete appellate record.

#### **D. No Prejudice to Respondent or the Court**

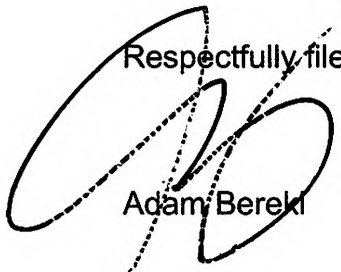
The requested 26,400-word limit is reasonable, tailored to the complexity of the six orders and three Constitutional challenges, and will not delay proceedings. Respondent

can adequately respond, and the extension promotes judicial economy by ensuring all issues are fully briefed, avoiding fragmented appeals.

### **III. Conclusion**

For the foregoing reasons, Appellant requests permission to file an opening brief not exceeding 20,000 words to adequately address the six orders and three Constitutional challenges in this consolidated appeal.

DATED: October 7, 2025

Respectfully filed,  
  
Adam Bereki

## DECLARATION OF ADAM BEREKI

I, Adam Bereki, declare as follows:

1. I am the Appellant in this action and submit this declaration in support of my Application to file an oversized Appellant's Opening Brief.
2. This consolidated appeal involves two cases: (1) the unlawful detainer case (No. 30-2025-01459684, Appellate Div. Case Nos. 30-2025-1482941 and 30-2025-01487778), challenging the default judgment (March 18, 2025, CT 23–24), minute orders denying vacatur (May 21, 2025, CT 134–135) and reconsideration (May 23, 2025, CT 145); and (2) the 2015 case (No. 30-2015-00805807), challenging orders denying stay (March 18, 2025, RJN Ex. 15.1) and reconsideration (May 22, 2025, RJN Ex. 15.3). The appeal also seeks a determination regarding the Orange County Sheriff's Department's service of a void writ of possession (CT 26–28), effectively a sixth order.
3. The appeal raises two novel Constitutional challenges to: (1) California Code of Civil Procedure § 632, for failing to mandate reasoned decisions; and (2) the excess of jurisdiction doctrine, for insulating Constitutional violations. These require detailed analysis of Cal. Const., Art. I, §§ 7, 9, 19, 26; U.S. Const., Art. VI, § 2; and cases like *Windsor v. McVeigh* (1876) 93 U.S. 274 and *Katzberg v. Regents of Univ. of Cal.* (2002) 29 Cal.4th 300.
4. A draft of the brief exceeds 14,000 words (26,400 words) due to the need to address six orders, two Constitutional challenges, and the extensive procedural and factual record, including a ~\$1.2 million equity loss and title dispute.

5. Without an extension, I cannot adequately present my arguments, prejudicing my appeal. I request a limit of 26,400 words.
6. This request is made in good faith and not for delay.

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

Signed on October 7, 2025, at Las Vegas, Nevada.



Adam Bereki

# Appendix 1

In the Fourth District Court of Appeal of California

Case No. \_\_\_\_\_

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Adam Bereki,  
Appellant.

v.

Canjian Hou,  
Respondent.

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**APPELLANT'S VERIFIED OPENING BRIEF**

Appeal from a Judgment in the Superior Court of California,  
Case No. 30-2025-01459684 (UD proceeding), transferred pursuant to  
CCP § 396(b) as the amount in controversy exceeds \$35,000 and the  
Court lacks subject matter jurisdiction over title disputes CCP § 580(b)(3)  
(Appellate Div. of Superior Court Consolidated Case No.'s  
30-2025-1482941 (Lead Case) and 30-2025-01487778)

**INCLUDING CHALLENGES TO THE CONSTITUTIONALITY OF  
THE DOCTRINES/STANDARDS OF  
ABUSE OF DISCRETION & EXCESS JURISDICTION  
& CCP §632 STATEMENT OF DECISION**

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Jurisdiction is the right to hear and determine, not determine without hearing.

–*Windsor v. McVeigh*, 93 U.S. 277, 283-4 (1876)

## OVERVIEW

This appeal challenges the denial of Appellant Adam Bereki's fundamental right to be heard, resulting in the unlawful deprivation of his property at 818 Spirit, Costa Mesa, CA, through a void unlawful detainer judgment. A void 2015 case judgment, imposing a ~\$930,000 penalty and summarily suspending Appellant's professional license, caused financial ruin, forced bankruptcy, and led to a wrongful foreclosure and subsequent UD action. The Superior Court's limited civil jurisdiction lacked authority to adjudicate a complex title dispute involving these issues and damages exceeding \$35,000. Respondent Canjian Hou, attorney Henry Paloci, judicial officers, and Sheriff personnel violated Constitutional and statutory duties and committed fraud, depriving Appellant of the right to a full, fair and impartial hearing and property rights, rendering the judgment void, as "jurisdiction is the power to hear and determine, not to determine without hearing" (*Windsor v. McVeigh*, 93 U.S. 274, 283–284 (1876)). This brief seeks to vacate the judgment, reassign the case to a neutral judge, restore possession, order restitution and damages of all rights and property lost, and transfer the case to unlimited civil jurisdiction to resolve the title dispute and uphold judicial integrity.

## **CERTIFICATE OF INTERESTED PARTIES**

Pursuant to California Rules of Court, rule 8.208, Appellant hereby certifies that the following listed persons and entities have an interest in the outcome of this appeal. This certificate includes: (1) all parties to the appeal; (2) all real parties in interest; (3) all judges and commissioners who issued orders or judgments challenged in this appeal; (4) all attorneys of record; (5) all persons or entities whose interests may be affected by the outcome of the appeal; (6) any unnamed or unknown court clerks, deputy clerks, or supervisory clerks involved in the proceedings below; and (7) any law enforcement officers, including sergeants and deputies, whose actions are challenged as aiding Constitutional violations (e.g., Sergeant Lopez and Deputy Murillo of the Orange County Sheriff's Department Civil Enforcement Division). The appellate panel justices (Justices Motoike, Delaney, and Scott, of the Fourth District Court of Appeal, Division Three) are included due to potential pecuniary interest arising from their involvement in similar § 7031 cases (*Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024)), subjecting them to disqualification under CCP § 170.1(a)(6)(ii) for bias or pecuniary interest in upholding prior rulings.

### **Parties to the Appeal:**

- Adam Bereki, Appellant
- Canjian Hou

### **Real Parties in Interest:**

- Henry Paloci (Respondent's attorney)
- Orange County Superior Court (Judicial entity overseeing UD case No. 30-2025-01459684 and related 2015 case No. 30-2015-00805807)
- Fourth District Court of Appeal (Judicial entity overseeing case No. G055075)
- Orange County Sheriff's Department (Civil Enforcement Division; involved in writ execution and eviction)
- Citizens Bank NA (Foreclosing entity; interest in validity of foreclosure sale)
- Trustee Corps (Foreclosure trustee; interest in validity of trustee's deed)
- Citibank N.A. as Trustee (Senior lienholder; disputed in rem lien on property)
- Shellpoint Mortgage Servicing (Servicer for Citibank; ongoing payments on disputed lien)

### **Judges and Commissioners Challenged in the Appeal:**

- Judge David Hesseltine (Orange County Superior Court; handled Ex Parte Application for Stay and Motion to Vacate in 2015 case, RJN Ex. 15.1, 15.3; denied vacatur of 2015 judgment; potential bias under CCP § 170.1(a)(6))
- Commissioner Carmen D. Snuggs-Spraggins (Orange County Superior Court; denied Motion to Vacate UD judgment and Ex Parte Application, CT 134–135, 145; unauthorized ruling without stipulation, Cal. Const., Art. VI, § 21)

### **Appellate Justices with Alleged Pecuniary Interest**

- Justice Joanne Motoike (Associate Justice Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)
- Justice Thomas Delaney (Associate Justice, Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)
- Justice Nathan Scott (Associate Justice, Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)

**Attorneys of Record:**

- Henry Paloci (Attorney for Respondent Canjian Hou)

**Persons or Entities Whose Interests May Be Affected:**

- Unknown/Deputy Clerks and Supervisory Clerks (Orange County Superior Court; obstructed Answers on March 14 and 19, 2025, CT 55–60; prematurely entered default, CT 20–24; potential liability for ministerial breaches, *Baske v. Burke*, 125 Cal.App.3d 38 (1981))
- Sergeant Lopez (Orange County Sheriff's Department, Civil Enforcement Division; refused to investigate complaints on March 24, 2025, Ex. 2, pp. E189–E210; potential liability for aiding unconstitutional taking)
- Deputy Murillo (Orange County Sheriff's Department, Civil Enforcement Division; potential liability for aiding unconstitutional taking)

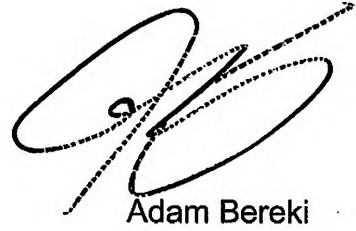
- California State License Board (CSLB) (Involved in 2015 license suspension under B&P § 7071.17; interest in validity of § 7031 enforcement)
- U.S. Bankruptcy Court, Central District of California (Judge Scott Clarkson; handled Case No. 8:22-BK-12076-SC; interest in discharge injunction and stay relief order validity, 11 U.S.C. § 524(a))
- David Chaffee (Superior Court Judge; issued 2015 case judgment)
- James Di Cesare (Superior Court Judge; affirmed 2015 case judgment)
- Kathleen O’Leary (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Thomas Goethals (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Richard Aronson (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Karen Humphreys (Plaintiff in 2015 case judgment)
- Gary Humphreys (Plaintiff in 2015 case judgment)
- William Bissell (Attorney for Plaintiff in 2015 case judgment)

**Declaration of Appellant:**

I, Adam Bereki, declare under penalty of perjury under the laws of the State of California that the foregoing is a true and complete list of all persons and entities known to me to have an interest in the outcome of this appeal, including those whose interests may be affected by the relief requested (vacatur of the UD judgment, orders, and writ; reassignment to a neutral judge; restoration of possession; restitution; and transfer to

unlimited jurisdiction). This certificate is based on my personal knowledge and a reasonable inquiry.

Signed on October 7, 2025, at Las Vegas, Nevada.



Adam Bereki

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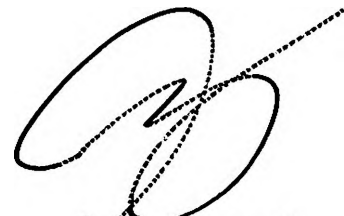
## TABLE OF AUTHORITIES

Appellant was unable to complete the Table of Authorities in time for the filing deadline to comply with the Notice of Failure to File Brief due to the complexity and number of issues presented herein. He will submit create this Table as soon as possible and file a First Amended Opening Brief.

## VERIFICATION

I, Adam Bereki, declare under penalty of perjury of the laws of California that I have personal knowledge of the following statements of fact, that they are true and correct, and that all exhibits or documents filed in support of this appeal are true and correct copies of the documents they purport to be, with exception of any non-substantive bates or other markings I or someone else may have made thereon.

Signed on October 7, 2025, in Las Vegas, Nevada.



Adam Bereki

## STATEMENT OF JURISDICTION

This appeal challenges the following Judgment and post-judgment Orders in an unlawful detainer (limited civil) case and intermediate and post-judgment Order in the related 2015 unlimited civil case, No. 30-2015-00805807, made appealable pursuant to the cited authorities below.

1. **UD Case:** The Default Judgment entered on March 18, 2025 (CT 23-24), pursuant to CCP § 904.1(a)(1).
2. **UD Case:** The May 21, 2025, Minute Order denying Appellant's Ex parte Application and Motion to Vacate (CT 134-5), pursuant to CCP § 904.1(a)(2), *County of Ventura v. Tillet*, 133 Cal.App.3d 105, 109-111 (1982) (special order made after entry of judgment giving effect to void judgment is also void and subject to attack).
3. **UD Case:** The May 23, 2025, Minute Order denying reconsideration (CT 145); *Id.*
4. **Related 2015 Case:** The March 18, 2025 Minute Order denying Appellant's Ex parte Application for Stay, Motion to Vacate, and UD Answer (RJN 15.1); See Review of Intermediate Order below; *Id.*
5. **Related 2015 Case:** The May 22, 2025 Minute Order denying Reconsideration of Appellant's Ex parte Application for Stay of UD and Motion to Vacate (RJN 15.3); pursuant to CCP § 904.1(a)(2), *County of Ventura v. Tillet*, 133 Cal.App.3d 105, 109-111 (1982) (special order made after entry of judgment giving effect to void judgment is also void and subject to attack); See Review of Post-Judgement Order below.

***Review of Intermediate and Post-Judgment Orders Not Directly Appealed From***

Please see the concurrently filed Notice of Related Cases and Request for Judicial Notice.

The following Court records from the related 2015 case are subject to judicial notice under California Evidence Code §§ 452(d), 453, and 459 for their existence, content, and procedural history:

- **Intermediate Records and Order:** (1) Verified Ex Parte Application for Stay and Answer, filed March 14, 2025 (RJN Ex. 15); (2) Minute Order denying the stay, dated March 18, 2025 (RJN Ex. 15.1).
- **Post-Judgment Records and Order:** (3) Ex Parte Application for Reconsideration and to Vacate, filed May 20, 2025 (RJN Ex. 15.2); (4) Minute Order denying reconsideration, dated May 22, 2025 (RJN Ex. 15.3).

Judicial notice is limited to the Orders' existence and legal effect, not the truth of disputed factual matters (*Sosinsky v. Grant*, 6 Cal.App.4th 1548, 1564–65 (1992)).

These intermediate and post-judgment records and Orders are reviewable under Code of Civil Procedure § 906, which permits this Court to review “any intermediate ruling, proceeding, order or decision which involves the merits or necessarily affects the judgment or order appealed from.” The March 18, 2025, stay denial (RJN Ex. 15.1) and the May 22, 2025, reconsideration denial (RJN Ex. 15.3) directly affect the validity and enforceability of the appealed UD judgment by perpetuating jurisdictional defects, including due process violations, extrinsic fraud, and the UD court’s lack of subject matter

jurisdiction over the underlying title dispute (*Windsor v. McVeigh*, 93 U.S. 274, 277–78 (1876)). The stay denial undermined procedural jurisdiction by nullifying the UD complaint’s notice (*Id.*), while the reconsideration denial affirmed the void judgment despite unopposed evidence of fraud, clerk and attorney misconduct, and ongoing harm, including eviction and ~\$1.2 million in equity loss (*County of Ventura v. Tillet*, 133 Cal.App.3d 105, 112–14 (1982)).

These Orders are not independently appealable, as stay denials in UD cases are interlocutory (*Mehr v. Superior Court*, 139 Cal.App.3d 1044, 1049 (1983); *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 146 (1980) (writ granted to stay UD pending title resolution), and reconsideration denials are non-appealable under CCP § 1008(g). However, they fall within CCP § 906’s scope, as they involve the merits and perpetuate jurisdictional defects, rendering the UD judgment void and subject to attack (*Tillet*, at p. 110; *Craft v. Craft*, 49 Cal.2d 189, 192 (1957)). This Court may review these Orders to assess their impact on the UD judgment’s validity.

## **NOTICE OF RELATED BANKRUPTCY AND OTHER CASES**

Please see the concurrently filed Notice of Related Cases and Request for Judicial Notice.

This appeal of Judgments and Orders in the UD Case and 2015 case involve matters related to Appellant's reopened bankruptcy case (No. 8:22-BK-12076-SC, U.S. Bankruptcy Court, Central District of California). The claims were abandoned to Appellant allowing this to Court to exercise jurisdiction. The UD and unlimited civil proceedings, which violated 11 U.S.C. § 524(a)(discharge injunction) by enabling enforcement of a void discharged judgment in the 2015 case (affirmed in Fourth District Court of Appeal Case No. G055075) lead to a wrongful foreclosure and eviction. The UD default judgment and related Orders are void ab initio due to due process violations, extrinsic fraud, violations of the California Penal Code, and jurisdictional defects.

## INTRODUCTION

This appeal seeks justice for the unlawful taking of Appellant Adam Bereki's home at 818 Spirit, Costa Mesa, CA, and ~\$1.2 million in equity through a void unlawful detainer (UD) judgment. In 2015, the Superior Court, lacking subject matter jurisdiction, imposed a \$930,000 punitive penalty for alleged unlicensed contracting, devastating Appellant's finances. Unable to pay this excessive fine, his contractor's license was summarily suspended, triggering financial ruin, bankruptcy, and a wrongful foreclosure that sold his ~\$1.5 million home for \$371,688 in November 2024, stripping his equity. In February 2025, Respondent Canjian Hou, claiming title through this tainted foreclosure, exploited the Superior Court's limited civil division's lack of authority over complex title disputes and, with attorney Henry Paloci, pursued a limited civil UD action. Through improper filings, an unnotified default request, obstructed Answers, and unauthorized rulings, they secured a default judgment on March 18, 2025 and Writ of Possession. Enforced by the Orange County Sheriff's Department under threat of force, this judgment evicted Appellant by April 2, 2025, finalizing an unconstitutional taking without due process or just compensation. The trial Court's refusal to address the title dispute or transfer to unlimited jurisdiction perpetuated extrinsic fraud and violated fundamental rights, denying Appellant's right to be heard. This appeal seeks vacatur of the default judgment, related orders, and writ; restoration of possession; restitution and damages flowing from the fraud and void UD related judgments; and transfer to a neutral judge in unlimited jurisdiction to resolve the title dispute and restore judicial integrity.

## **TIMELINE**

### **I. Background: Origins of the Underlying Title Dispute (2015–2024)**

- 2015: Void Judgment and License Suspension
- 2018–2022: Denial of Judicial Remedy
- 2022–2023: Forced Bankruptcy and Void Stay Relief
- November 18, 2024: Wrongful Foreclosure

### **II. Unlawful Detainer Proceedings and Fraudulent Actions (February–March 2025)**

- February 3–9, 2025: Notices to Quit and Appellant's Response
- February 11, 2025: False UD Complaint
- March 1, 2025: Service of UD Complaint
- March 14, 2025: Obstruction of Appellant's Answer
- March 17, 2025: Stealth Default Request
- March 18, 2025: Denial of Stay and Default Judgment
- March 19, 2025: Second Answer Rejection
- March 20, 2025: Fraudulent Application for Writ of Possession
- March 22, 2025: Issuance of Writ
- March 24, 2025: Sheriff's Refusal to Investigate
- March 27, 2025: Notice to Vacate

### **III. Eviction Under Duress (April 2025)**

- April 1–2, 2025: Eviction Under Threat of Force

### **IV. Post-Judgment Attempts to Vacate and Reconsider (May–June 2025)**

- May 8, 2025: Petition for Redress with Deputy Clerk of Court
- May 19, 2025: Independent Action in 2015 Case
- May 20–21, 2025: Motion to Vacate UD Judgment
- May 22, 2025: Denial of Reconsideration in 2015 Case
- May 23, 2025: Denial of Reconsideration in UD Case
- June 19, 2025: Return on Writ

## STATEMENT OF THE CASE

### I. 2015–2023: Origins of the Underlying Title Dispute

This section outlines the foundational issues of the title dispute that divested the limited civil division of the Superior Court of jurisdiction to adjudicate the UD proceedings, resulting in significant jurisdictional defects. The timeline includes:

- **2017:** A void judgment and license suspension initiated financial hardship.
- **2018–2022:** Systemic denial of judicial remedies prevented relief.
- **2022–2023:** Forced bankruptcy and a void stay relief order exacerbated harm.
- **November 18, 2024:** Wrongful foreclosure transferred Appellant’s home equity.

The UD court lacked subject matter jurisdiction due to a complex underlying title dispute and damages exceeding the \$35,000 jurisdictional threshold (CCP § 85(a)), rendering the default judgment void ab initio (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)). Respondent’s improper invocation of the limited civil division, despite knowledge of these jurisdictional limitations (RJN Ex. 15, pp. 611–612), aggravated the Court’s lack of authority, contributing to due process violations and extrinsic fraud, which denied Appellant a full, fair, and impartial judicial determination of his rights (*Windsor, Asuncion v. Superior Court*, 108 Cal.App.3d 141, 147 (1980)).

#### A. Void 2015 Judgment and License Suspension

In 2015, Appellant, the qualifying individual for a licensed general contractor (Lic. #927244) under his company, The Spartan Associates, Inc., was improperly prosecuted in a civil case for allegedly performing construction work without a license, despite being

a licensee (B & P § 7096) and forming an inseparable part of the license (a license cannot exist without a qualifier who meets experience and exam requirements, B & P § 7068.1). The Court imposed a ~\$930,000 penalty, characterized as equitable “disgorgement” (RJN Ex. 1, p. 6 ¶1) and “damages” (RJN Ex. 1, p. 9 ¶8c), without evidence of harm, profits, or guilt, denying Appellant fundamental criminal procedural protections, including the presumption of innocence, assistance of counsel, and a jury trial, and violating the excessive fines clause (RJN Ex. 15, 15.4—Certified Clerk’s Transcript of Trial, pp. 975–1192; RJN Ex 15.4A—First Am. Decl. Bereki, pp. 1211–1247). This judgment, affirmed by this Court (Case No. G055075) as an “equitable remedy” (RJN Ex. 2, pp. 0039–40 ¶2-3) and denied review or challenge to jurisdiction by the California and U.S. Supreme Courts (RJN Ex’s. 4, 5), was also dismissed in a federal independent action in equity under Rooker-Feldman (RJN Ex. 6), resulting in the denial of any forum for Appellant to obtain lawful judicial relief.

The denial of appellate or original relief in a United States Court deprived Appellant of the right secured by U.S. Const. Art. III, § 2 to invoke the judicial power of the United States as a check and balance on unlawful state action (U.S. Const. Art. I, § 10 (bill of pains and penalties); The Federalist Papers, No. 28, affirm the “General government will at all times stand ready to check usurpations of the state governments” and U.S. Const. Art. III, § 2 declares that the judicial power of the United States shall (not may) extend to all cases arising under the Constitution, contravening the principle that no one, including a State, should act as a judge in their own cause.

Appellant asserts the judgment is void because Cal. Business and Professions Code sections 7031(a) and 7031(b), as applied, impose a penalty or forfeiture, not the equitable remedy of disgorgement. Neither § 7031 nor its legislative history references “disgorgement”—a term undefined in 7031 actions—or an equitable remedy. The Supreme Court of California held, prior to Appellant’s trial and appeal, that equitable considerations are not permitted (*Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141, 152 (1957)) and that § 7031 imposes a stiff all-or-nothing penalty (*MW Erectors, Inc. v. Niederhauser Ornamental & Metal Works Co.*, 36 Cal.4th 412, 426 (2005)). The trial judge, Judge David Chaffee, was aware of *MW Erectors*, having served as the trial judge in that case. The former Presiding Justice of this Court, Justice O’Leary, who affirmed the ruling in the appeal, was also involved in the *MW Erectors* appeal.

Subsequent to the judgment, the U.S. Supreme Court in *Liu v. SEC*, 591 U.S. 71, 79 (2020), clarified that equitable disgorgement is limited to net profits from illegal activity, requiring offsets for the value of materials and labor conferred. No evidence of profits was presented in Appellant’s case, and offsets for materials and labor provided (~\$930k) were denied at trial (RJN Ex. 15, 15.4—Certified Clerk’s Transcript, pp. 975–1192; RJN Ex 15.4A—First Am. Decl. Bereki, pp. 1211–1247; p. 1214, ¶¶12,13) and on appeal (G055075, 2018 WL 5639287—p. 2: arguing offsets, p. 3: denying offsets). Section 7031(b) requires only the return of compensation paid once, satisfied by returning materials and labor of equivalent value to the homeowner. See especially *Town of Gilbert Prosecutors Office v. Downie*, 219 Ariz. 466 (2008) and cases cited therein regarding value conferred and principles of restitution. California Courts, however, have not recognized this return of value and, as in this case, order compensation returned twice,

which § 7031(b) does not authorize. Additionally, the maximum fine for a first-time offense under § 7028 (the criminal statute for unlicensed contracting) is \$5,000, raising questions about how Appellant could be fined ~\$930,000 (146 times the maximum) in a “civil case.” See especially *People v. Estes*, 218 Cal. App. 4th Supp. 14 (2013)(public welfare offenses require excessive fines analysis).

Two California Courts of Appeal have recently held that § 7031 imposes a penalty: *Eisenberg Village v. Suffolk Construction Company, Inc.*, 53 Cal.App.5th 1201, 1203 (2020) and *San Francisco CDC LLC v. Webcor Construction L.P.*, 62 Cal.App.5th 266, 280 (2021). See also *People v. Cowan*, 47 Cal.App.5th 32, 44 (2020) (excessive fines clause applies to civil penalties); *Ex parte Clark*, 24 Cal.App.389, 394 (1914) (defining penal actions, requiring prosecution by the government). For a comprehensive brief on these issues, including the Court’s lack of subject matter jurisdiction to render any judgment in the 2015 case due to the absence of a criminal complaint and denial of heightened criminal protections, refer to RJN Ex. 15.4–Motion to Vacate/Independent Action in Equity pp. 944–973 and supporting exhibits annexed thereto; RJN Ex. 15.4A–First Am. Decl. Bereki, pp. 1211–1247. Courts have a duty to vacate void judgments (Cal. Const. Art. I, § 26; *County of Ventura v. Tillet*, 133 Cal.App.3d 105, 112 (1982); *County of San Diego v. Gorham*, 186 Cal.App.4th 1215, 1229 (2010); *Windsor v. McVeigh*, 93 U.S. 274, 282 (1876) (judges must act judicially and cannot transcend law by making or affirming void judgments)).

This Court has continued to uphold § 7031 penalties on public policy grounds, declining to apply penal (*e.g.*, *Hale v. Morgan*, 22 Cal.3d 388, 398–401 (1978)) or

excessive fines clause analysis (*People v. Cowan*, 47 Cal.App.5th 32, 44 (2020)), thereby acting as a legislative administrative tribunal rather than a judicial court. This approach breaches the separation of powers duties as an independent check on Legislative and Executive actions, as seen in Appellant’s case (G055075, 2018 WL 5639287–p. 3, 6) and *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954, 965 (2024). Public policy does not override Constitutional protections (e.g. *Gantt v. Sentry Ins.*, 1 Cal. 4th 1083, 1095, (1992) (“courts ... may not declare public policy without a basis in ... the constitution”); *Marbury v. Madison*, 5 U.S. 137, 177–178 (1803) (an act of the legislature repugnant to the Constitution is void; judiciary must declare it so)). This practice violates the doctrines of separation of powers and checks and balances, denying § 7031 defendants, including those in this Division of the Fourth District Court of Appeal, a judicial determination of their rights as required by Cal. Const. Art. I, §§ 7, 9; U.S. Const. Art. I, § 10.

When Appellant was unable to pay the fine, which exceeded forty times his qualifying net worth, his vested right as the qualifying individual of a general contractor license (including Spartan’s license) was summarily suspended without a hearing pursuant to § 7071.17 (RJN Ex. 15.4–First Am. Decl. Bereki, pp. 1212–1213, ¶¶4, 5), imposing additional legislative punishment without judicial process. Appellant sought remedy in every California and United States court with subject matter jurisdiction and continues to be denied relief (RJN Exs. 1–15.8D). The license suspension and denial of judicial relief created a state-imposed hardship, causing financial devastation for over six years and millions in lost income, which persists (RJN Ex. 15.4–First Am. Decl. Bereki, pp. 1212–1213, ¶¶4, 5). Consequently, Appellant’s private contracts and obligations were

impaired (U.S. Const. Art. I, § 10), as he was unable to pay a first mortgage and home equity line of credit, leading to forced bankruptcy and the foreclosure at issue. For complete verified statements of fact and arguments, incorporated as if fully set forth herein, see RJN Ex. 15, 15.4, 15.4A, and 15.6.

Appellant asserts that the 2015 judgment, its affirmance on appeal, the license suspension, and the denials of review by the California and U.S. Supreme Courts, U.S. District Court, and U.S. Court of Appeals for the Ninth Circuit each constitute bills of pains and penalties, violating Cal. Const. Art. I, §§ 7, 9 and U.S. Const. Art. I, §§ 9 and/or 10, as they impose or affirm punishment or deny judicial relief without a judicial determination of his rights.

**Case Status:** On May 19, 2025, Appellant filed an Independent Action in Equity in the 2015 case to vacate the void judgment based on new evidence (*Eisenberg; Liu*), extrinsic fraud, fraud on the court, and due process violations (RJN Ex. 15.4, 15.4A,B, 15.6). The jurisdictional challenge was unopposed except for a “res judicata” argument (RJN Ex. 15.5). Judge Hesseltine declined to recognize Appellant’s right to invoke equity jurisdiction and failed to provide a full, fair, and impartial hearing by not addressing each claim or granting mandatory relief, instead affirming the judgment on “res judicata” grounds (RJN Ex. 15.7–Minute Order).

Res judicata does not apply to a void judgment, as a judgment lacking “fundamental jurisdiction” (*Kabran v. Sharp Memorial Hospital*, 2 Cal.5th 330, 369 (2017) (entire absence of power to hear and determine the case)) “neither binds nor bars anyone” (*Bennett v. Wilson*, 122 Cal. 509, 513–14 (1898)) and “form[s] no bar to a remedy sought

in opposition ... even prior to a reversal” (*Elliot v. Piersol*, 26 U.S. 328, 340 (1828)). A court lacking fundamental jurisdiction cannot render or affirm a final judgment subject to preclusion. Moreover, judicially created doctrines cannot override Constitutional protections: “[W]here rights secured by the Constitution are involved there can be no rulemaking or legislation which would abrogate them” (*Miranda v. Arizona*, 384 U.S. 436, 491 (1938)).

Judge Hesseltine had a mandatory duty to vacate the void judgment (Cal. Const. Art. I, §§ 7, 9, 26; U.S. Const. Art. I, § 10, Art. VI, §2; *County of Ventura v. Tillet*, 133 Cal.App.3d 105, 112 (1982); *County of San Diego v. Gorham*, 186 Cal.App.4th 1215, 1229 (2010); *Windsor v. McVeigh*, 93 U.S. 274, 282 (1876) (judges must act judicially and cannot transcend law by making or affirming void judgments); *Thompson v. Cook*, 20 Cal.2d 564, 569 (1942) (court has mandatory duty to vacate judgment when evidence of invalidity is presented and uncontested)). By failing to do so, Judge Hesseltine further violated due process, affirmed the void judgment, and denied restitution, effectively enforcing a void, discharged judgment in violation of the bankruptcy discharge (11 U.S.C. § 524(a); *Taggart v. Lorenzen*, 587 U.S. 554 (2019)). The Order also failed to address new case law, claims of extrinsic fraud, the unlawful license suspension (a separate judgment and un-litigated claim), and previously raised but unaddressed evidence.

Appellant appealed Judge Hesseltine’s Order denying relief (Case No. G065695). The appeal was stayed effective September 30, 2025 pending review of a Motion to Dismiss.

Immediately following the Order in the Independent Action, Appellant timely filed a Verified Statement to disqualify Judge Hesseltine for due process violations and pecuniary interest (RJN Ex. 15.8A), based on evidence that Hesseltine participated in enforcing the § 7031 penalty, for which he could be civilly liable, acting without subject matter jurisdiction. Hesseltine ordered the statement stricken, refusing to address the allegations (RJN Ex. 15.8B). A Petition for Writ of Mandate was filed in this Court in Case No. G065772, incorporated as if fully set forth herein. The Petition was summarily denied by Justices Motoike, Delaney, and Scott, whom Appellant asserts have a pecuniary interest in this matter (and this case—see Certificate of Interested Parties) due to their involvement in a similar § 7031 case, *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024) (“ABI”) (Motoike and Delaney affirming; Scott, trial judge). In *ABI*, these justices allegedly acted without subject matter jurisdiction to render or affirm judgment and violated due process (Cal. Const. Art. I, §§ 7, 9; U.S. Const. Art. I, § 10), subjecting them to potential civil damages liability, disqualifying them from rendering judgment in the Mandate proceeding and this case due to pecuniary interest (*Christie v. City of El Centro*, 135 Cal.App.4th 767, 776 (2006)).

Appellant does not directly challenge the 2015 judgment in this appeal but asserts that if his allegations are correct, they would result in a cascade of jurisdictional failures in every action relying on it, including the foreclosure sale, as “[a] void judgment is, in legal effect, no judgment. By it no rights are divested. From it no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars any one” (*Bennett v. Wilson*, 122 Cal. 509, 513–14 (1898)), and all persons executing such judgments are trespassers (*Elliot v. Piersol*, 26 U.S. 328, 340 (1828)).

## **B. Forced Financial Ruin and Void Bankruptcy Proceedings**

The void 2015 judgment and license suspension, resulting in ~\$3 million in lost earnings over six years (RJN Ex. 15, 15.4A—First Am. Decl. Bereki, p.1212-13, ¶4), coupled with the systemic denial of judicial remedy across California and federal courts (RJN Ex. 1-11), directly and proximately impaired Appellant’s obligations and private contracts, including his ability to pay a first mortgage and home equity line of credit purportedly secured by his 818 Spirit home. This financial strain led to bankruptcy under significant pressure, when one purported mortgagor, Citibank N.A. as Trustee, through its servicer Newrez, LLC, initiated non-judicial foreclosure, pursuing foreclosure based on Appellant’s financial distress (U.S. Bankruptcy Court, Central District of California, Case No. 8:22-BK-12076-SC, filed Dec. 8, 2022; RJN Ex. 15, pp.0336–0337; RJN Ex. 15.4—First Am. Decl. Bereki, pp.1212-1213, ¶¶4,5; p.1214, ¶14, lines 14-17). Appellant challenges Citibank’s claim, as it failed to substantiate its status as “person entitled to enforce” under *Cal. Com. Code* §§ 3301, 3501(b)(2)/3308(b) (failure to provide instrument proving obligation owed and right to enforce), undermining its authority to declare default or foreclose per 3501(b)(3) (“borrower” not required to comply with demand for payment) (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919, 929 (2016); U.S. Bankruptcy Court C.D. CA Case No.: 8-23-1075).

On February 3, 2023, Citizens Bank NA (“Citizens”), a purported second mortgage creditor, filed a Motion for Relief from the protections of the automatic stay to commence non-judicial foreclosure (RJN Ex. 19, pp.2269-2279—Motion). Citizens relied on the disputed, non-consensual 2015 judgment lien, valued at \$848,000, to claim no equity

existed in Appellant's property under 11 U.S.C. § 362(d)(2)(A) (RJN Ex.19, p.2276, ¶11e calculation). Appellant's declaration, attached to Schedules on filing, challenged this judgment lien as disputed and void, rebutting its presumptive validity (RJN Ex.24–Bereki Decl.).

Appellant filed an Opposition to the Stay request arguing the lien's invalidity, its exclusion from equity calculations due to its disputed nature and the discharge of the underlying judgment, and the need for a judicial determination of its validity (RJN Ex. 19–Objections). Assuming the invalidity of the 2015 void/discharged judgment (discharge: March 27, 2023–RJN Ex. 12, p. 0225), there was approximately \$647,909.53 in equity, calculated as the property's value at bankruptcy filing (\$1,142,000) minus purported consensual liens: Citibank's first mortgage (\$457,693.72, disputed) and Citizens' second mortgage (\$36,396.75). California's automatic homestead exemption further protected \$600,000 of this equity, which should have been subtracted from the equity calculation to reflect Appellant's protected interest (Cal. Code Civ. Proc. § 704.730).

On April 11, 2023, Appellant filed a Declared Statement of Intent to Commence Adversary Proceedings (RJN Ex. 20, pp.2304–2309), stating in relevant parts: “Adam Bereki, (“Declarant”), hereby provides the following Statement of Intent to file two adversary proceedings challenging the validity of two purported “liens” [Citibank and the 2015 case Judgment] listed on the First-Amended Schedules in th[is] case[.] Declarant believes he and the estate will be prejudiced and continue to be irreparably harmed and damaged if the Court ultimately grants the relief allowing the party to commence foreclosure proceedings for reasons already alleged on the record and the fact that the

stay relief is based upon the validity and extent of certain purported “liens” that he reasonably believes to be void or unsecured. Declarant believes any relief granted on the stay would be premature and highly prejudicial because he has not had the opportunity to challenge the validity of the “liens” upon which the equity calculations for stay relief and the Court’s tentative ruling are based.”

On April 12, 2023—one day after this statement—Bankruptcy Judge Scott Clarkson granted Citizens relief from the stay to commence non-judicial foreclosure. Judge Clarkson declined to determine the 2015 judgment lien’s validity, including it in the equity calculations under 11 U.S.C. § 362(d)(2), and failing to account for the \$600,000 homestead exemption (RJN Ex. 21, pp.2311-2314–Order). This premature grant prejudiced Appellant’s rights to challenge the lien’s validity (continuing to deny his right to a judicial determination of rights, RJN Ex’s. 1-11), impairing his ability to protect his estate and post-bankruptcy property, causing irreparable harm through the foreclosure sale on November 18, 2024, which, after the SB 1079 sale, yielded only \$371,688—\$228,312 below the \$600,000 exemption—resulting in a ~\$1.2 million equity loss (adjusted property value of ~\$1.5 million minus sale price). (See RJN Ex. 15, pp. 270–272, Argument III; pp. 347–370–Citizens Bank Exploited Fraud and State Misconduct to Plunder [Appellant’s] Home); p. 370–[Appellant] Denied Redemption).

The 2015 judgment lien was avoided on June 22, 2023, under 11 U.S.C. § 522(f) for impairing the homestead exemption (RJN Ex. 22, pp.2316-2330), and the estate abandoned property claims to Appellant in December 2024 (RJN Ex. 15.8A, pp.1480-1492). Judge Clarkson’s actions violated due process, the discharge injunction,

California's homestead protections, and constituted extrinsic fraud, rendering the Order void.

**Due Process Violation—Failure to Resolve Lien Validity:** The Fifth Amendment and fundamental fairness require courts to resolve disputes over property rights before enabling actions like foreclosure that cause irreparable harm. The Humphreys' \$848,000 lien was indisputably invalid, as evidenced by my declaration attached to the schedules (RJN Ex. 24), which rebutted its presumptive validity, and its subsequent avoidance on June 22, 2023 (RJN Ex. 22, pp.2316–2330). California law holds that a lien requires an enforceable underlying obligation, and an invalid judgment cannot support one (*In re Thomas*, 102 B.R. 199, 201 (E.D. Cal. 1989)). The April 12, 2023, stay relief order (RJN Ex. 21, pp.2311–2314) erroneously relied on this invalid 2015 judgment lien (\$848,000) to find no equity under 11 U.S.C. § 362(d)(2)(A), as shown in Citizens' motion (RJN Ex. 19, p.2276, ¶11e). Without this invalid lien, the property's \$1,142,000 value minus consensual liens (\$457,693.72 (disputed) + \$36,396.75 = \$494,090.47) yielded \$647,909.53 in equity, protected by California's \$600,000 homestead exemption (Cal. Code Civ. Proc. § 704.730). The Court's inclusion of the invalid lien, despite my opposition (RJN Ex. 19) and stated intent to challenge it via adversary proceedings (RJN Ex. 20, pp.2304–2309), violated due process by denying a hearing to resolve its invalidity (*In re Hoopai*, 581 F.3d 1090, 1096 (9th Cir. 2009)). This was critical, as only valid liens can be considered in § 362(d)(2) equity calculations, and an invalid judgment produces no rights (*Bennett v. Wilson*, 122 Cal. 509, 513–14 (1898)). Judge Clarkson's June 22, 2023, lien avoidance order (RJN Ex. 22, p.2318, lines 13-15) noted that determining the lien's validity required an adversary proceeding under Fed. R. Bankr. P. 7001 (e.g. *In re Ahn*,

804 Fed. Appx. 541 (9th Cir. 2020); *In re Watts*, 298 F.3d 1077 (9th Cir. 2002)), underscoring the prematurity of the stay relief order, which mooted my stated intent to challenge the lien (RJN Ex. 20, pp.2304–2309). This enabled Citizens’ November 18, 2024, foreclosure, which yielded only \$371,688—\$228,312 below the exemption—causing a \$1.2 million equity loss (adjusted property value of ~\$1.5 million minus sale price; RJN Ex. 15, pp.270–272). While Citizens and Citibank held deeds of trust, the stay relief motion and order turned on the invalid lien’s inclusion, not solely the consensual liens, as the equity calculation would not have justified stay relief without it. Summary proceedings cannot override constitutional rights (*Miranda v. Arizona*, 384 U.S. 436, 491 (1966)). This failure rendered the order void for lack of a full, fair, and impartial hearing (*Windsor v. McVeigh*, 93 U.S. 274, 283–84 (1876)).

**Discharge Injunction Violation—Indirect Enforcement of Discharged Debt:**

Assuming its validity for argument’s sake, the March 27, 2023, Chapter 7 discharge Order eliminated Appellant’s personal liability for the 2015 case judgment, prohibiting any act to collect it as a personal obligation (11 U.S.C. § 524(a)(2); RJN Ex. 12–Discharge Order). The 2015 judgment, a non-consensual lien disputed as void and discharged, lacked an enforceable basis, as a lien requires a valid obligation (*In re Thomas*, 102 B.R. at 201). Enforcing it via foreclosure, even in rem, indirectly authorized enforcement by depleting Appellant’s protected homestead equity, undermining the discharge’s purpose of ensuring a fresh start and prohibiting any act to collect the debt (11 U.S.C § 524(a)(1) and (2)). On April 12, 2023, Judge Clarkson included this disputed/discharged lien in the §362(d)(2) equity calculation, treating it as valid despite Appellant’s declaration rebutting its validity, and failed to subtract the \$600,000 automatic homestead exemption (Cal.

Code Civ. Proc. § 704.730; RJN Ex. 21—Order Granting Stay Relief ¶¶3b). This enabled a foreclosure sale yielding \$371,688—\$228,312 below the exemption—stripping protected equity and effectively enforcing a discharged debt (despite the proceeds being transferred to Respondent). This result contravened 11 U.S.C § 524(a)(1) and (2). The lien’s avoidance on June 22, 2023, confirmed it impaired the exemption (RJN Ex. 22, p. 2319, ¶¶4, lines 12-13). Judge Clarkson’s premature inclusion enabled a coercive sale that undermined the fresh start, violating the discharge injunction (*Taggart v. Lorenzen*, 587 U.S. 554 (2019)). The estate’s abandonment of property claims in December 2024 (RJN Ex.15.8A, pp.1480-1494) did not mitigate the harm, as Citizens failed to ensure a sale that protected the equity.

**Homestead Exemption Impairment—Loss of Protected Equity:** California’s automatic homestead exemption guaranteed Appellant \$600,000 in home equity, shielding it from enforcement of non-consensual liens like the Humphreys’ judgment lien (Cal. Code Civ. Proc. § 704.730). In a forced sale, proceeds must cover the exemption before lienholders collect (Cal. Code Civ. Proc. § 704.850(a)). The homestead exemption is fixed at the petition date (*In re Elliott*, 523 B.R. 188, 193 (9th. B.A.P. Cal. 2014)). Judge Clarkson’s April 12, 2023, equity calculation failed to subtract this \$600,000 exemption, inflating the lien’s impact and wrongly justifying stay relief (RJN Ex. 21 pp.2311 (no calculations are provided on the form to evidence the Judge’s actual calculations. However, the only apparent way a finding of no equity could be made is if the 2015 case judgment was treated as valid and no home equity exemption was recognized)). The resulting foreclosure sale yielded only \$371,688—\$228,312 below the exemption—causing a ~\$1.2 million loss (based on 2025 adjusted property value), stripping protected

equity. The lien's avoidance on June 22, 2023, confirmed it fully impaired the \$600,000 exemption (RJN Ex. 22, pp. 2316–2320) as shown below:

- Property Value (as scheduled in 2022): \$1,142,000
- Consensual Liens: Citibank 1st Mortgage (\$457,693.72, disputed) + Citizen's 2nd Mortgage (\$36,396.75) = \$494,090.47
- Homestead Exemption: \$600,000
- Judicial Lien (disputed): \$848,000 + \$643,000 interest = \$1,491,000
- Total: \$1,491,000 (judicial lien) + \$494,090.47 (mortgages) + \$600,000 (homestead) = \$2,585,090.47
- Impairment: \$2,585,090.47 > \$1,142,000 by \$1,443,090.47

Under 11 U.S.C. § 522(f)(2)(A), the \$1,491,000 judicial lien was entirely avoidable (to the extent it had any validity, which it arguably never did). By including it before determining its validity and/or avoidance and ignoring the exemption, Judge Clarkson nullified California's homestead protections, enabling a sale that violated Appellant's rights.

**Extrinsic Fraud and Ultra Vires Order:** The stay relief Order was ultra vires and void due to extrinsic fraud. Citizens' use of a disputed lien, despite Appellant's notice (RJN Ex. 15, pp. 0353 ¶¶3 – 0364) and declaration rebutting its validity (RJN Ex. 24, 20), prevented a fair hearing, constituting fraud on the court and Appellant. Judge Clarkson's failure to resolve the lien's validity, despite notice, denied due process and imposed an unlawful penalty through property loss, violating *U.S. Const.* Art. I, § 9. The Order's

reliance on a disputed void and discharged judgment rendered it and the foreclosure sale void (*Bennett v. Wilson*, 122 Cal. 509, 513–14).

**Violation of Bankruptcy Protections:** By enforcing the effects of the void/discharged judgment, Judge Clarkson violated the bankruptcy discharge, automatic stay, and fresh start protections. As one court explained: “A discharge operates as an injunction against the commencement or continuation of an action, the employment of process, or an act to collect, recover, or offset ... as a personal liability of the debtor any debt discharged under section 727. 11 U.S.C. § 524(a)(2). ...The United States Supreme Court recently described the protection which a debtor derives from the entry of a discharge order as one of the critical features of every bankruptcy proceeding. As one court addressing the violation of a discharge injunction has stated, the basic purpose of the bankruptcy system is to provide the debtor with a fresh start. Discharge is the legal embodiment of the fresh start. It is the barrier that prevents creditors from reaching the wages, property, and other assets of debtors in bankruptcy. In other words, discharge establishes a legal right not to pay a debt and safeguards against harassment by the creditor. In fact, the automatic stay and discharge injunction are cornerstones of bankruptcy law. They are, respectively, a fundamental debtor protection and a fundamental debtor objective. The automatic stay assists debtors in regaining their financial footing by allowing them to do so free from collection efforts. And, having successfully completed the bankruptcy process, discharge provides debtors with a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debt. But the automatic stay and discharge injunction must be enforced to provide any meaningful protection or incentive. Indeed, when a

discharge injunction is violated, a debtor is denied one of the primary benefits offered by the present bankruptcy system (*In re Mooney*, 340 B.R. 351, 357–58 (Bankr. E.D. Tex. 2006) (Internal quotations and citations removed)). Judge Clarkson’s inclusion of the disputed void lien tied to a discharged judgment enabled a foreclosure that placed Appellant back in financial distress, facing non-judicial foreclosure without remedy (RJN 1-11). The discharge injunction and homestead exemption were intended to protect a debtor’s property and future, but Judge Clarkson’s Order allowed their erosion, denying Appellant the protections of the automatic stay and fresh start promised by bankruptcy.

**Non-Compliance with Non-Bankruptcy Law:** To the extent it has any validity, the stay relief Order required Citizens to comply with California foreclosure laws, prohibiting deficiency claims against Appellant (RJN Ex. 21, p. 2312 ¶5). By pursuing a sale based on a disputed, non-consensual void/discharged lien that failed to cover the \$600,000 exemption, Citizens violated California’s homestead protections (Cal. Code Civ. Proc. § 704.850(a)), compounding the Order’s invalidity.

### **C. Wrongful Foreclosure and Title Dispute**

The foreclosure sale by Citizens, resulting from the void stay relief Order, occurred on November 18, 2024, followed by a secondary bid opportunity pursuant to Senate Bill 1079 (Civ. Code § 2924m), selling Appellant’s home at 818 Spirit, Costa Mesa, CA, for \$371,688—approximately \$1.2 million below its ~\$1.5 million market value—transferring his home equity to Respondent without legal basis (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919, 935 (2016); RJN Ex. 15, p. 0385–6). Appellant asserts the foreclosure was wrongful because Citizens relied upon disputed actions and state

misconduct, including the 2015 void judgment, license suspension, and systemic denial of judicial relief, which created significant financial hardship (economic duress) and amounted to a state-created danger (*DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199-200 (1989)). Citizens' declaration of default was unconscionable, as Appellant never agreed that "default" (an undefined technical term in the loan agreement) included payment failure due to such disputed actions/state created danger and economic duress, breaching *Civil Code* § 1708's duty to abstain from injuring his property or rights and the implied covenant of good faith and fair dealing (*Comunale v. Traders & Gen. Ins. Co.*, 50 Cal.2d 654, 658 (1958)). This misuse of the contract, a unilateral adhesion agreement, lacked authority, voiding the sale (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919, 935 (2016); *Orcilla v. Big Sur, Inc.*, 244 Cal.App.4th 982, 996–997 (2016); RJN Ex. 15, pp. 0347–0388). Moreover, Citizens violated the bankruptcy Court's Order by proceeding with a foreclosure that contravened applicable non-bankruptcy law, as the sale relied on a disputed default, homestead protection violations and inalienable property rights in home equity, disregarding due process and equitable protections required under California law (*Bisno v. Sax*, 175 Cal.App.2d 714, 727 (1959); Cal. Const. Art. I, § 1; Civil Code § 2924).

The non-judicial foreclosure sale underlying Respondent's title claim constitutes state action under Civil Code § 2924, enabling an unconstitutional taking of Appellant's home equity without just compensation, in violation of the Takings Clause of the California Constitution (Art. I, § 19), Cal. Penal Code § 487 (grand theft), and the prohibition on bills of pains and penalties—the punishment (taking of rights/property) without judicial process (Cal. Const. Art I, § 9; U.S. Const. Art. I, § 10). As established in *Lugar v. Edmondson Oil*

Co., 457 U.S. 922 (1982), when private conduct is facilitated by state statutes that delegate coercive power—here, the power of sale without judicial oversight and enforcement of a void judgment—it triggers Constitutional scrutiny as state action. In Appellant’s case, the property at 818 Spirit, Costa Mesa, valued at approximately \$1.5 million, was sold for \$371,688, resulting in a ~\$1.2 million equity loss transferred to Respondent without compensation, akin to the surplus retention struck down as an excessive seizure in *Tyler v. Hennepin County*, 598 U.S. 631 (2023). This outcome, rooted in the void 2015 case judgment, systemic denial of judicial remedy, and state-sanctioned denial of home equity property through non-judicial foreclosure statutes, renders the sale invalid, as such foreclosures fail to protect borrowers’ equity interests while guaranteeing lenders’ rights in adhesion contracts, violating inalienable rights to property, due process and the prohibition against bills of pains and penalties (Cal. Const. Art. I, §§ 1, 7, 9; U.S. Const. Art. I, § 10). The Superior Court’s (Hesseltine’s) subsequent failure to recognize this Constitutional defect and grant a stay under *Asuncion*, 108 Cal.App.3d 141, perpetuated the invalid title, divesting the UD court of jurisdiction to enter the default judgment (*Windsor v. McVeigh*, 93 U.S. 274 (1876)).

Citizens’ and Trustee Corps’ failure to disclose the disputed title defects to bidders, despite actual knowledge from bankruptcy filings and communications (RJN Ex. 15, pp. 0353 ¶¶3 – 0364), constituted actual fraud under Civil Code § 1572 by suppressing material facts (*Lingsch v. Savage*, 213 Cal.App.2d 729, 735–736 (1963)). This facilitated the sale, contributing to violations of Appellant’s rights under 42 U.S.C. § 1983 and U.S. Const. Art. I, § 10 (bills of pains and penalties) (*Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982); RJN Ex. 15, pp. 0347–0370). The sale’s ~\$1.2 million equity loss was a

disproportionate penalty, violating the excessive fines clause (*People v. Cowan*, 47 Cal.App.5th 32, 44 (2020)), and Appellant was denied redemption (reinstatement) under Civil Code § 2924c due to his financially distressed circumstances (RJN Ex. 15, p. 0370 ¶9).

Appellant notified Trustee Corps and attended the initial sale to warn bidders but was denied SB 1079 bidder information, preventing further warnings (RJN Ex. 15, p. 361 lines 13-18). Respondent, apparently failing to conduct adequate due diligence (RJN Ex. 15, pp. 370 ¶¶h –381; RJN Ex. 16– Abstract of \$848k judgment/ lien on file at OC Clerk-Recorders Office), purchased the property under SB 1079’s secondary auction. The foreclosure’s invalidity, rooted in disputed actions, crimes, and Constitutional violations, renders Citizens and Trustee Corps trespassers (*Elliott v. Lessee of Peirsol*, 26 U.S. 328, 340 (1828)) and negates Respondent’s title, justifying vacatur of the UD judgment and restoration of possession (*Asuncion*, 108 Cal.App.3d 141).

On or about August 22, 2025, Appellant received a letter and escrow refund check from Shellpoint, the purported servicer of the Citibank first mortgage (Ex. 1 pp. E176–181), which, though purportedly discharged of personal liability in bankruptcy, remains in Appellant’s name with a disputed in rem lien encumbering the property (Cal. Comm. Code § 3501(b)(3)/3308(b)). Respondent, claiming ownership via a junior lien foreclosure, is making unauthorized payments on this lien, as confirmed by Paloci (Ex. 1 pp. E174–Email Aug. 27, 2025, ¶¶ 1, 3). This creates a title dispute because: (1) the senior lien’s unresolved status in Appellant’s name post-discharge indicates an irregular foreclosure that failed to convey a duly perfected title, as required for UD standing (CCP §

1161a(b)(3); *Dr. Leevil, LLC v. Westlake Health Care Ctr.*, 6 Cal.5th 474, 482-3 (2018)); (2) Respondent's payments without Appellant's consent interfere with his financial interests, violating Cal. Civ. Code § 1708; and (3) Citibank/Shellpoint's failure to update the account suggests potential negligence, further tainting the sale's validity (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919, 935 (2016)). Even without personal liability, the account in Appellant's name affects his financial interests, and Respondent's payments without consent constitute tortious interference (*Pacific Gas & Elec. Co. v. Bear Stearns & Co.*, 50 Cal.3d 1118, 1126 (1990)). These defects, compounded by the sale's reliance on the void 2015 judgment and bankruptcy protection violations, along with Citizens' violation of the bankruptcy Court's discharge and stay Order requiring lawful foreclosure, render Respondent's title invalid, precluding UD jurisdiction (*Asuncion*, 108 Cal.App.3d 141).

#### **D. Mandatory Duty to Stay UD Proceedings**

The title dispute, stemming from a void 2015 judgment, license suspension, wrongful foreclosure, and bankruptcy protection violations, necessitated a stay of the UD proceedings to ensure due process. *Asuncion*, 108 Cal.App.3d 141 at 147, establishes that "homeowners cannot be evicted, consistent with due process guaranties, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership." The Superior Court's failure to grant a stay, despite Appellant's unopposed evidence of these issues (RJN Ex. 15), breached its mandatory duty, divesting the UD court of jurisdiction to proceed (*Windsor v. McVeigh*, 93 U.S. 274, 277-278 (1876)). This failure led to an unauthorized entry of default, default judgment,

and eviction under threat of force by the County Sheriff, resulting in the deprivation of Appellant's home without just compensation (Cal. Const. Art. I, § 13; Cal. Penal Code § 487).

### ***Conclusion***

The unlawful detainer court lacked subject matter jurisdiction due to a complex title dispute and damages exceeding the \$35,000 jurisdictional threshold, which were improperly omitted by Respondent and Paloci in invoking the limited civil division. Their nondisclosure of material facts regarding the title dispute violated statutory and ethical duties (*Gillespie v. Ormsby*, 126 Cal.App.2d 513, 527–528 (1954); *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980); *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198, 214 (2022)), rendering the default judgment void for lack of jurisdiction (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)). The void 2015 judgment and license suspension initiated a chain of financial hardship, leading to bankruptcy proceedings marred by due process and homestead protection violations, culminating in a wrongful foreclosure that transferred Appellant's home equity to Respondent. The Superior Court's failure to stay the UD proceedings and transfer the case to the unlimited civil division, as required by *Asuncion* and CCP § 396(b), compounded these errors, allowing an invalid judgment to proceed. Appellant respectfully requests that this Court vacate the default judgment (CT 23–24) as void and order the case transferred to the unlimited civil division to properly adjudicate the title dispute and related claims.

## **II. February 2025: Initiation of Unlawful Detainer and Fraudulent Filings**

### **A. Respondent's Improper Invocation of Limited Civil Jurisdiction**

#### ***1. Omission of Title Dispute and Jurisdictional Defects***

On or about February 3, 2025, Respondent, through his attorney Paloci, served 3/90 Notices to Quit on Appellant, the legal owner and occupant of 818 Spirit, Costa Mesa, CA. Appellant promptly notified Paloci by phone and email of the foreclosure's invalidity, jurisdictional defects, denial of judicial remedy, and bankruptcy protection violations, providing verified pleadings to substantiate these claims (RJN Ex. 15: Ex Parte App. Stay and Answer: p. 586–Email Feb. 3, 2025; pp. 593–594–Email Feb. 5, 2025 (bottom of page)). Appellant offered to equitably resolve the disputed sale by returning surplus funds and mitigating damages where possible (RJN Ex. 15; p. 601–Email Feb. 9, 2025; see also p. 586 last ¶–“I am willing to work with you and your client to ensure no further harm occurs to either of [u]s and lawful justice is served. Please reach out any time.”). Paloci responded, “No. There is no way that is ever going to happen. The foreclosure sale is final and that isn't going to change.” (RJN Ex. 15–Email Feb. 17, 2025, p. 601, ¶1).

Despite Appellant's repeated notifications of intent to challenge title and the void 2015 case judgment, which required unlimited civil proceedings (pre-service of complaint: RJN Ex. 15, p. 586, pp. 591–602; Ex. 1 pp. E001-E010; post-service of complaint: RJN Ex. 15; Ex. 1, pp. E010–E185), Respondent and Paloci filed a verified UD complaint under CCP § 1161a on February 11, 2025 (CT 8 ROA 2; RJN Ex. 15, pp. 609–620), personally served on March 1, 2025 (CT 18 ¶5a), invoking the Superior Court's limited civil division misrepresenting that the action was a “limited civil action” with duly perfected title (RJN

Ex. 15: Complaint—p. 611, ¶¶ 1, 6; see also Ex. 1, p. E185, Aug. 27, 2025 Email, Paloci admitting “a UD court may only do a cursory review of title”). The limited civil division lacks jurisdiction over complex title disputes (*Asuncion*, 108 Cal.App.3d 141; CCP § 580(b)(3) (title may not be determined in limited civil case)) and claims where the amount in dispute exceeds \$35,000 (CCP § 85(a)). For additional notice of title and disputed amount exceeding \$35,000 post-filing of the UD complaint, see RJN Ex. 15: p. 386, Lines 9–10 alleging ~1.2 million in home equity loss; Lines 10–11, \$200,000 loss of tax base value; Lines 13–14 alleging ~\$1.38 million total damages. Per CCP § 85(b), the “amount in dispute” includes the property’s value, ~\$1.5 million.

While CCP § 1161a permits incidental title inquiries under Civil Code § 2924, Appellant’s complex unlimited civil claims—stemming from the void 2015 case judgment, license suspension, extrinsic fraud, due process violations causing financial ruin, bankruptcy discharge, stay, and fresh start violations, and wrongful foreclosure involving Civil Code § 1708 violations—are beyond the limited civil court’s authority. *Dr. Leevil, LLC v. Westlake Health Care Center*, 6 Cal.5th 474, 480 (2018) (“relief not statutorily authorized [in unlawful detainer proceedings] may not be given due to the summary nature of the proceedings.”) (Citation omitted).

Respondent and Paloci omitted material facts in the UD complaint, representing the action as a “limited civil action” with court jurisdiction and duly perfected title (RJN Ex. 15, pp. 611–612–UD Complaint, ¶¶ 1, 7, 11), despite knowing the limited civil division lacked jurisdiction over the complex title dispute (CCP § 580(b)(1); see Ex. 1, p. E185, Aug. 27, 2025 Email, Paloci admitting “a UD court may only do a cursory review of title”)

and that title could not have been perfected due to underlying disputed actions, including the void 2015 judgment, bankruptcy protection violations, and wrongful foreclosure (RJN Ex. 15, p. 377). Further evidencing their intent to mislead, Respondent and Paloci explicitly denied the title dispute's connection to the 2015 case in off-record communications, stating, "Your position that the foreclosure is connected to your construction litigation lawsuit [2015 case] is simply without merit" (Ex. 1, p. E119), "the chain of causation you argue is absurd and not supported by the law in any way" (Ex. 1, p. E125), and "there isn't an underlying title dispute" (Ex. 1, p. E183). Paloci later admitted that the 2015 case judgment was "ignored" because he believed it had no nexus to the UD case or foreclosure, stating, "your construction litigation [case] is 100% not part of the UD case or foreclosure. ... That's why your [2015 case] litigation was 'ignored' with respect to the foreclosure and UD. The entirety of your litigation as it relates to my client is frivolous" (Ex. 7, p. 297, p. 299). Paloci also dismissed Appellant's repeated notifications as "delusional" and driven by "brainrot" and "conspiracy theory media," stating, "[y]ou have built an entire structure built on false premises that lead you to delusional conclusions. It's sad" (Ex. 1, p. E174, Email Aug. 27, 2025). These denials, despite Appellant's repeated notifications of the void 2015 case judgment and related disputes (RJN Ex. 15, pp. 586, 591–601), confirm their intentional nondisclosure of material facts, violating their duty to disclose under *Gillespie v. Ormsby*, 126 Cal.App.2d 513, 527–528 (1954) ("one who speaks is not only obligated to tell the truth but he is equally bound not to suppress or conceal any facts within his knowledge which materially qualify those stated. [Citations]. If he speaks at all, he must make a full and fair disclosure. [Citations]") and *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980) (affirming duty to

disclose facts that might result in postponement of adjudication and finding fraud for breach)). This nondisclosure, intended to shield critical information from the court to obtain possession, constituted extrinsic fraud on Appellant and the court (Civ. Code § 1710(1)–(3)), violated due process (Cal. Const. Art. I § 7), breached the statutory duty to cooperate under CCP § 583.130 (*Lasalle*, 36 Cal.App.5th at 137; *Shapell*, 85 Cal.App.5th at 214 and violated Paloci’s professional duties as an officer of the court, which extend beyond client representation (B & P § 6068(a), (b), (c), (d), (g), (h)). Whether the 2015 case judgment and related issues constituted an underlying title dispute that voided the foreclosure sale and required a stay of the UD proceedings is a matter for judicial determination and inextricable part of the controversy.

Appellant asserts that Respondent and Paloci sought to invoke the limited civil division to obtain summary possession, knowing the Court lacked subject matter jurisdiction to address the 2015 case judgment, license suspension (RJN Exs. 1-11–denial of judicial remedy), wrongful foreclosure, and bankruptcy protection violations. Their actions prevented Appellant from obtaining a meaningful hearing consistent with due process protections in unlimited civil proceedings before possession was determined (Cal. Const. Art. I, §§ 7, 9; *U.S. Const.* Art. I, § 10). Their knowledge of the jurisdictional defects and subsequent possession (CT 26–28) after notice of due process violations supports this assertion.

Respondent and Paloci also invoked the jurisdiction of a Superior Court they knew had previously acted without authority to cause Appellant harm while denying him protection of the laws (RJN Exs. 1, 3; *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (“right

of every individual to claim the protection of the laws whenever he receives an injury [and] first dut[y] of government is to afford that protection”); Cal. Const. Art. 1, § 3 (right to petition for redress of grievance)), violating the principle that the law cannot serve as both a sword and a shield. The Superior Court lacked jurisdiction over the UD action and title dispute until it fully and impartially adjudicated the underlying causes of the foreclosure, including actions by the Superior Court, Fourth District Court of Appeal, and CSLB (RJN Exs. 1-11).

### **III. March 2025: Procedural Irregularities and Denial of Due Process**

#### **A. Obstruction of Appellant’s Answer and Denial of Right to Be Heard**

##### ***1. Refusal to File March 14, 2025 Answer***

On March 14, 2025, Appellant attempted to file a Verified Answer challenging jurisdiction in the UD case, under duress to defend in a Court lacking authority and facing ongoing deprivation of rights and property (RJN Exs. 1, 3; RJN Ex. 15, pp. 256–758; CT 51 ¶¶6–Decl. Bereki; CT 44 ¶¶B.3; CT 47 ¶¶3). The Deputy Clerk and her Supervisor refused to accept the Answer because it was combined with a verified Ex Parte Application to Stay the UD proceedings and a Verified Motion to Vacate a void judgment from the related 2015 case that contributed to the foreclosure. The Deputy Clerk instructed Appellant that the document would not be filed in either case unless he crossed out information pertaining to the other case (CT 51 ¶¶6–Decl. Bereki; CT 44 ¶¶B.3; CT 47 ¶¶3).

Without waiving his rights, and following the Deputy Clerk’s instructions to ensure a hearing, Appellant crossed out the UD-related case and Answer information on the title

page only, leaving the substance of the document intact, as shown in the record (RJN Ex. 15, p. 256):

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE— CENTRAL JUSTICE CENTER**

Adam Bereki  
Defendant, Cross-Complainant, Plaintiff

vs.

Karen Humphreys and Gary Humphreys,  
Plaintiffs/ Cross-Complainants, Cross-Defendants

vs.

Canjian Hou; MTC Financial, Inc., d/b/a Prestige Default Services, LLC; Fourth District Court of Appeal of California (Interested Party); Superior Court of California for the County of Orange

Main Case No.: 30-2015-00805807  
**Related Case No.: 30-2025-01459684  
(Unlawful Detainer)**

**VERIFIED EX PARTE APPLICATION FOR EMERGENCY STAY OF UNLAWFUL DETAINER ACTION**

DATE: <sup>03/16/25</sup> Mon. March 17, 2025  
TIME: <sup>CH</sup> 8:30 AM - 9:00 AM  
DEPT: Dept. C23  
JUDGE: D. Hesselstine

**WITH INCORPORATED:  
ANSWER TO COMPLAINT (2025-01459684)**

The verified pleading, including the Answer and challenge to jurisdiction with supporting exhibits, was filed in its entirety in the 2015 case (RJN Ex. 15). The pleading raised the following uncontested issues:

- Respondent lacked standing to pursue UD because his title derived from a Trustee's Deed issued following an unauthorized and void non-judicial foreclosure sale (RJN Ex. 15, pp. 270–272; pp. 353–354, ¶e–The Unlawfulness of the Sale; pp. 376–378, iii–Arguing Standing to Challenge Wrongful Foreclosure).
- The foreclosure relied upon a void judgment, causing default; the sale price (~\$371,000 vs. ~\$1.5M fair market value) resulted in a ~\$1.2M equity loss (RJN Ex. 15, pp. 270–272, Argument III; pp. 347–370–Citizens Bank Exploited Fraud

and State Misconduct to Plunder [Appellant's] Home; p. 370–[Appellant] Denied Redemption).

- The Trustee's Deed slanders title; Respondent's claim is invalid due to the unlawful sale (RJN Ex. 15, p. 269, PROPERTY–Ownership; pp. 376–377–ii.[Respondent] Lacks Standing to Seek Relief Under His Unlawful Detainer Suit Due to the Illegal Foreclosure Sale).
- Respondent is not a bona fide purchaser due to inquiry/constructive notice via Google search and judicial lien clouding revealing litigation and disputed actions (RJN Ex. 15, pp. 370–373; pp. 378–380, iv; RJN Ex. 16).
- The UD court lacks subject matter jurisdiction over the UD action due to a disputed title invalidated by underlying jurisdictional defects in the 2015 case judgment (RJN Ex. 15, pp. 270–271, Argument I–III; pp. 275–277–III. Structural Jurisdictional Errors Necessitating Automatic Reversal; pp. 286–287–a. The Judgment Is Void Due to Lack of Jurisdiction and Extrinsic Fraud).
- The 2015 case defendants' actions (unauthorized prosecution, excessive fine) violated Cal. Const. Art. V §1 (executive power), Art. I §§7, 9 (due process), §17 (excessive fines), divesting the Superior Court of jurisdiction (RJN Ex. 15, pp. 270–271, Argument I; pp. 286–287–a. The Judgment Is Void Due to Lack of Jurisdiction and Extrinsic Fraud; pp. 301–302–i. Additional Issues at “Trial” Depriving th[e] [Superior] Court of Subject Matter Jurisdiction–Failure to Address Defendant's Affirmative Defenses).
- Private parties in the 2015 case lacked executive authority to prosecute a penal §7031(b) claim, rendering the 2015 case void (RJN Ex. 15, pp. 300–01 h. Argument

I; pp. 286–287, a–The Judgment Is Void Due to Lack of Jurisdiction and Extrinsic Fraud; pp. 324–326–B. Extrinsic Fraud, C. Fraud on the Court, D. Structural Jurisdictional Errors).

- Appellate affirmance perpetuated defects, without jurisdiction to affirm (RJN Ex. 15, pp. 319–322; pp. 322–325–Fraud).
- Irreparable Harm: Imminent eviction from a 20-year home and ongoing distress (RJN Ex. 15, pp. 270–271, Argument III; p. 271-2, III. Harms Suffered).
- Judicial Efficiency: The UD case is linked to a void judgment; a stay avoids inconsistency (RJN Ex. 15, p. 272, Argument IV; p. 272).
- Excuse from Tender: A void sale excuses tender; equity demands set-aside (RJN Ex. 15, p. 384, 3. The Third Element...; p. 385, The Principles of Equity Require This Sale Must Be Set Aside).

The Deputy Clerk lacked authority to determine the sufficiency of the pleading’s form or substance, refusing to file it as an Answer and challenge to jurisdiction in the UD case, breaching her ministerial duty to file the document (*Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981); *Stevens v. Torregano*, 192 Cal.App.2d 105, 112–113 (1961); see also e.g. Fed. R. Civ. P. 5: “The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice”). The Ex Parte hearing for a stay was scheduled for March 18, 2025, at 9:00 AM, with Respondent properly noticed (RJN Ex. 15, p. 160) and provided a copy of the Answer and Application for Stay (Ex. 1, pp. E098–E104).

## **2. Stealth Default Request of and Unlawful Entry of Default**

On March 17, 2025, despite possessing Appellant's Answer and notice of the Application for Stay, Respondent and Paloci filed a request for entry of default and default judgment ("Request") in the UD case without notifying Appellant, violating ethical and statutory duties as articulated in *Shapell* and *Lasalle*. The *Lasalle* Court endorsed the Rutter Group Practice Guide's directive: "If representing a plaintiff and having had contact with defendant's counsel, do not request a default without first giving written notice of intent to seek default and a reasonable time for defendant to file a pleading" (36 Cal.App.5th at 135). At the time of filing the Request on March 17, 2025, Respondent and Paloci:

1. Possessed Appellant's Answer challenging UD jurisdiction (RJN Ex. 15—filed March 14, 2025; Ex. 1, pp. E098–E105—multiple emails giving notice and providing a copy).
2. Knew the Deputy Clerk and Supervisor obstructed Appellant from filing the March 14, 2025 Answer (Ex. 1, p. E100, p. E103 ¶3).
3. Knew Appellant appeared and answered via the Ex Parte Application (RJN Ex. 15) with a hearing scheduled for March 18, 2025, to stay the UD case (RJN Ex. 15, p. 260—Notice of Ex Parte filing and hearing; Ex. 1, pp. E098–E105—multiple emails giving notice and providing a copy).
4. Knew Appellant disputed title (RJN Ex. 15 generally and p. 586, pp. 599-601) and that the UD court lacked jurisdiction to adjudicate the title dispute and an amount

in controversy exceeding \$35,000 (Ex. 1, p. E185, Aug. 27, 2025 Email, Paloci admitting “a UD court may only do a cursory review of title”).

Respondent and Paloci omitted these material facts in their Request, in addition to their earlier nondisclosure of the title dispute in the UD Complaint (RJN Ex. 15, pp. 609–620), breaching their duty to disclose facts that materially affect the basis for relief, as established in *Gillespie v. Ormsby*, 126 Cal.App.2d 513, 527–528 (1954), and *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980) (affirming duty to disclose facts that might delay adjudication and finding fraud for breach). These omissions constituted extrinsic fraud on Appellant and the court, violated due process (Cal. Const. Art. I § 7), and breached Paloci’s statutory duties per Cal. Bus. & Prof. Code § 6068(a)–(d).

On March 14, 2025, after returning from the court, Appellant emailed Respondent and Paloci, notifying them that the Supervising Deputy Clerk obstructed his filing of the Answer in the UD case (RJN Ex. 15), stating he would address the issue at the Ex Parte hearing on March 18, further evidencing his intent to answer (Ex. 1, pp. E100, E103 ¶¶3).

On March 1, 2025, the Deputy Clerk entered default (CT 20–“FOR COURT USE ONLY”). This violated due process as recognized in *Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981), which prohibits a Deputy Clerk from entering a default when in possession of a responsive pleading (RJN Ex. 15). The entry of default also disregarded the five-day extension for mailed service under CCP § 1013(a). The Request was mailed March 17, 2025 (CT 21 ¶¶6b), extending the time to enter default and judgment until at least March 26. The fifth calendar day from the date of mailing was Saturday, March 22, 2025, a legal holiday, along with Sunday, extending the time to receive notice until at least Monday,

March 24, 2025, at 5:00 PM, including two days for a reasonable response time (CCP §§ 12, 12a, 12b; e.g. *Montgomery v. Norman*, 120 Cal.App.2d 855, 857 (1953)).

This premature entry of default (and/or default judgment) deviates from cases like *Shapell* where the Deputy Clerk apparently entered default and default judgment eleven days after the request was filed (*Shapell*, 85 Cal.App.5th at 205). Permitting the Deputy Clerk to enter default pursuant to CCP § 587 (see CT 21–Form CIV-400 ¶¶6) without confirming notice to opposing counsel of the intent to enter default as recognized by *Lasalle* and *Shapell*, undermines the statutory notice and affidavit of service requirements of CCP §§ 1013 and 587. Due process requires notice reasonably calculated to reach the object of the notice (*Lasalle* 36 Cal.App.5th at 138 (Citation omitted)). The five-day extension of CCP § 1013 operates with the ethical and statutory duties recognized in *Lasalle* and *Shapell* to ensure due process safeguards in the event of counsel’s breach of notice duty per CCP § 583.130.

Pursuant to CCP § 1169, the Deputy Clerk had no authority to enter default absent Respondent’s Request under penalty of perjury (CT 20–22). This evidences the magnitude of the breach of Respondent’s ethical and legal duties to provide notice under CCP § 583.130 and to not mislead/defraud the Court. CCP § 1169 only permits entry of default and default judgment when the defendant “does not appear and defend.” Appellant appeared and defended by filing pleadings in the 2015 case in the division of the Court with subject matter jurisdiction to address the title dispute with authority to issue a stay, and through repeated attempts to file Answers in the UD case to challenge jurisdiction (RJN Ex. 15; CT 55–60–March 19, 2025 Rejected Answer; CT 51–Decl.

Bereki ¶¶ 8–10). CCP § 1140 confirms that “[a] defendant appears in an action when the defendant answers ... [or] gives the plaintiff written notice of appearance.”

The Deputy Clerk’s improper entry of default in the UD case renders the entry of default and later the default judgment void.

### ***3. Judge Hesseltine’s Ministerial Breaches and Judicial Misconduct (Ex parte Hearing)***

On March 18, 2025, Appellant appeared at the Ex Parte hearing at 9:00 AM before Supervising Judge Hesseltine, seeking a stay of the UD proceedings, unaware of Respondent’s Request for Entry of Default and Default Judgment filed prior to the hearing (CT 20–22). Judge Hesseltine denied the Application with a one-word ruling, “denied,” without addressing the substantive issues raised in the verified pleading (RJN Ex. 15.1, Minute Order, p. 0760; Ex. 15.8A, Certified Reporter’s Transcript, pp. 1495–1506). These issues included: (1) the void 2015 judgment and resulting irreparable harm, including the continued denial of relief and lack of a fair forum; and (2) the wrongful foreclosure and imminent eviction causing irreparable injury and emotional distress, perpetuating the denial of a judicial determination of Appellant’s rights (RJN Ex. 15, pp. 256–758). The verified pleading made a factual showing of irreparable harm and immediate danger, constituting an Answer under Code of Civil Procedure §§ 431.30 and 1161 by challenging the UD Court’s jurisdiction and Respondent’s standing due to a title dispute stemming from the void 2015 judgment, bankruptcy protection violations, and wrongful foreclosure (Id.).

Hesseltine’s denial cited procedural issues, noting the UD Answer was combined with other filings, prioritizing form over substantive justice. When Appellant questioned why the filing was not recognized as an Answer or why the substantive claims of the void 2015 judgment, extrinsic fraud, due process violations, and necessity of the stay were not addressed, Hesseltine stated the denial was based on both procedural defects and an insufficient showing on the merits, without specifying which claims were deficient (RJN Ex. 15.8A, Transcript, p. 1506, lines 6–22). This dismissal relied on the law of the case doctrine, citing prior appellate rulings (*Id.*, p. 1499, lines 15–19; p. 1505, lines 4–7), and overlooked new evidence from *Eisenberg Village v. Suffolk Construction Co.*, 53 Cal.App.5th 1201 (2020) and *Liu v. SEC*, 591 U.S. 71 (2020), supporting the 2015 judgment’s penal nature and voidness (RJN Ex. 15, p. 0271, 0285; Ex. 15.8A, p. 1503, lines 15–25; p. 1504, lines 7–23). His refusal to treat the filing as a UD Answer, despite its intent to challenge jurisdiction and title (*Id.*, p. 1498, lines 3–13), violated *Buxbom v. Smith*, 23 Cal.2d 535, 542–543 (1944), which mandates liberal construction of pleadings for substantial justice: “While orderly procedure demands a reasonable enforcement of the rules of pleading, the basic principle of the code system in this state is that the administration of justice shall not be embarrassed by technicalities, strict rules of construction, or useless forms. ... [I]t has been generally recognized that in the construction of a pleading for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties. No error or defect in a pleading is to be regarded unless it affects substantial rights. (Code Civ. Proc., § 475.) ... The subject matter of an action and the issues involved are determinable from

the facts alleged rather than from the title of the pleading or the character of damage recovery suggested in connection with the prayer for relief.”

At minimum, Judge Hesseltine had a ministerial duty to order the Deputy Clerk to file the Answer in the UD case to ensure due process and to transfer the UD case to unlimited jurisdiction, as the complex title dispute and damages exceeding \$35,000 divested the limited civil division of jurisdiction (*Asuncion*, 108 Cal.App.3d at 146–147; Code Civ. Proc., § 86(b)(1)). Due process and the unified Superior Court structure (*Wozniak v. Lucutz*, 102 Cal.App.4th 1031, 1041 (2002); *Ytuarte v. Superior Court*, 129 Cal.App.4th 266, 274 (2005)) obligated Hesseltine to recognize the Answer and transfer the case under Code of Civil Procedure § 396(b) to address the title dispute and damages exceeding \$35,000. Despite knowing the UD court lacked jurisdiction and that default was entered on March 17, 2025 (CT 20), Hesseltine instructed Appellant to “file the Answer in the proper case” (RJN Ex. 15.1). Following this instruction, Appellant returned on March 19, 2025, with a different Answer (CT 55–60), which was rejected due to the default judgment entered minutes after the hearing on March 18, 2025, at 9:44 AM (CT 9–10, ROA 18–19; RJN Ex. 18). Hesseltine’s failure to vacate the default or transfer the case, combined with Respondent’s default request, constituted extrinsic fraud and fraud on the court (*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944); *In re Marriage of Modnick*, 33 Cal.3d 897, 905 (1983); *Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)), violating Code of Civil Procedure § 583.130 and case law requiring fair proceedings (*Lasalle*, 36 Cal.App.5th 127; *Shapell*, 85 Cal.App.5th 198).

No party, including Respondent, appeared at the hearing or filed written opposition despite proper notice (RJN Ex. 15, p. 260; Ex. 15.8A, p. 1496, lines 1–11; Ex. 1, Docket: ROA 306, p. 0026 to ROA 322, p. 0027). Hesseltine’s failure to accept the unopposed evidence as proof of a title dispute and jurisdictional defects breached the ministerial duty to grant relief when uncontradicted evidence demonstrated invalidity (*Joseph v. Drew*, 36 Cal.2d 575, 579 (1950); *Thompson v. Cook*, 20 Cal.2d 564, 569 (1942)).

The Minute Order stated it 'fully considered the arguments of all parties, both written and oral, as well as the evidence presented' (RJN Ex. 15.1, p. 0760), misrepresenting the record, as only Appellant presented arguments and evidence. This misrepresentation, coupled with the lack of a reasoned explanation for the denial despite unopposed evidence, violated the judicial duty under due process to provide transparent rulings—requiring courts to articulate evaluative processes, weigh evidence, and bridge facts to conclusions to prevent arbitrary deprivations and ensure meaningful appellate review (Cal. Const., art. I, § 7; *Nakamura v. Parker*, 156 Cal.App.4th 327, 334-335 (2007) (summary denial of facially adequate ex parte application without hearing or explanation is abuse of discretion and due process violation); *People v. Kelly*, 40 Cal.4th 106, 110 (2006) (decisions must be in writing with reasons stated for meaningful review); *C.S. v. Superior Court*, 29 Cal.App.5th 1009, 1023 (2018) (Court must articulate evaluative process and show evidence weighing for due process); *In re Harris*, 16 Cal.5th 292 (2024) (due process mandates reasoned findings on evidence reliability in liberty-deprivation decisions); *Rochin v. California*, 342 U.S. 165, 171-172 (1952) (due process requires balanced, reasoned evaluation of facts and claims)). The unopposed evidence established a substantive title dispute and defense, proving the UD court lacked jurisdiction (Code

Civ. Proc., § 583.130) and entitling Appellant to stay relief (*Asuncion; Windsor*, 93 U.S. at 277–278).

Appellant’s requests for guidance on where to seek relief, given the exhaustion of remedies (e.g. RJN Ex’s. 1-11), were met with Hesseltine’s refusal to provide direction, stating he could not offer legal advice (RJN Ex. 15.8A, p. 1500, lines 15–25; p. 1503, lines 1–14; p. 10, lines 12–17). This response continued a pattern of denying a fair forum, violating *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (recognizing the fundamental duty to afford protection of laws), and Cal. Const., Art. I, §§ 7, 9 (requiring judicial determination of rights and the right to petition for redress of grievances). Hesseltine’s refusal to provide a Court Reporter, despite Appellant’s indigent status and request (RJN Ex. 15, p. 262), violated due process and *Jameson v. Desta*, 5 Cal.5th 594, 608–609 (2018). Appellant recorded the proceeding to preserve the issue for appeal (RJN Ex. 15.8A, pp. 1495–1506). The stay denial was a jurisdictional error, allowing the UD court to proceed despite lacking authority to resolve title, disputed actions, or equitable defenses, making it reviewable as an intermediate order (Code Civ. Proc., § 906).

#### **4. Unlawful Entry of Default Judgement**

On March 18, 2025, minutes after the Ex Parte hearing, the Deputy Clerk unlawfully entered default judgment against Appellant (CT 10, ROA 19–20; CT 24–Signed Default Judgment; RJN Ex. 18, Deputy Clerk noting default judgment entered at 9:44 AM on March 18, 2025). Appellant asserts the default judgment is void for all the previously alleged reasons the entry of default is void (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876); *Stearns v. Aguirre*, 7 Cal. 443, 449 (1857) (“If a judgment is ... entered

by a ... ministerial officer, without authority of law, it is wholly void”)), constituting a bill of pains and penalties (Cal. Const. Art. I, § 9; U.S. Const. Art. I, § 10).

The entry of default and default judgment were also improper and void because:

1. Judge Hesseltine violated due process, denying Appellant a full, fair, and impartial hearing for stay of the UD proceedings, negating due process notice requirements (*Windsor v. McVeigh*, 93 U.S. 274 (1876)).
2. The limited civil division lacked subject matter jurisdiction due to the underlying title dispute (CCP § 580(b)(3)) and an amount in dispute exceeding \$35,000 (CCP § 85(a)).

#### **5. Deputy Clerk Refusal to File March 19, 2025 Answer**

On March 18, 2025, after the Ex Parte hearing, unaware of the Request and entry of default Appellant emailed Respondent/Paloci stating, “I will be filing an answer to the UD complaint by tomorrow,” and noting, “As you’ve been made aware I am under extreme duress given the improper acts that continue to be perpetrated against me” (Ex. 1, p. E105; referring to RJN Ex. 1–12). Neither Respondent nor Paloci responded.

On March 19, 2025, Appellant returned to the Court with a separate Answer to file in the UD case, challenging jurisdiction and standing due to disputed actions and jurisdictional defects (CT 55–60). The Deputy Clerk rejected the Answer citing the default judgment entered on March 18, 2025. The Deputy Clerk lacked authority to reject the Answer, as: (1) jurisdiction can be challenged at any time, including post-default (*Rochin v. Pat Johnson Mfg. Co.*, 67 Cal.App.4th 1239 (1998)); (2) clerks lack authority to

determine the form or sufficiency of a pleading (*Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981); *Stevens v. Torregano*, 192 Cal.App.2d 105, 112–113 (1961); e.g. Fed. R. Civ. P. 5: “The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice”); and (3) the Clerk possessed Appellant’s Answer, filed in the 2015 case (RJN Ex. 15; *Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981) (Deputy Clerk in possession of responsive pleading has no authority to enter the default)).

Appellant’s March 19, 2025, Answer would have prevented the issuance of the subsequent Writ of Possession, which resulted from this sequence of irregularities.

### ***6. Unlawful Application for Writ of Possession***

On March 20, 2025, Respondent/ Paloci, aware of the absence of a lawful right to relief due to the title dispute, the UD Court’s lack of jurisdiction, and the denial of Appellant’s right to be heard, continued to commit fraud on the Court by filing a false and fraudulent Application for Writ of Possession under penalty of perjury (signed by Paloci) (CT 25). The Application applies for the Writ under CCP sections 712.010 and 715.010. Section 712.010 requires there to be a valid entry of judgment for possession. Section 715.010 allows enforcement of the Writ issued pursuant to 712.010. Based on Respondent/ Paloci’s false statements, the Writ of Possession was issued by the Deputy Clerk on March 22, 2025 (CT 26–28). These actions violated due process (Cal. Const. Art. I, §§ 7, 9; U.S. Const. Art. I, § 10) and California Penal Code sections 115 (filing false documents, CT 20–22, 25–28), 182 (conspiracy), and 487 (grand theft).

## IV. The Unlawful Theft/ Taking of Appellant’s Home

### A. Invalid Execution of Writ and Constitutional Violations

#### 1. *Fraudulent Statements to Obtain Writ of Possession*

On or about March 24, 2025 Respondent /Paloci contacted the Orange County Sheriff’s Department to invoke executive authority to compel Appellant’s removal from his home (Ex. 5, pp. E247 – E285). Public Records Act documents show they made misleading statements, including: “the property is owned by Mr. Hou via foreclosure[;]” “Plaintiff w/ judgment for possession” (Ex. 5, p. E254 ¶1); “Mr. Bereki borrowed money and defaulted. A bank foreclosed and Mr. Hou bought” (Ex. 5, p. E254 ¶2); writ was issued “3/23/2022” (Ex. 5, p. E255 ¶3); judgment was issued “3/18/25” (Id. ¶3c); “possession only against Adam Bereki” (Id.); “plaintiffs have unlawful detainer judgment for possession” (Ex. 5, p. E256 ¶5, p. E257); and apparently provided documents including a copy of the fraudulent Writ of Possession (Ex. 5, p. E251 ¶6a, p. E255 ¶3b; CT 26–28). They filed the application and paid the \$180 fee (Ex. 5, p. E257) to compel Appellant to vacate, despite knowing Respondent had no lawful right to possession due to the void 2015 judgment, wrongful foreclosure, bankruptcy violations and jurisdictional defects (RJN Ex. 15), and the invalidity of the UD judgment, which lacked jurisdiction, rendering the Writ void as actions taken under a void judgment confer no rights and make enforcers trespassers (*Lovejoy v. Murray*, 70 U.S. 1, 18 (1865); *Windsor*, 93 U.S. at 277–278. These actions violated Cal. Penal Code § 115(a) (filing false documents), § 182(a) (conspiracy), and § 487(a) (grand theft).

## 2. Sheriff's Department's Refusal to Investigate

### a. Sergeant Lopez's Refusal to Investigate

On March 24, 2025, Appellant contacted Sergeant Lopez of the Orange County Sheriff's Department Civil Enforcement Division to report Constitutional and criminal law violations related to the anticipated eviction (Ex. 2, pp. E189–E210: Certified Transcript). Appellant, a former police officer with over twenty years of experience in fraud and public corruption investigations, reported the void 2015 case judgment, ~\$930,000 fine, license suspension, forced bankruptcy, wrongful foreclosure, and lack of judicial remedy (Ex. 2, pp. E190–E194), requesting a “fair investigation that nobody else has done so far, and to look into this matter and to stop it” (Ex. 2, p. E193, lines 19–21 – E194, line 7).

Lopez stated he “can’t conduct an investigation because... [he’s] ... a sergeant with the Civil Bureau” (Ex. 2, p. E194, lines 21–23), claiming, “[o]nce it get to [me] ... it’s already a done deal” (Ex. 2, p. E195, lines 1–3), “we can’t use any of our resources to conduct any investigations” (Id., lines 11–12) “upon these civil issues” (Ex. 2, p. E207, lines 18–20), and “I cannot take a report for this, um, because this is a Costa Mesa property and this is a civil matter” (Ex. 2, p. E208, lines 20–22). These statements were misleading, as Lopez, an executive officer under Cal. Const. Art. V, § 1 and Art. XX, § 3, had a duty to investigate alleged crimes and Constitutional violations (Cal. Const. Art. I, §26– Constitutional provisions mandatory/prohibitory; Art. XX, § 3– Oath of Office to faithfully support and defend Constitutions; Art. I, § 3– right to petition for redress; Gov. Code § 26600 et seq.; *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (“where there is a legal right, there is also a legal remedy”; “[t]he very essence of civil liberty certainly

consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection”). His claim of lacking jurisdiction was incorrect, as Orange County sheriffs have countywide authority (Ex. 6, p. E290–E291).

***b. Deputy Murillo’s Refusal to Investigate***

On March 27, 2025, Deputy Murillo served a Notice to Vacate with the Writ of Possession at Appellant’s home (CT 127; CT 129–131; Ex. 3, pp. E216–E229–Certified Body Camera Transcript). Appellant requested Murillo investigate criminal and Constitutional law violations related to the eviction process (Ex. 3, p. E217, lines 2–3; p. E218, line 24–p. E219, lines 1–6; p. E220, lines 3–5; p. E222, lines 18–19). Murillo claimed he lacked jurisdiction, referring Appellant to Costa Mesa Police (Ex. 3, p. E217, lines 4–5), stating he “go[es] off of whatever the court documents say” (Id., lines 7–8) and “it’s called law enforcement, not law writing” (Id., lines 7–10, 12–14, 16–18). When Appellant countered that Murillo’s job was to “enforce what the law is, not invalid orders” (Id., lines 19–20), Murillo responded, “I think you’re just not getting the answer that you wanna hear” (Ex. 3, p. E221, lines 18–19). Murillo refused to take a crime report, stating, “This is a civil matter. There’s nothing to in- -- investigate” (Ex. 3, p. E224, lines 12–14).

The Notice to Vacate stated: “Should you fail to vacate the premises within the allotted time, I will immediately enforce the writ by removing you from the premises” (CT 127, ¶1). Fearing forcible removal by April 2, 2025, and believing Murillo might use physical force, Appellant vacated under duress (Ex. 3, p. E225, line 7).

### ***c. Constitutional and Statutory Violations***

Lopez and Murillo's refusals to investigate and/or intervene despite notice of disputed actions and Constitutional violations (e.g. Ex. 2, pp. E190–E194; Ex. 3, p. E220, lines 3–8), violated their duty to faithfully execute the law (Cal. Const. Art. V, §§ 1, 3, 7; Art. XX, § 3). Their actions facilitated the deprivation of Appellant's inalienable rights (home, ~\$1.2 million in equity, privacy) through the enforcement of an invalid Writ (Cal. Penal Code §§ 487, 211; e.g. *People v. Kozlowski*, 96 Cal.App.4th 853, 865–867 (2002)(home equity=money). They acted as aiders and abettors under Cal. Penal Code § 31, liable for violations including grand theft (§ 487), robbery (§ 211) conspiracy (§ 182), and burglary (§ 459). These actions also violated Cal. Const. Art. I, § 3 (right to petition for redress), Art. I, § 13 (unreasonable seizures) and § 7 (due process), supporting a 42 U.S.C. § 1983 claim.

### ***d. Eviction Under Duress and Constitutional Taking***

Assuming hypothetically Respondent and Paloci had no notice of the underlying issues at the sale (void 2015 judgment, license suspension etc), they were given notice immediately thereafter when their identity became known. At that point they had a duty to investigate Appellant's claims to determine how to proceed (ie whether to accept his equitable offer for a refund from the surplus proceeds and walk away, or to rely on the underlying criminal and Constitutional law violations to obtain possession; Cal. Civil Code § 1708). When Respondent refused to do equity and sought possession with Paloci, they became aiders and abettors of the underlying violations constituting state action, relying on these unlawful and void acts to take Appellant's money, and property and deprive him

of liberty and privacy without authority of law (*Windsor*, 93 U.S. 274; *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982)).

By unlawfully invoking the Sheriff's Department to enforce the invalid writ, Respondent and Paloci facilitated an unconstitutional taking of Appellant's home and home equity property without just compensation, violating Cal. Const. Art. I, § 19.

The Return on Writ of Possession (Ex. 5, p. E281), executed June 19, 2025, stated: "Notice to Vacate was personally served on 3/27/25." Murillo noted, "Plaintiffs agent signed for and was given possession paperwork. Eviction completed" (Ex. 5, p. E285–dated 4/3/25, purportedly signed by Henry Paloci).

***e. Request for Adjudication of Sheriff's Executive Duty to Investigate Bona Fide Complaints Before Enforcement***

This Court is requested to adjudicate whether the Orange County Sheriff's Department, through Sergeant Lopez and Deputy Murillo, acting as Executive officers under Cal. Const. Art. V, § 1 and Gov. Code § 26600 (distinct from their roles as levying officers), had a mandatory, non-discretionary ministerial duty to investigate Appellant's bona fide complaints of Constitutional and criminal law violations prior to enforcing the void Writ of Possession (CT 26–28). Additionally, the Court should determine whether, upon finding unlawful interference with Appellant's rights, these officers also had a duty to intervene to halt such violations.

Appellant directly reported to Lopez and Murillo the void 2015 judgment, wrongful foreclosure, and related Constitutional and criminal violations (Ex. 2, pp. E190–E194; Ex. 3, p. E217, lines 2–5; p. E218, line 24–p. E219, lines 1–6). Both officers refused to

investigate, dismissing the claims as a “civil matter” (Ex. 2, p. E194, lines 21–23; Ex. 3, p. E224, lines 12–14) and asserting no jurisdiction (Ex. 3, p. E217, lines 4–5). Lopez stated, “I can't conduct an investigation” (Ex. 2, p. E194, lines 21–23), and Murillo claimed, “There's nothing to investigate” (Ex. 3, p. E224, lines 12–14). These refusals facilitated enforcement of an invalid Writ, leading to Appellant's eviction under duress (CT 127; Ex. 3, p. E225, line 7).

Appellant contends that Lopez and Murillo, as executive officers bound by Cal. Const. Art. XX, § 3 (oath to faithfully support the Constitution), Gov. Code § 26600 et seq., and all violations of Appellant's Constitutionally protected rights as alleged herein, had a mandatory duty to investigate credible claims of Constitutional violations and crimes, including violations of Cal. Penal Code §§ 115(a), 182(a), 211, and/or 487(a) . This duty stems from their obligation to preserve peace, faithfully execute the law, and ensure protection of legal rights, as articulated in *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (“where there is a legal right, there is also a legal remedy; the very essence of civil liberty consists in the right of every individual to claim the protection of the laws”; Cal. Gov't Code §270 “[e]very person while within the State is subject to its jurisdiction and entitled to its protection”). The special relationship created by the state's prior unlawful acts (e.g., void 2015 judgment, license suspension, and denial of remedy) heightened this duty (Cal. Const. Art. I, §§ 3, 7, 13, 26).

By refusing to investigate and/or intervene, Lopez and Murillo breached their executive duties, violated separation of powers and checks and balances, and deprived Appellant of a republican form of government (U.S. Const. Art. IV, § 4). Enforcement of a

void judgment renders enforcers trespassers (*Elliott v. Lessee of Peirsol*, 26 U.S. 328, 340 (1828)), and their actions facilitated an unconstitutional taking of Appellant's home and equity (~\$1.2 million) without due process or just compensation (Cal. Const. Art. I, §§ 7, 19).

No emergency justified their failure to investigate during the period between the Notice to Vacate (March 27, 2025) and the eviction deadline (April 2, 2025). Appellant seeks no liability but requests a determination that such a duty existed, as it affects the judgment's enforceability (Code Civ. Proc. § 906). Appellant further requests an order declaring the enforcement unlawful, vacating the Writ, and restoring possession.

For further clarity, Appellant does not contend that Deputies acting in the capacity of a levying officer serving facially valid Court orders must perform a forensic investigation of each order prior to service. Rather, the duty to investigate beyond facial validity arises when a person makes a bona fide complaint of deprivations of Constitutionally rights surrounding the Order and its enforcement.

Appellant is aware of CCP § 262.1 which states that “[a] sheriff or other ministerial officer is justified in the execution of, and shall execute, all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued.” However, executive authority cannot knowingly be used to enforce a void order (*Bennett v. Wilson*, 122 Cal. 509, 513–514 (1898); *Elliott v. Lessee of Peirsol*, 26 U.S. 328, 340 (1828)) and qualified immunity does not apply to mandatory, non-discretionary duties that cannot be ignored such as those guaranteeing Constitutionally protected rights (Cal. Const. Art. I, §26; e.g. *Walt Rankin &*

*Associates, Inc. v. City of Mirrieta*, (80 Cal. App. 4<sup>th</sup> 1255 (2000)); “It is well settled that the police power cannot be made a cloak under which to overthrow or disregard constitutional rights” *People v. Holder*, 53 Cal. App. 45, 53 (1921)).

This brief and its supporting evidence (e.g., Ex. 1–6; RJN Ex. 1–24; CT 1–145) constitute the following formal complaints to the Orange County Sheriff-Coroner Department against all individuals and officials named herein, as their actions contributed to the unlawful deprivation of Appellant’s property and rights:

1. **Criminal Complaint:** Appellant alleges that Respondent Canjian Hou, attorney Henry Paloci, Judge David Hesseltine, Commissioner Carmen Snuggs-Spraggins (*infra*), the Deputy Clerks and their Supervisors, Sergeant Lopez, and Deputy Murillo violated and/or aided and abetted the violation of California Penal Code sections, including § 115(a) (filing false documents), § 182(a) (conspiracy), § 487(a) (grand theft), § 470(d) (obtaining property by fraud), § 518(a) (extortion), and § 532(a) (theft by false pretense). These actions, detailed in Sections II–V, include filing an improper UD complaint, an unnotified default request, a fraudulent writ application, obstructing Appellant’s Answers, and enforcing a void judgment, resulting in the unconstitutional taking of Appellant’s home and ~\$1.2 million in equity (Cal. Penal Code § 487; *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982)).
2. **Deprivation of Constitutional Rights Complaint:** The actions of the named parties violated Appellant’s due process rights (Cal. Const. Art. I, §§ 7, 9; U.S. Const. Art I, § 10), right to petition for redress (Cal. Const. Art. I, § 3), and protection against unreasonable seizures and takings (Cal. Const. Art. I, §§ 13, 19). These

violations, detailed in Sections III–V, include the Superior Court’s failure to stay the UD proceedings and obstruction of Appellant’s Answers, premature default entry, and enforcement of an invalid writ, denying a full, fair and impartial hearing and judicial determination of rights.

- 3. Professional Standards Complaint Against Sheriff’s Officers:** Appellant submits a professional standards complaint against Sergeant Lopez and Deputy Murillo for breaching their executive duties under Cal. Const. Art. V, § 1, Art. XX, § 3, and Gov. Code § 26600 et seq. and aiding and abetting crimes and deprivations of Constitutional rights. Appellant does not allege that Lopez or Murillo acted with intent to harm prior to receiving his complaints. However, upon notice of the void 2015 judgment, wrongful foreclosure, and related violations, they had a mandatory duty to investigate credible allegations of crimes and Constitutional violations. Their refusals to investigate or intervene facilitated enforcement of a the void and/or discharged judgments and writ enabling the unconstitutional taking of Appellant’s property under threat of force. This breached their obligation to preserve peace and protect legal rights, (and in the case of Lopez, also failing to supervise) rendering them aiders and abettors to the violations.

Appellant incorporates by reference Part 1 of an additional complaint and evidence titled “The Failure of the Executive” available at: <https://www.youtube.com/watch?v=kqN3tt9-Hiw&t=5s> evidencing the failure of the Executive Branches of California and the United States to investigate his claims pertaining to the 2015 case judgment, license suspension and denial of judicial remedy,

which significantly contributed to this unlawful taking/theft of his property by officials refusing to abide their executive duties, including as checks and balances on unlawful judicial action, allowing the unlawful sale and taking/theft to occur.

## **B. Impact of Fraud on the Judicial Process**

### ***1. Extrinsic Fraud Preventing a Fair Hearing***

Respondent's actions constituted extrinsic fraud, voiding the UD judgment. Extrinsic fraud occurs when a party is improperly prevented from presenting a defense, such as through misrepresentations or obstruction (*Kulchar v. Kulchar*, 1 Cal.3d 467, 471 (1969)). Respondent filed an improper UD complaint in a limited civil court (RJN Ex. 15, pp. 609–620), knowing it lacked jurisdiction over title disputes, and an improper default and default judgment requests (Ex. 1, p. E185), despite Appellant's intent to defend (RJN Ex. 15, p. 586, pp. 591). Respondent also filed an improper application for a writ of possession (CT 25–28), later invoking executive power to evict Appellant under threat of force (see IV, *infra*), despite knowing the sale was void and the UD Court lacked subject matter and procedural jurisdiction (RJN Ex. 15; RJN Ex. 1-11). These actions, combined with the Court's ministerial breaches—rejecting Appellant's Answer (RJN Ex. 15, 15.1–Minute Order Rejecting Answer; CT 43 lines 6-7, CT 55–60 March 19, 2025 Answer; CT 134-35–Minute Order: “[Appellant] failed to respond to the Complaint”; CT 145 Affirming CT 134-5), premature default entry (CT 20–22), and denial of a hearing (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876))—prevented a fair adversary hearing (*In re Marriage of Modnick*, 33 Cal.3d 897, 905 (1983)). This extrinsic fraud renders the judgment void.

Respondent and Paloci, fully aware of the disputed title, could have followed due process procedures to allow fair resolution of all issues, protecting both parties' rights. Instead, their actions breached due process, ethical, and statutory duties, leveraging the Court's ministerial violations to prevent Appellant from being heard, resulting in the improper acquisition of property to which Respondent had no lawful right.

## ***2. Fraud on the Court***

Respondent and Paloci's improper filings and nondisclosures undermined the judicial process, constituting fraud on the court. By omitting material facts about the title dispute and Appellant's intent to defend (RJN Ex. 15, pp. 586, 591–601), they impaired the Court's truth-seeking function (*In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980)), rendering the UD judgment void (*Windsor v. McVeigh*, 93 U.S. 274, 283–284 (1876); *Bennett v. Wilson*, 122 Cal. 509, 513–514 (1898); *Elliott v. Lessee of Peirsol*, 26 U.S. 328, 340 (1828)).

## **V. May–June 2025: Post-Judgment Efforts and Continued Denials of Fundamental Due Process**

### **A. Deputy Clerk's Ministerial Breaches (Continued)**

#### ***1. Response to Petition for Redress***

On May 8, 2025, Appellant submitted a petition for redress via the Court's online form, alleging improper default entry due to lack of notice and refusal to accept Answer (CT 66–73). The Deputy Clerk stated that Appellant had "10 days to respond to the

complaint; you had until 3/14 to respond and because no response was submitted in the allotted time frame, the plaintiff was well within their rights to submit a Request for Clerk Default Judgment on 3/17/25 (CT 69), disregarding *Shapell*, 85 Cal.App.5th at 212 (cited at CT 72), and *CCP* §§ 583.130, 587. Appellant further alleged “I had no notice of the request for entry of default before the Court entered default (CT 72 ¶3). The Deputy Clerk refused to further investigate or to vacate the void judgment stating “[we]’re not going to vacate the default judgment; the attorney did their due diligence and the clerk processed everything correctly. If you want to argue against the judgment you may do so with the judge”, closing the chat to further discussion (CT 72 ¶ 4), breaching her non-discretionary ministerial duty to address procedural and jurisdictional errors.

## **B. Commissioner Snuggs-Spraggins’s Unauthorized Rulings and Errors**

### ***1. Filing of Motion to Vacate and Ex Parte Application***

Under significant pressure, including concern for personal safety following the denial of judicial relief and the Sheriff’s enforcement of the writ, Appellant vacated his residence on or about April 1, 2025. Due to ongoing financial hardship from the 2015 case and related proceedings, he relocated to Las Vegas, Nevada, where his parent, a property owner, assisted with subsidizing rent and storage.

On May 20, 2025, Appellant filed an unopposed Motion to Vacate the default judgment in the UD case with a supporting declaration, alongside an Ex Parte Application for a Temporary Restraining Order, stay of execution, and restoration of possession (CT 32–40–Ex Parte Application; CT 41–131–Motion to Vacate). The Court filed these on May

21, 2025 (CT 32, 41). The Motion and Application raised defenses, including the default judgment's voidness due to the Deputy Clerk's premature entry in violation of CCP § 1013 (CT 44, line 28–CT 45, line 4; CT 51, ¶ 9–Bereki Decl.), the Deputy Clerk's obstruction of Appellant's attempts to file answers on March 14 and 19, 2025 (CT 44, ¶ 3; CT 51, ¶¶ 6, 8, 10; CT 55–60; 2015 Case: RJN Ex. 1: ROA 302–344, RJN Ex. 15), and the title dispute stemming from a contested foreclosure, bankruptcy protection violations, and void 2015 judgment (CT 43, lines 4–17; CT 44, ¶ B1; CT 51, ¶ 8; incorporating RJN Ex. 14–Ex Parte Application and Answer filed in 2015 case).

**2. Lack of Notice and Stipulation for Commissioner's Authority; Commissioners Unauthorized Affirmation of Void Default Judgment**

The Superior Court had a mandatory, non-discretionary duty to vacate the void default judgment (CT 23–24) due to procedural and jurisdictional defects, including the Deputy Clerk's premature entry of default in violation of CCP § 1013's five-day extension for mailed service (CT 20–22; CT 44, line 28–CT 45, line 4; CT 51, ¶ 9–Bereki Decl.) and interference with Appellant's filing attempts on March 14 and 19, 2025 (CT 44, ¶ 3; CT 51, ¶¶ 6, 8, 10; CT 55–60; 2015 Case: RJN Ex. 1–ROA 302–344). *Frank Co. v. Leopold & Ferron Co.*, 13 Cal.App. 59, 61 (1910), *Thompson v. Cook*, 20 Cal.2d 564, 569 (1942), and *Joseph v. Drew*, 36 Cal.2d 575, 579 (1950), affirm that Courts have inherent power to vacate void judgments independent of statutory provisions when unopposed evidence demonstrates their invalidity. However, CSS lacked authority to rule on the Motion to Vacate (CT 41–131) without Appellant's stipulation, as required for substantive matters under Cal. Const., Art. VI, § 21 and CCP § 259(d). *Reisman v. Shahverdian*, 153 Cal.App.3d 1074, 1096–1097 (1984), holds that a commissioner cannot hear a motion to

vacate a judgment under CCP § 473 without party consent, as the moving party is a “party litigant” with the right to refuse, rendering such rulings void. *Rooney v. Vermont Investment Corp.*, 10 Cal.3d 351, 360, 367–368 (1973), confirms that commissioners require party stipulation to act as temporary judges for default-related judgments, as these are not subordinate judicial duties under CCP § 259a, subd. 6, unless specifically ordered by the Court, a condition not met here, as no such order appears in the record (CT 134–135).

Appellant received no notice, as required by California Rules of Court rule 2.816(c), that CSS would rule on the Motion to Vacate. CRC rule 2.816(c) mandates notice of a commissioner’s assignment as a temporary judge by a conspicuous sign in or outside the courtroom with oral or recorded notification on the hearing day or by written notice to each party. The Superior Court website states that ex parte applications are “ruled on in chambers” (occourts.org), and Appellant’s appearance was not permitted for the May 21, 2025, Ex Parte Application (CT 32–40), precluding courtroom notification. No written notice of CSS’s assignment was provided, depriving Appellant of the opportunity to consent or object. Appellant made no knowing, voluntary, or intelligent waiver of his right to have the motion determined by a duly empowered judicial officer. CSS’s ruling, declining to vacate the void judgment despite unopposed evidence of its voidness (e.g., Deputy Clerk’s procedural errors, CT 44, ¶ 3; CT 51, ¶¶ 6, 8), violated due process and is a nullity (Cal. Const., Art. I, § 7; *Windsor*, 93 U.S. at 277–278. Thus, while the Superior Court had a duty to vacate the void judgment, CSS’s unauthorized denial (CT 134–135), which upheld the void judgment and constituted a jurisdictional error, failed to fulfill this obligation, necessitating reversal and reassignment to a duly empowered judicial officer.

### **3. Inaccurate and Unsupported Findings**

CSS's denial included inaccurate findings constituting extrinsic fraud:

- Inaccurate Claim of Failure to Answer: CSS stated Appellant “failed to respond” and “chose not to act” (CT 134, last ¶; CT 135, ¶ 3), disregarding evidence of obstructed answers (CT 44, ¶ 3; CT 51, ¶¶ 6, 8, 10; CT 55–60).
- Ignoring Voidness Arguments: CSS disregarded arguments of premature default entry and title disputes (CT 44 ¶¶ 1, 4–CT 45 ¶¶ 6, 8; CT 46–50; CT 51-2, ¶¶ 1-12).
- Failure to Address Errors: CSS overlooked Paloci's failure to notify of the default request, violating Canon 3D(2) (CT 44, ¶ 4; CT 46 ¶ 1, CT 51–Decl. ¶ 7; *Shapell*, 85 Cal.App.5th at 216,=).
- Misapplication of Law: CSS deemed *Lasalle*, 36 Cal.App.5th 127 and *Shapell*, 85 Cal.App.5th 198 “inapplicable” (CT 135, ¶ 1; CT 145, ¶ 4), apparently assuming CCP § 583.130 applied only to attorneys.
- Inaccurate Claim of Voluntary Move-Out: CSS stated Appellant “voluntarily” moved out (CT 135, ¶¶ 4–5), disregarding sworn testimony of Sheriff action (CT 51, ¶ 11; CT 127, ¶ 1).
- Erroneous Notice Claim: CSS inaccurately stated non-compliance with CRC rule 3.1204 (CT 135, ¶ 2), despite evidence of compliance (CT 35, lines 20–22; CT 40, ¶ 14).
- Denial of Restitution Authority: CSS overlooked the Court's inherent authority to order restitution (*Shapell*, 85 Cal.App.5th at 211).

#### **4. Denial of Reconsideration**

On May 22, 2025, CSS denied Appellant's Ex Parte Application for Reconsideration (CT 136–144), inaccurately claiming no new facts or law under CCP § 1008(a) (CT 145), despite evidence of ongoing harm (~\$50,000 property damage, ~\$10,000 lost property; CT 144, ¶¶ 10, 12–Bereki Decl.) and failure to fully, fairly and impartially adjudicate the merits in the prior Application. CSS reiterated unsupported findings, overlooking unopposed evidence of premature default, Paloci's errors, and title disputes (CT 140–141, ¶¶ 1–5; CT 143–144, ¶¶ 4–9). This unauthorized denial, absent stipulation, was void (*Reisman v. Shahverdian*, 153 Cal.App.3d at 1096–1097).

#### **5. Breach of Ministerial Duties**

CSS breached her ministerial duty to grant a stay and transfer the case to unlimited jurisdiction due to the title dispute and damages exceeding \$35,000 (CT 43, lines 4–17; CT 51, ¶ 8; CCP § 396(b); *Asuncion*, 108 Cal.App.3d at 146. Her misapplication of CCP § 473(b), which Appellant did not invoke (CT 41–131), and failure to vacate the void judgment violated legal mandates (*Thompson v. Cook*, 20 Cal.2d 564, 569 (1942); *Joseph v. Drew*, 36 Cal.2d 575, 579 (1950)).

### **C. Judge Hesselstine's Ministerial Breaches and Judicial Errors (Continued)**

#### **1. May 22, 2025, Denial of Ex Parte Application to Vacate**

On May 22, 2025, Appellant filed an Ex Parte Application to Vacate the March 18, 2025, void default judgment, stay the UD action, and restore possession in the 2015 case (RJN Ex. 15.2, pp. 763–777), presenting critical UD issues to Judge Hesselstine, seeking

reconsideration of the March 18, 2025, denial (RJN Ex. 15.1, p. 0760–Minute Order; RJN Ex. 15.8A–Ex Parte hearing Transcript: pp. 1508–1517). The unopposed issues included:

1. Paloci’s failure to notify Appellant of the March 17, 2025, default request violated *Shapell*, 85 Cal.App.5th at 216, *Lasalle*, 36 Cal.App.5th at 135–136, and CCP § 583.130, with the UD court entering default the next day despite CCP § 1013(a)’s five-day notice requirement (RJN Ex. 15.2–Bereki Decl. ¶ 6, p. 0775; RJN Ex. 15.8A, p. 1513, line 15–p. 1514, line 20; RJN Ex. 15.2, p. 0768 ¶ 4; CT 20–22: Request).
2. On March 19, 2025, the Deputy Clerk rejected Appellant’s corrected Answer challenging jurisdiction, citing the premature default (RJN Ex. 15.8A, p. 1513, line 23–p. 1514, line 5; RJN Ex. 15.2–Bereki Decl., p. 0775, ¶ 7, 8; CT 55–60), violating *Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981).
3. Commissioner Snuggs-Spraggins’s denial of Appellant’s Request for Stay, TRO (CT 32-40), and Motion to Vacate the UD default judgment (CT 41-151) on May 21, 2025 (CT 134-5), overlooked voidness due to Deputy Clerk errors and title disputes (RJN Ex. 15.8A, p. 1514, lines 5–11).
4. Systemic obstruction of Appellant’s right to be heard violated *Windsor v. McVeigh*, 93 U.S. 274, 277 (1876) and *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (RJN Ex. 15.8A, p. 1514, lines 12–20).
5. Neither hearing addressed the eviction, loss of ~\$1.2 million in property, and emotional distress (RJN Ex. 15.8A, p. 1513, lines 4–8; p. 1515, lines 5–18; RJN Ex. 15.2, p. 077-071; CT 43, 51).

6. Hesselstine denied recording the May 22 hearing, despite Appellant's indigent status, violating *Jameson v. Desta*, 5 Cal.5th 594, 608–609 (2018) (RJN Ex. 15.8A, p. 1509, lines 1–15).

Hesselstine's responses at the hearing and in his Minute Order (RJN Ex. 15.3, p. 0941-2) failed to address these issues, breaching ministerial duties:

- He declined to address UD issues, stating they were assigned to another judge (RJN Ex. 15.8A, p. 1514, lines 23–p. 1515, line 3), despite his duty to act on jurisdictional defects (*Joseph v. Drew*, 36 Cal.2d 575, 579 (1950); *Thompson v. Cook*, 20 Cal.2d 564, 569 (1942)).
- He deferred to a June 26, 2025, hearing without addressing harm or clerk errors (RJN Ex. 15.8A, p. 1512, lines 16–20; p. 1514, lines 4–6; 19–20).
- He cited multiple factors without specifying deficiencies (RJN Ex. 15.8A, p. 1515, lines 13–18; p. 1516, lines 11–15).
- He overlooked Paloci's failure to notify and Deputy Clerk errors, violating Canon 3D(2) (*Shapell*, 85 Cal.App.5th at 216; RJN Ex. 15.8A, p. 1513, line 15–p. 1514, line 20; RJN Ex. 15.2, p. 0768 ¶ 4).
- He disputed the one-word "denied" claim but failed to specify what was addressed (RJN Ex. 15.8A, p. 1512, line 20–p. 1515, line 20).
- He failed to address reported judicial and attorney errors under Canon 3D(1) (*Chodosh v. Commission on Judicial Performance*, 81 Cal.App.5th 248, 265 (2022)).

Hesseltine's actions constitute extrinsic fraud and fraud on the court (*In re Marriage of Modnick*, 33 Cal.3d 897, 905 (1983); *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980)) and raise concerns about impartiality, suggesting bias under CCP § 170.1(a)(6),

## **VI. August 2025: Ongoing Title Dispute**

### **A. Continued Title Dispute- Additional Evidence Post Judgment**

On or about August 22, 2025, Appellant received a letter and escrow refund check from Shellpoint, the purported servicer of the Citibank first mortgage (Ex. 1 pp. E176–181), which, though discharged of personal liability in bankruptcy, remains in Appellant's name with a disputed in rem lien encumbering the property (Cal. Comm. Code § 3501(b)(3)/3308(b)). Respondent, claiming ownership via a junior lien foreclosure, is making unauthorized payments on this lien, as confirmed by Paloci (Ex. 1 pp. E174–Email Aug. 27, 2025, ¶¶ 1, 3). This situation further evidences ongoing title dispute because: (1) the senior disputed lien's unresolved status in Appellant's name post-discharge indicates an irregular foreclosure that failed to convey a duly perfected title, as required for UD standing (CCP § 1161a(b)(3); *Dr. Leevil, LLC v. Westlake Health Care Ctr.*, 6 Cal.5th 474, 483 (2018)); (2) Respondent's payments without Appellant's consent interfere with his financial interests, violating Cal. Civ. Code § 1708; and (3) Citibank/Shellpoint's failure to update the account suggests potential negligence, further tainting the sale's validity (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919, 935 (2016)). Even without personal liability, the account in Appellant's name affects his financial interests, and Respondent's payments without consent constitute tortious interference (*Pacific Gas & Elec. Co. v. Bear Stearns & Co.*, 50 Cal.3d 1118, 1126

(1990)). These defects, compounded by the sale's reliance on the void 2015 judgment and bankruptcy protection violations, along with Citizens' violation of the bankruptcy court's discharge and stay order requiring lawful foreclosure, render Respondent's title invalid, precluding UD jurisdiction.

## **VII. Issues/Questions on Appeal**

Appellant respectfully requests that this Court adjudicate all issues presented to ensure judicial economy, accountability, and guidance for future proceedings, while addressing systemic violations that deprived Appellant of his home and approximately \$1.2 million in equity. The issues involve ministerial, non-discretionary duties or Constitutional violations, warranting de novo review as matters of law.

The breaches of duty by Respondent Canjian Hou, attorney Henry Paloci, Judge David Hesseltine, Commissioner Carmen Snuggs-Spraggins, Deputy Clerks and their Supervisors, Sergeant Lopez, and Deputy Murillo negated subject matter jurisdiction, constituted extrinsic fraud, and rendered the UD judgment, orders, writ, and return on writ void *ab initio*. These breaches involved mandatory, non-discretionary ministerial duties, precluding analysis under the abuse of discretion standard.

The abuse of discretion standard, as articulated in *Cahill v. San Diego Gas & Electric Co.*, 194 Cal.App.4th 939, 957 (2011), applies only to discretionary judicial acts within a permissible range of options set by applicable legal criteria. It is inapplicable to the actions of the Deputy Clerks, their Supervisors, Judge Hesseltine, Commissioner Snuggs-Spraggins, Sergeant Lopez, and Deputy Murillo, as their duties were mandatory

and governed by absolute legal mandates under California and federal Constitutional provisions.

Furthermore, the Constitutional violations—including due process deprivations, takings without just compensation, and bills of pains and penalties—require de novo review, as they negate the Court’s fundamental jurisdiction. The abuse of discretion standard, which presumes a range of permissible choices does not apply to non-discretionary obligations where only one lawful course of action exists. The officials’ failures were breaches of absolute duties, not discretionary errors, rendering the abuse of discretion standard inapplicable. Appellant reserves the right to challenge the Constitutionality of the Abuse of Discretion standard if the Court intends to use apply it in this case.

#### **A. Questions on Appeal**

- 1. Right to a Superior Court Judge:** **a.** Do parties in a UD proceeding have a right to a Superior Court Judge, not a commissioner, under Cal. Const., Art. I, §§ 7, 9; U.S. Const. Art. I, § 10 absent a knowing, voluntary, and intelligent stipulation? (*Reisman*, 153 Cal.App.3d at 1096–1097; CCP § 259(d); see also e.g. *Wellness International Network, Ltd. v. Sharif*, 576 U.S. 624 (2015)). **b.** Did the Superior Court’s failure to provide notice of Commissioner Snuggs-Spraggins’s assignment for the May 21 and 23, 2025, rulings (CT 134–135, 145) and obtain Appellant’s stipulation violate due process, rendering her orders void?
- 2. Clerk’s Duty to File Answer (March 14, 2025):** **a.** Did the Deputy Clerk have a non-discretionary duty under *Windsor*, 93 U.S. at 274, *Baske*, 125 Cal.App.3d at

45, Cal. Const., Art. I, §§ 7, 9, and U.S. Const., Art. I, § 10 to file Appellant’s March 14, 2025, Answer (RJN Ex. 15, Case No. 30-2015-00805807, ROA 302–344)?

b. Did the Clerk’s rejection of the answer for combining pleadings breach this ministerial duty, negating notice and rendering the UD judgment void? (*Windsor*, 93 U.S. at 277; *Baske*, 125 Cal.App.3d at 45).

3. **Judge Hesseltine’s Actions (March 18, 2025):** a. Did Judge Hesseltine have a mandatory duty to accept and order the filing of Appellant’s March 14, 2025, answer (RJN Ex. 15, ROA 302–344, Case No. 30-2015-00805807), given its clear intent to challenge UD jurisdiction, and transfer the case to unlimited jurisdiction due to the title dispute and damages exceeding \$35,000? (CCP § 396(b); *Asuncion*, 108 Cal.App.3d at 146–147; *Buxbom*, 23 Cal.2d at 542–543). b. Did Hesseltine’s one-word “DENIED” ruling (RJN Ex. 15.1, p. 760) on the stay and motion to vacate, without addressing unopposed evidence of title defects and fraud, violate due process and negate jurisdiction? (*Windsor*, 93 U.S. at 277–278; *Nakamura v. Parker*, 156 Cal.App.4th 327, 334–335 (2007)). c. Did these actions deprive the UD court of subject matter jurisdiction, rendering the judgment void as a bill of pains and penalties? (*Elliott v. Lessee of Peirsol*, 26 U.S. 328, 340 (1828); Cal. Const., Art. I, § 9).

4. **Respondent’s Default Request (March 17, 2025):** a. Was Respondent required to notify Appellant of the March 17, 2025, default request (CT 20–22) under CCP § 585.5(a) and *Lasalle* and *Shapell*? b. Did Respondent’s filing of the default request, knowing Appellant’s intent to defend and using USPS mail to delay notice, constitute extrinsic fraud, fraud on the court, or a due process violation? (*Windsor*,

93 U.S. at 277; *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980)).

c. Did Respondent’s filing of the writ of possession application (CT 25) for court authorization, knowing it was based on a void judgment obtained by fraud, constitute extrinsic fraud, fraud on the court, a due process violation, or violations of Cal. Penal Code §§ 115(a) (filing false documents), 182(a)(2) (maintaining a suit knowing the court lacked jurisdiction), and 182(a)(4) (defrauding by false pretense)? (*Windsor*, 93 U.S. at 277; *Gillespie*, 126 Cal.App.2d at 527–528).

5. **Paloci’s Ethical Duties:** a. Did attorney Paloci breach ministerial ethical duties under Cal. Bus. & Prof. Code § 6068(a)–(d) by filing the default request (CT 20–22) despite knowledge of Appellant’s intent to defend (RJN Ex. 15, pp. 586, 591–601) and failing to notify Appellant, constituting extrinsic fraud or fraud on the court? (*Lasalle*, 36 Cal.App.5th at 135–136; *In re Marriage of Park*, 27 Cal.3d at 342–343).

6. **Clerk’s Premature Default Entry (March 18, 2025):** a. Did the Deputy Clerk breach a ministerial duty under CCP § 1013(a) and Cal. Const., Art. I, §§ 7, 9 by entering default (CT 20) one day after the mailed default request (CT 21), denying Appellant the five-day response period? (*Mullane*, 339 U.S. at 314).

b. Did the Clerk’s possession of Appellant’s March 14, 2025, answer (RJN Ex. 15, Case No. 30-2015-00805807, ROA 302–344) preclude default entry, rendering the judgment void? (*Baske*, 125 Cal.App.3d at 45; *Windsor*, 93 U.S. at 277).

7. **Clerk’s Default Entry Negating Notice:** Did the Deputy Clerk’s premature default entry violate due process and negate the UD complaint’s notice, rendering the

judgment void as a bill of pains and penalties? (*Windsor*, 93 U.S. at 277; Cal. Const., Art. I, §§ 7, 9).

8. **Clerk's Rejection of March 19, 2025, Answer:** **a.** Did the Deputy Clerk have a ministerial duty to file Appellant's March 19, 2025, answer (CT 55–60), challenging jurisdiction, under *Windsor* and *Baske*? **b.** Did this rejection violate due process and negate the complaint's notice, rendering the UD judgment void? (*Windsor*, 93 U.S. at 277; *Baske*, 125 Cal.App.3d at 45).
9. **Commissioner Snuggs-Spraggins's Orders (May 21 and 23, 2025):** **a.** Did the May 21, 2025, order (CT 134–135, ROA 51) violate due process by misapplying CCP § 473(b), ignoring unopposed evidence of voidness (e.g., clerk misconduct, title disputes), and lacking authority absent stipulation? **b.** Did the May 21, 2025, order lack jurisdiction due to the UD action's voidness ab initio, rendering it a bill of pains and penalties? (*Windsor*, 93 U.S. at 277–278; *Elliott*, 26 U.S. at 340). **c.** Did the May 23, 2025, order (CT 145, ROA 60) violate due process by finding no new facts or law under CCP § 1008(a), despite evidence of ongoing harm (~\$50,000 property damage, ~\$10,000 lost property, CT 144, ¶¶ 10, 12), and lack authority, rendering it void as a bill of pains and penalties? (*Windsor*, 93 U.S. at 277–278; *Elliott*, 26 U.S. at 340).
10. **Stay of UD Action:** **a.** Did the Court's denial of a stay (RJN Ex. 15.1) pending resolution of the 2015 judgment challenge (Case No. 30-2015-00805807) and bankruptcy adversary proceeding (No. 8:22-BK-12076-SC), given their impact on Respondent's title, violate due process by denying Appellant's right to litigate title disputes, lack jurisdiction, and render the UD judgment void as a bill of pains and

penalties? (*Asuncion*, 108 Cal.App.3d at 146; *Windsor*, 93 U.S. at 277–278; *Elliott*, 26 U.S. at 340).

**11. Jurisdiction Post-Lockout:** **a.** Did the Court’s finding of no jurisdiction post-lockout (CT 134–135) violate due process by failing to exercise equitable restoration powers for a void judgment, perpetuating the deprivation of Appellant’s property rights (~\$1.2 million equity) (*Windsor*, 93 U.S. at 277–278)?

**12. Respondent’s Conduct and Foreclosure:** **a.** Did Respondent’s pursuit of UD, despite notice of the wrongful foreclosure and bankruptcy discharge (RJN Ex. 15), constitute extrinsic fraud or a due process violation? **b.** Did the foreclosure violate 11 U.S.C. § 524(a) by enforcing a discharged 2015 judgment, rendering Respondent’s title invalid and the UD judgment void? (*Taggart v. Lorenzen*, 587 U.S. 554 (2019); *Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919, 935 (2016)).

**13. Unconscionability of the Foreclosure Default:** **a.** Did the Court’s failure to provide a full, fair, and impartial hearing to consider whether the foreclosure, underlying the UD action, was void due to Citizens Bank’s unconscionable declaration of default—knowing it stemmed from state-imposed financial hardship and extrinsic fraud—violate due process, lack jurisdiction, and render the UD judgment void as a bill of pains and penalties? (*Windsor*, 93 U.S. at 277–278; *Elliott*, 26 U.S. at 340; *Orcilla v. Big Sur, Inc.*, 244 Cal.App.4th 982, 996–997 (2016); *Bisno v. Sax*, 175 Cal.App.2d 714, 727 (1959)).

**14. Hou’s Lack of Standing Due to Illegal Foreclosure:** **a.** Did the Court’s failure to provide a hearing to adjudicate Respondent’s standing under CCP § 1161a(b)(3),

given his title derived from an illegal foreclosure tainted by fraud and Penal Code violations (§§ 115(a), 182(a), 487(a)), violate due process, negate jurisdiction after the Clerk's improper actions, and render the UD judgment void as a bill of pains and penalties? (*Windsor*, 93 U.S. at 277–278; *Elliott*, 26 U.S. at 340; *Asuncion*, 108 Cal.App.3d at 146; *Yvanova*, 62 Cal.4th at 935).

- 15. Commissioner Snuggs-Spraggins's Lack of Jurisdiction:** a. Did Commissioner Snuggs-Spraggins lack subject matter jurisdiction to sanction the void UD default judgment, rendering her May 21 and 23, 2025, orders (CT 134–135, 145) void ab initio as bills of pains and penalties due to the absence of stipulation and the UD action's fundamental jurisdictional defects? (*Windsor*, 93 U.S. at 277–278; *Elliott*, 26 U.S. at 340; *Reisman*, 153 Cal.App.3d at 1096–1097).
- 16. Sheriff's Duty to Investigate:** a. Did Sergeant Lopez and Deputy Murillo have a ministerial duty under Cal. Const., Art. V, §§ 1, 3, 7, Art. XX, § 3, and Gov. Code § 26600 et seq. to investigate Appellant's bona fide complaints of Constitutional and criminal violations (Ex. 2, pp. E190–E194; Ex. 3, pp. E217–E220) before enforcing the void writ (CT 26–28)? b. Did their refusal to investigate facilitate an unconstitutional taking, rendering the writ's enforcement void? (*Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982); *Marbury v. Madison*, 5 U.S. 137, 163 (1803); Gov. Code § 270).
- 17. Constitutional Challenges to CCP § 632:** a. Does the judicial practice of issuing unexplained rulings in motion hearings, enabled by CCP § 632's optional statement of decision framework, violate Cal. Const., Art. I, § 7's due process and equal protection clauses by permitting opaque denials (e.g., RJN Ex. 15.1; CT

134–135) that obstruct review and deprive parties of a reasoned basis for decisions? **b.** As applied, did this practice violate Appellant’s due process and equal protection rights in both the 2015 and UD case by enabling one-word denials that ignored unopposed evidence of fraud and jurisdictional defects?

**18. Constitutional Challenge to Excess of Jurisdiction Doctrine:** **a.** Does the doctrine of “excess of jurisdiction,” treating Constitutional violations as procedural deviations (*Abelleira v. Dist. Ct. of Appeal*, 17 Cal.2d 280, 291 (1941)), violate Cal. Const., Art. I, §§ 7, 9, 19 by failing to recognize such violations as fundamental jurisdictional defects, rendering acts like the UD judgment void? (*Katzberg*, 29 Cal.4th at 309; *Windsor*, 93 U.S. at 282).

**19. Abuse of Discretion Standard:** Is the abuse of discretion standard inapplicable to the ministerial duties breached by the Deputy Clerk, Hesseltine, Snuggs-Spraggins, Lopez, and Murillo, requiring de novo review for Constitutional violations and jurisdictional defects?

**20. Unlawful Taking of Property Through UD Proceedings:** **a.** Did the UD proceedings, including the default judgment (CT 23–24), orders (CT 134–135, 145), and Sheriff’s enforcement of a void writ (CT 26–28), constitute an unconstitutional taking without just compensation under Cal. Const., Art. I, § 19 by depriving Appellant of his home without a full fair and impartial judicial determination of his rights? **b.** Did the Superior Court’s failure to stay the UD proceedings and address the title dispute, despite unopposed evidence of jurisdictional defects and fraud (RJN Ex. 15), facilitate a state action taking via CCP § 1161a, rendering the judgment void as a bill of pains and penalties? **c.** Did

Respondent Canjian Hou and attorney Henry Paloci's pursuit of the UD judgment, despite notice of the title dispute (RJN Ex. 15; RJN Ex. 15, pp. 586, 591–601), violate Cal. Penal Code § 487(a) (grand theft) and constitute extrinsic fraud, negating their standing under CCP § 1161a(b)(3) and voiding the judgment?. e. Does the court's equitable authority require vacatur of the UD judgment, orders, and writ, with restoration of possession and restitution and damages and transfer to unlimited jurisdiction to resolve the title dispute?

**21. Unlawful Taking Through Unlawful Detainer Proceedings:** a. Did the UD proceedings, including the default judgment (CT 23–24), orders (CT 134–135, 145), and Sheriff's enforcement of a void writ (CT 26–28), constitute an unconstitutional taking without just compensation under Cal. Const., Art. I, § 19, by depriving Appellant of his home and ~\$1.2 million in equity without a hearing on the title dispute tainted by the disputed 2015 judgment (Case No. 30-2015-00805807) and bankruptcy violations (11 U.S.C. § 524(a))? b. Did the Superior Court's failure to stay the UD proceedings and address the title dispute, despite unopposed evidence of the 2015 judgment's penal nature and extrinsic fraud (RJN Ex. 15, 15.4), bankruptcy discharge and stay relief violations (RJN Ex. 19–22), and procedural errors (e.g., clerk's obstruction of Answers, CT 44, 51, 55–60; premature default, CT 20–22), violate due process and facilitate a state action taking via CCP § 1161a, rendering the judgment void as a bill of pains and penalties? c. Did Respondent Canjian Hou and attorney Henry Paloci's pursuit of the limited civil UD action, despite notice of the title dispute involving the 2015 judgment and bankruptcy violations (RJN Ex. 15, pp. 586, 591–601), constitute

extrinsic fraud and violate Cal. Penal Code § 487(a) (grand theft), negating their standing under CCP § 1161a(b)(3) and rendering the UD judgment void? (*Kulchar v. Kulchar*, 1 Cal.3d 467, 471 (1969); *In re Marriage of Park*, 27 Cal.3d 337, 342–43 (1980)). d. Did Judge Hesselstine’s March 18 and May 22, 2025, denials (RJN Ex. 15.1, 15.3) and Commissioner Snuggs-Spraggins’s unauthorized May 21 and 23, 2025, rulings (CT 134–135, 145), despite unopposed evidence of jurisdictional defects and title issues (RJN Ex. 15; CT 43, 51), perpetuate an unlawful taking by failing to transfer to unlimited jurisdiction, violating mandatory duties? (CCP § 396(b); *Shapell*, 85 Cal.App.5th 198, 211. f. Does the Court’s equitable authority require vacatur of the UD judgment, orders, and writ, with restoration of possession, restitution and damages, and transfer to unlimited jurisdiction to resolve the title dispute impacted by the 2015 judgment and bankruptcy violations?

**22. Appellant requests the Court adjudicate any other issues raised herein omitted from this list or know to it.**

## **VII. Conclusion**

This appeal holds a mirror to a judicial system that has failed to uphold its Constitutional mandate, reflecting a pattern of systemic harm that silenced Appellant and countless others. As a witness to this ethical fracture, Appellant seeks not vengeance but the restoration of justice’s foundation. The UD proceedings, marred by extrinsic fraud, jurisdictional defects, and ministerial misconduct, stripped Appellant of his home at 818 Spirit, Costa Mesa, CA, and ~\$1.2 million in equity, constituting an unconstitutional taking

without due process or just compensation. Enabled by a disputed 2015 case judgment and tainted bankruptcy and foreclosure proceedings, the UD's void judgment was secured through improper filings, unnotified default requests, obstructed Answers, unauthorized rulings, and Sheriff enforcement under threat of force. The trial court's refusal to address the complex title dispute or transfer to unlimited jurisdiction entrenched these violations, eroding public trust in the judiciary.

Respondent Canjian Hou, attorney Henry Paloci, Judge David Hesseltine, Commissioner Carmen Snuggs-Spraggins, the Deputy Clerks and their Supervisors, Sergeant Lopez, and Deputy Murillo collectively participated in a conspiracy and/or aided and abetted violations of California Penal Code sections, including § 115(a) (filing false documents), § 182(a) (conspiracy), § 487(a) (grand theft), § 470(d) (obtaining property by fraud), and § 532(a) (theft by false pretense). Their actions—spanning Hou's and Paloci's fraudulent filings, the Deputy Clerk's obstruction of Answers, Hesseltine's and Snuggs-Spraggins's failure to address unopposed evidence, and Lopez's and Murillo's refusal to investigate Constitutional and criminal violations—subverted due process, facilitated an unlawful taking/theft, and rendered the UD judgment, orders, and writ void. The ongoing title dispute, evidenced by Respondent's unauthorized payments on a disputed Citibank lien, continues to harm Appellant's financial interests, demanding urgent judicial intervention.

These violations, breaching the California Constitution's due process, takings, and equal protection clauses (Art. I, §§ 7, 9, 19) and the prohibition against bills of pains and penalties (U.S. Const., Art. I, § 10), undermine the judiciary and executive's roles as

Constitutional checks. Granting relief will restore Appellant's rights and reinforce the judiciary's and executive's independent duties to protect vulnerable litigants from systemic abuses.

### **VIII. Requested Relief**

Appellant Adam Bereki respectfully requests the following relief to remedy the unconstitutional deprivation of his property rights, restore judicial integrity, and ensure a fair adjudication of the underlying title dispute:

1. **Declaration of Void Judgments and Orders:** Declare the following void ab initio due to lack of subject matter jurisdiction, extrinsic fraud, and due process violations (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876); *Kulchar v. Kulchar*, 1 Cal.3d 467, 471 (1969)):
  - The default judgment in Case No. 30-2025-01459684 (ROA 18, CT 23–24).
  - The minute orders in Case No. 30-2025-01459684 (ROA 51, 60; CT 134–135, 145).
  - The minute orders in Case No. 30-2015-00805807 (RJN Ex. 15.1, 15.3).
  - The writ of possession (ROA 23, CT 26–28).
2. **Restoration of Rights and Property:** Order the restoration of all rights and property lost, including immediate possession of the property at 818 Spirit, Costa Mesa, CA, pursuant to Code Civ. Proc. § 908 and equitable principles, to rectify the unlawful eviction under duress on or about April 2, 2025, facilitated by an invalid writ and Sheriff enforcement (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876));

*Shapell Social Rental Props., LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198, 211 (2022)).

3. **Compensatory Damages:** Award compensatory damages for unlawful trespass (\$200/day from March 27, 2025), property damage (~\$50,000), lost personal property (~\$10,000), financial losses, and emotional distress caused by the fraudulent foreclosure, invalid UD proceedings, and unauthorized payments on the disputed Citibank lien (Ex. 1, pp. E174–E181). These damages arise from tortious conduct, including extrinsic fraud and conversion, stemming from violations of Cal. Penal Code §§ 115(a) (filing false documents), 470(d) (obtaining property by fraud), 487(a) (grand theft), and 182(a) (conspiracy) by Respondent Hou, attorney Paloci, and others.
4. **Leave to File an Accounting:** Grant leave to file an accounting post-restoration to determine the full extent of financial losses, including but not limited to equity loss, property damage, lost personal property, trespass damages, and costs incurred due to relocation and ongoing financial interference from Respondent's unauthorized payments on the disputed lien, to ensure complete restitution and damages (*Shapell*, 85 Cal.App.5th at 211; Cal. Civ. Code § 1708).
5. **Transfer to Unlimited Civil Jurisdiction:** Transfer the case to the unlimited civil division of the Superior Court to adjudicate the complex title dispute, including the validity of the foreclosure, the void 2015 judgment, and bankruptcy protection violations, which exceed the limited civil court's \$35,000 jurisdictional threshold (CCP §§ 85(a), 396(b), 580(b)(3); *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 146–147 (1980)).

6. **Reassignment to a Neutral Judge:** Reassign the case to a neutral judge to ensure an impartial hearing, free from bias or pecuniary interest, given the involvement of Judge Hesselstine and other judicial officers in related § 7031 proceedings.
7. **Declaratory Relief:** Declare that the Orange County Sheriff's Department, through Sergeant Lopez and Deputy Murillo, had a mandatory duty to investigate Appellant's bona fide complaints of Constitutional and criminal violations prior to enforcing the void writ, and that their failure to do so facilitated an unconstitutional taking (Cal. Const., Art. I, §§ 7, 19; *Marbury v. Madison*, 5 U.S. 137, 163 (1803)).
8. **Injunctive Relief:** Issue a permanent injunction prohibiting Respondent Hou, attorney Paloci, and their agents from further interfering with Appellant's property rights, pending resolution of the title dispute (Cal. Civ. Code § 1708).
9. **Referral to State Bar:** Order, on the Court's own motion, that attorney Henry Paloci be reported to the California State Bar for disciplinary investigation due to his filing of false documents, concealment of the title dispute, and pursuit of an unnotified default request, constituting extrinsic fraud and violations of professional duties under Cal. Bus. & Prof. Code § 6068(a)–(d).
10. **Costs and Fees:** Award Appellant costs, and other expenses incurred in this appeal and related proceedings, as authorized under equitable principles and to remedy the fraudulent deprivation of rights (*Shapell*, 85 Cal.App.5th at 211).
11. **All other relief the Court finds reasonable and just.**

This relief is necessary to restore Appellant’s property rights, remedy the unconstitutional taking of his home and equity, and ensure a fair and transparent adjudication of the title dispute in a court with proper jurisdiction.

## **IX. Constitutional Challenges**

### **A. The Judicial Practice of Issuing Unexplained Rulings in Motion Hearings, Enabled by CCP § 632’s Optional Framework, is Unconstitutional Under the California Constitution’s Due Process and Equal Protection Clauses Because it Permits Opaque, One-Word Rulings in Adjudications Affecting Substantive Rights, Depriving Parties of a Reasoned Basis For Review and Understanding of the Law**

The judicial practice in California of issuing unexplained, one-word rulings in motion hearings, exemplified by the optional “statement of decision” framework of California Code of Civil Procedure § 632, violates the Due Process and Equal Protection Clauses of Article I, § 7 of the California Constitution. While § 632 governs trials and certain evidentiary hearings, its permissive approach to findings reflects a broader systemic failure to mandate reasoned decisions in motion hearings, which often resolve significant property or liberty interests. This practice, as applied in Appellant’s case through one-word denials by Judge Hesseltine (“DENIED,” RJN Ex. 15.1, p. 760; RJN Ex. 15.3, p. 941) and Commissioner Snuggs-Spraggins (CT 134–135, 145), adjudicated a ~\$1.5 million property interest without articulating factual resolutions or legal bases, obstructing meaningful challenge and appellate review. California evaluates due process claims under the balancing test articulated in *People v. Ramirez*, 25 Cal.3d 260, 269 (1979), which weighs four factors: (1) the private interest affected, (2) the risk of erroneous deprivation and the value of additional procedural safeguards, (3) the dignitary interest in meaningful participation, and (4) the governmental interest, including administrative

burdens. The practice fails this test, and its disparate treatment of motion litigants compared to trial litigants violates equal protection by arbitrarily denying procedural safeguards to those with equivalent rights at stake (*Serrano v. Priest*, 18 Cal.3d 728, 765–66 (1976)). The statute’s requirement that litigants request a statement to obtain a reasoned decision imposes an unconstitutional burden, as due process does not require exhausting a flawed procedure (*Abelleira v. District Court of Appeal*, 17 Cal.2d 280, 293 (1941)), and reasoned decisions, including findings of fact and conclusions of law, are requisite to valid judgments (e.g., *Marbury v. Madison*, 5 U.S. 137, 177 (1803)). This systemic flaw, exacerbated by procedural obstructions and fraud in Appellant’s case, renders the practice unconstitutional on its face and as applied (*Ryan v. California Interscholastic Federation*, 94 Cal.App.4th 1048, 1071 (2001)).

**1. The Private Interest at Stake Demands Heightened Safeguards: Unexplained Rulings Deprive Parties of Property Rights Without Requiring a Request for a Statement**

Under the first *Ramirez* factor, the private interest affected by unexplained rulings in motion hearings is profound. Appellant’s interest in his ~\$1.5 million home, including ~\$1.2 million in equity stolen through wrongful foreclosure and eviction, is a core property right protected by California’s Due Process Clause (*Ryan*, 94 Cal.App.4th at 1071; *Ramirez*, 25 Cal.3d at 269). Yet the practice, enabled by § 632’s optional framework, permits Courts to resolve such claims with bare denials, as seen in Hesseltine’s March 18, 2025, “DENIED” order on Appellant’s ex parte stay application (RJN Ex. 15.1, p. 760), which ignored unopposed evidence of title defects, fraud, and irreparable harm (RJN Ex. 15, pp. 256–758). Similarly, Snuggs-Spraggins’s May 21, 2025, “DENIED” order on the motion to vacate (CT 134–135) dismissed Appellant’s challenges to Deputy Clerk

misconduct and jurisdictional voids without explanation, despite sworn declarations detailing the ~\$1.2 million equity loss (CT 51, ¶¶ 8–11). This opacity flouts the judiciary’s duty to articulate the legal basis for decisions (e.g., *Marbury v. Madison*, 5 U.S. at 177). Pre-1981 California precedents required signed findings as the “final, deliberate expression of the court,” superseding minute orders (*De Cou v. Howell*, 190 Cal. 741, 751 (1923); *Breedlove v. Breedlove*, 161 Cal.App.2d 712, 716 (1958)). The requirement that litigants request a statement to obtain such findings is an unconstitutional burden, as due process mandates automatic transparency without forcing parties to invoke it (*Abelleira*, 17 Cal.2d at 293; *Ramirez*, 25 Cal.3d at 268). In Appellant’s case, the one-word rulings enabled the Sheriff’s coercive eviction (CT 127; Ex. 3, pp. E216–E245) without clarifying why evidence of extrinsic fraud, title disputes, and jurisdictional defects (e.g., RJN Ex. 15) was rejected, violating the right to a transparent judicial determination (*Ramirez*, 25 Cal.3d at 268).

## ***2. The Risk of Erroneous Deprivation Is Grave, and Mandatory Findings Provide Essential Value***

Under the second *Ramirez* factor, the practice of issuing unexplained rulings in motion hearings heightens the risk of erroneous deprivation by forgoing mandatory findings, forcing parties to speculate on the Court’s reasoning. Federal analogs demonstrate the necessity of findings to enable review, as inadequate ones lead to remand (e.g., *Irish v. United States*, 225 F.2d 3, 7 (9th Cir., 1955); e.g., *Welsh Co. of Cal. v. Strolee of Cal.*, 290 F.2d 509, 510 (9th Cir., 1961)). California precedents echo this: omissions on material issues are fatal, as findings must resolve controverted facts explicitly (*Pio Pico v. Cuyas*, 47 Cal. 174, 179 (1873); *Savings & Loan Soc’y v. Burnett*,

106 Cal. 514, 519 (1895). The request mechanism under § 632—requiring specification within 10 days of a “tentative decision”—is illusory in motion practice like Appellant’s, where no tentative ruling exists and requests were repeatedly ignored (CT 134–135; RJN Ex. 15.1), leaving a “black box” record (e.g., *Ramos v. Matson Navigation Co.*, 316 F.2d 128, 131 (9th Cir., 1963)). In Appellant’s case, the risk materialized: Hesselstine’s “DENIED” order (RJN Ex. 15.1) dismissed unopposed evidence of ~\$1.2 million equity theft without resolving credibility or facts. Snuggs-Spraggins’s rulings falsely claimed consideration of “all parties” despite no opposition (CT 134, ¶ 1; CT 135, ¶ 3), ignoring Deputy Clerk misconduct (CT 51, ¶¶ 6, C, 10) and title defects exceeding \$35,000 (CT 43, lines 4–17), precluding objections or new trial motions (CCP §§ 633, 657). This impairs appellate review, as Courts cannot discern if substantial evidence supports the ruling without explicit resolutions (*Breedlove*, 161 Cal.App.2d at 716; *Kinney v. Vaccari*, 27 Cal.3d 348, 357 (1980)). The absence of findings is particularly egregious when motions raise extrinsic fraud or jurisdictional defects, which demand heightened scrutiny (*Westphal v. Westphal*, 20 Cal.2d 393, 397 (1942); *People v. American Contractors Indemnity Co.*, 33 Cal.4th 653, 661 (2004)). Here, the one-word denials ignored unopposed evidence of fraud and jurisdictional voids (RJN Ex. 15; CT 51, ¶ 9), shielding potential errors from review (e.g., *Perry v. Baumann*, 122 F.2d 409, 411 (9th Cir., 1941)).

### ***3. The Dignitary Interest in Meaningful Participation Is Undermined by Unexplained Rulings***

Under the third *Ramirez* factor, the practice undermines the dignitary interest by denying parties a meaningful opportunity to participate and understand judicial decisions. Due process requires procedures that respect autonomy and the right to be heard

(*Ramirez*, 25 Cal.3d at 268). The absence of mandatory findings left Appellant without clarity on why his unopposed evidence of fraud, jurisdictional defects, and title disputes (RJN Ex. 15, pp. 256–758) was dismissed, stifling his ability to seek redress or instruct representatives to pursue legal changes (*C.S. v. Superior Court*, 29 Cal.App.5th 1009, 1023 (2018)). The one-word denials (RJN Ex. 15.1; CT 134–135) treated Appellant’s claims as inconsequential, violating the principle that judicial processes must afford respect and transparency (*Ryan*, 94 Cal.App.4th at 1071). This harm was compounded by the Court’s refusal to provide a court reporter or allow digital recording despite Appellant’s indigent status (RJN Ex. 15, p. 262; *Jameson v. Desta*, 5 Cal.5th 594, 608–09 (2018)). For indigent or self-represented litigants like Appellant, unexplained rulings create a de facto barrier to justice, as they lack the resources to navigate opaque decisions or request clarifications, exacerbating the dignitary harm and risking erroneous deprivations (*Jameson*, 5 Cal.5th at 608–09).

#### **4. Judicial Economy Cannot Justify Systemic Due Process Violations, and Failure to Request a Statement Does Not Waive the Right to Findings**

Under the fourth *Ramirez* factor, the efficiency rationale for unexplained rulings fails, as the burden of brief findings is minimal compared to the cost of reversible errors and eroded trust. Federal courts uphold findings without over-elaboration if “sufficiently comprehensive” (e.g., *Carr v. Yokohama Specie Bank, Ltd.*, 200 F.2d 251, 255 (9th Cir. 1952)), and California precedents require explicit resolutions of principal issues (*Savings & Loan Soc’y v. Burnett*, 106 Cal. at 519). However, the practice of issuing one-word or conclusory rulings, enabled by the lack of mandatory findings in ex parte hearings where § 632 statements of decision are typically inapplicable, facilitated abuses here:

Hesseltine’s deferral to a future hearing without addressing irreparable harm (RJN Ex. 15.8A, p. 1515, lines 4–6), and Snuggs-Spraggins’s false “voluntary move-out” claim (CT 135, ¶ 4) despite evidence of Sheriff threats (CT 51, ¶ 11). Any theoretical ability to request a statement of decision does not undermine Appellant’s challenge, as due process does not require exhausting a flawed or inapplicable procedure (*Abelleira v. District Court of Appeal*, 17 Cal.2d at 293). As an indigent litigant facing deputy clerk obstruction (CT 51, ¶¶ 6, 8), no court reporter (RJN Ex. 15, p. 262), and a pattern of the court ignoring unopposed evidence (RJN Ex. 15.8A, p. 1515), any attempt to seek further clarification was futile (*Kinney v. Vaccari*, 27 Cal.3d at 357).

#### ***5. Unexplained Rulings Impair the Right to Meaningful Appellate Review, a Core Due Process Protection***

The practice of issuing unexplained rulings violates due process by rendering appellate review illusory, a core component of fair judicial proceedings. Without a reasoned explanation, as in the one-word denials by Hesseltine (RJN Ex. 15.1, p. 760) and Snuggs-Spraggins (CT 134–135), Appellant cannot ascertain whether the Court considered unopposed evidence of fraud, title defects, jurisdictional voids or irreparable injuries, precluding meaningful appeal under the abuse of discretion or substantial evidence standards. This systemic flaw undermines the California Constitution’s guarantee of transparent and reviewable judicial determinations. The absence of findings is particularly detrimental in cases like Appellant’s, where allegations of extrinsic fraud, protection from irreparable injury, and jurisdictional defects require explicit resolution to ensure the Court fulfilled its duty.

**6. The Practice Violates Equal Protection by Arbitrarily Denying Motion Litigants Procedural Safeguards Afforded to Trial Litigants**

The practice of permitting unexplained rulings in motion hearings violates the Equal Protection Clause of Article I, § 7 of the California Constitution. By denying motion litigants equivalent procedural safeguards despite comparable substantive rights at stake, the practice creates an arbitrary classification without a rational basis (*Serrano v. Priest*, 18 Cal.3d at 765–66). This disparity disproportionately harms indigent and self-represented litigants like Appellant, who lack the resources to navigate opaque rulings or request clarifications, exacerbating the dignitary harm and risking erroneous deprivations (*Jameson*, 5 Cal.5th at 608–09). Motion hearings, like trials, can resolve significant property interests, as in Appellant’s case involving ~\$1.5 million (RJN Ex. 15, pp. 256–758; CT 51, ¶¶ 8–11), yet the lack of mandatory findings leaves motion litigants without the tools for meaningful review, violating equal protection (*Ryan*, 94 Cal.App.4th at 1071).

**7. Unexplained Rulings Undermine Public Confidence in the Judiciary**

The practice erodes public trust in the judiciary by creating the appearance of arbitrary or unaccountable decision-making, violating the California Constitution’s implicit guarantee of a fair and transparent judicial system. One-word rulings, like those in Appellant’s case, suggest that significant claims are dismissed without consideration, undermining the judiciary’s duty to articulate the legal basis for decisions (e.g., *Marbury v. Madison*, 5 U.S. at 177). This diminishes the dignitary interest under the third *Ramirez* factor and erodes public confidence in the fairness of judicial proceedings (*Ryan*, 94 Cal.App.4th at 1071).

**8. As Applied Here, the Practice of Issuing Unexplained Rulings, Enabled by CCP § 632's Framework, Violated Appellant's Due Process and Equal Protection Rights Under the California Constitution by Permitting Unexplained Denials That Perpetuated Fraud and Jurisdictional Errors in A Multimillion-Dollar Property Dispute**

The practice is unconstitutional as applied under the California Constitution, as it enabled one-word denials that obstructed Appellant's defenses and affirmed a void judgment. California Courts do not extend § 632 to motions requiring factual determinations. Here, the rulings resolved disputed facts—e.g., title validity, foreclosure validity, clerk misconduct, irreparable harm—without explanation, impairing review. Hesseltine's March 18, 2025, denial (RJN Ex. 15.1) bypassed evidence of ~\$1.2 million equity theft (RJN Ex. 15, p. 386), and Snuggs-Spraggins's May 21, 2025, order (CT 134–135) ignored unopposed proof of premature default (CT 51, ¶ 9). There does not appear to be any remedy other than to file a request for consideration noting the deficiencies. But here, even this proved futile. The practice's disproportionate impact on indigent litigants like Appellant, who faced barriers like the lack of a Court reporter (RJN Ex. 15, p. 262), further violated equal protection by denying him the tools to challenge opaque rulings (*Jameson*, 5 Cal.5th at 608–09).

**9. Conclusion**

The judicial practice of issuing unexplained rulings in motion hearings, enabled by § 632's optional framework, is unconstitutional under the *Ramirez* factors and equal protection principles for dispensing with mandatory findings, risking arbitrary property deprivations and disparate treatment of motion litigants. As applied, it enabled

unexplained denials that perpetuated fraud and jurisdictional voids in Appellant’s case, warranting reversal, vacatur of the default judgment (CT 23–24).

## **B. Constitutional Challenge to the Doctrine of “Excess Of Jurisdiction”**

California precedent, “excess of jurisdiction” includes acts exceeding a Court’s defined power, whether by constitutional, statutory, or judicial limits, as defined in *Abelleira v. District Court of Appeal*, 17 Cal. 2d 280, 291 (1941), rendering judgments voidable and typically correctable only on direct review, not collateral attack, absent unusual circumstances. For example, in *People v. American Contractors Indemnity Co.*, 33 Cal. 4th 653, 660-61 (2004), a premature bail forfeiture judgment was voidable due to the Court’s fundamental jurisdiction over the matter.

Appellant challenges this doctrine, asserting that all acts violating mandatory non-discretionary Constitutional provisions are fundamental jurisdictional defects, not mere excesses, as they negate the Court’s power entirely. Constitutional provisions impose mandatory and prohibitory duties, delimiting judicial power from its inception (Cal. Const. Art. I, § 26; U.S. Const. Art. VI. § 2). No jurisdiction (authority) exists to perform a prohibited act; thus, there is no “excess” of authority never possessed. Subject-matter jurisdiction (SMJ) is not a singular initial threshold but a continuing requirement for every issue and act within a case, ensuring compliance with Constitutional limits (e.g. *Windsor v. McVeigh*, 93 U.S. 274, 282 (1876) (“[court] must act judicially in all things, and cannot then transcend the power conferred by the law”; CCP § 410.10). The initial power to hear a case type—here, unlawful detainer under Code of Civil Procedure § 1161 *et seq.*—does not confer authority to violate Constitutional mandates. Violations render the act void ab

initio, subject to direct attack and, secondarily, collateral attack at any time (e.g. CCP §§ 1916, 410.10) The California Supreme Court in *Katzberg v. Regents of University of California*, 29 Cal. 4th 300, 307 (2002), affirmed that “[e]very constitutional provision is self-executing to this extent, that everything done in violation of it is void” (quoting *Oakland Paving Co. v. Hilton*, 69 Cal. 479, 484 (1886)), reinforcing that Constitutional breaches negate power entirely, not as excesses within valid authority. This challenge is critical to prevent Respondents from invoking cases such as *Abelleira* to shield the UD Court’s actions as mere procedural excesses, thereby avoiding acknowledgment of the fundamental lack of SMJ due to the complex title dispute and Constitutional violations.

The default judgment (CT 23-24), orders denying vacatur and reconsideration (CT 134-135, 145), and stay denials (RJN Ex. 15.1, 15.3) in this unlawful detainer action are void, not excesses, due to fundamental Constitutional violations negating SMJ per act. These defects include the Deputy Clerk’s obstruction of Appellant’s March 14 and 19, 2025 Answers (CT 44, 51, 55-60; *Baske v. Burke*, 125 Cal. App. 3d 38, 45 (1981) (clerk’s obstruction of filings negates SMJ as Appellant was not heard: jurisdiction is the right to hear and determine not determine without hearing, *Windsor*, 93 U.S. at 283-4)), Judge Hesseltine’s summary stay denial on March 18, 2025, ignoring unopposed evidence of title defects, irreparable injury, and fraud (RJN Ex. 15.1; *Buxbom v. Smith*, 23 Cal. 2d 535, 542-543 (1944) (courts must liberally construe pleadings for justice)), the premature default entry despite notice requirements (CT 20-22; *Shapell*, 85 Cal. App. 5th at 214; CCP § 1013(a)), Commissioner Snuggs-Spraggins’ unauthorized rulings without stipulation (CT 134-135, 145; *Reisman v. Shahverdian*, 153 Cal. App. 3d 1074, 1096-1097 (1984)), and the Sheriff’s coercive execution of a fraudulent writ (Ex. 3, pp. E216-

245). These acts violated due process (Cal. Const. Art. I, § 7), takings (Cal. Const. Art. I, § 19; e.g. *Tyler v. Hennepin County*, 598 U.S. 631 (2023) (equity theft unconstitutional)), and bills of pains and penalties (Cal. Const. Art. I, § 9; U.S. Const. Art. I, § 10), stemming from a fraudulent foreclosure and title dispute exceeding the limited civil court's \$35,000 threshold (Code Civ. Proc. §§ 85(a), 580(b)(3); *Asuncion*, 108 Cal. App. 3d at 146-147 (UD court lacks jurisdiction over complex title disputes)). Respondent's concealment of the title dispute (RJN Ex. 15, pp. 586, 594, 601) constituted extrinsic fraud, further voiding SMJ (*Kulchar v. Kulchar*, 1 Cal. 3d 467, 471 (1969); *In re Marriage of Park*, 27 Cal. 3d 337, 342-343 (1980)).

The Supremacy Clause binds state Courts to federal Constitutional mandates as “the supreme Law of the Land.” California Constitution Article I, Section 26, declares its provisions self-executing, mandating compliance with due process (§ 7: “A person may not be... deprived of life, liberty, or property without due process of law”), takings (§ 19: “Private property may not be taken... without just compensation”), and bills of pains and penalties (§ 9) (*Katzberg*, 29 Cal. 4th at 307). These absolute mandates leave no discretion; exemptions “mark [power's] extent” (*Gibbons v. Ogden*, 22 U.S. 1, 191(1824)). SMJ, as both the right to hear and determine, requires per-act compliance with “established modes governing the class to which the case belongs” (*Windsor v. McVeigh*, 93 U.S. at 282). Initial case-type power yields to Constitutional prohibitions, voiding acts that transcend them.

The UD Court lacked SMJ due to a complex title dispute and damages exceeding \$35,000, arising from a fraudulent foreclosure selling Appellant's ~\$1.5 million home for

\$371,688, a ~\$1.2 million equity theft (*Yvanova v. New Century Mortg. Corp.*, 62 Cal. 4th 919, 935 (2016) (void foreclosure invalidates title); *Tyler*, 598 U.S. at 639). Respondent's concealment of the dispute (RJN Ex. 15, pp. 586, 594, 601) breached disclosure duties (*Gillespie v. Ormsby*, 126 Cal. App. 2d 513, 527-528 (1954); *In re Marriage of Park*, 27 Cal. 3d at 342-343), constituting extrinsic fraud (*Kulchar*, 1 Cal. 3d at 471) and fraud on the Court (Civ. Code § 1710(1)-(3)). The Deputy Clerk's answer rejections (CT 44, 51, 55-60) breached ministerial filing duties, negating notice and mirroring *Windsor's* voided forfeiture for striking an appearance (*Windsor*, 93 U.S. at 276-78 (“[a] sentence... without hearing... is not a judicial determination... and is not entitled to respect in any other tribunal.”); *Baske v. Burke*, 125 Cal. App. 3d at 45). Judge Hesseltine's one-word stay denial (RJN Ex. 15.1), ignoring unopposed evidence, violated liberal construction for justice (*Buxbom*, 23 Cal. 2d at 542-543) and transfer duties (Code Civ. Proc. § 396(b); *Copeland v. Desert Inn Hotel*, 258 Cal. App. 2d 352, 355-356 (1968)). The premature default (CT 20-22), ignoring notice requirements (*Shapell*, 85 Cal. App. 5th at 214; CCP § 1013(a)), and Commissioner Snuggs-Spraggins' unauthorized ruling without stipulation, negated SMJ. The Sheriff's execution under threat of force enabled an unconstitutional taking.

*Vanhorne's Lessee v. Dorrance*, 2 U.S. 304, 308 (1795), declares acts repugnant to Constitutional mandates “absolutely void,” as “Constitutions fix limits to the exercise of ...authority.” The UD's \$1.18 million equity seizure violates takings protections (Cal. Const. Art. I, § 19; *Tyler*, 598 U.S. at 639). *Windsor* mandates Courts “act judicially in all things,” voiding acts as “arbitrary edict[s]” (93 U.S. at 278, 282). *County of Ventura v. Tillett*, 133 Cal. App. 3d 105, 110 (1982), voids a support judgment for due process failure,

as “a court... does not have jurisdiction to render a judgment that violates the... Constitution.” *County of San Diego v. Gorham*, 185 Cal. App. 4th 1215, (2010), voids rulings for fraudulent service. *Drink Tank Ventures LLC v. Real Soda in Real Bottles, Ltd.*, 71 Cal. App. 5th 528 (2021), voids judgments on invalid claims.

All judgments and orders—default judgment (CT 23-24), vacatur/reconsideration denials (CT 134-135, 145), and stay denials (RJN Ex. 15.1, 15.3)—are void as fundamental defects, not excesses, for violating self-executing constitutional mandates. This challenge ensures Respondents cannot dismiss these violations as procedural excesses, compelling recognition of the UD Court’s fundamental lack of SMJ. Vacatur of the default judgment (CT 23-24), orders (CT 134-135, 145), and writ (CT 26-28), transfer to unlimited jurisdiction to resolve the title dispute (Code Civ. Proc. § 396(b); *Asuncion*, 108 Cal. App. 3d at 146-147), restitution of possession and damages (*Shapell*, 85 Cal. App. 5th at 211), and reassignment to a neutral judge are compelled to remedy the jurisdictional void and restore judicial integrity.

### **CERTIFICATE OF WORD COUNT**

I certify that, according to the representations of the word-processing program used to prepare this brief, the brief (inclusive of the excluded items listed in rule 8.204(c)(3)) contains 26,400 words.

Dated: October 7, 2025



Adam Bereki

# Appendix B

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE**

**MINUTE ORDER**

DATE: 10/09/2025

TIME: 03:01:00 PM

DEPT:

JUDICIAL OFFICER PRESIDING: Appellate Panel

CLERK: N. Sharma

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2025-01482941-CL-UD-CJC** CASE INIT.DATE: 05/15/2025

CASE TITLE: **Hou vs. Bereki**

CASE CATEGORY: Civil - Limited

CASE TYPE: Unlawful Detainer - Residential

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**APPEARANCES**

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There are no appearances by any party.

Appellate Panel Judge(s):

Honorable Kimberly A. Knill, Presiding Judge

Honorable Thomas S. McConville, Judge

Honorable Vibhav Mittal, Judge

Trial Court Case Number: 30-2025-01459684

Appellant's request to transfer to the Court of Appeal is denied. Appellant contends the appellate division lacks jurisdiction over this case. Not so. The appellate division has jurisdiction over the unlawful detainer appeal. (Code Civ. Proc., §§ 86, subd. (a)(4), 77, subd. (e), 904.2.)

Appellant attaches an application to file an oversized opening brief to the request for transfer. The application to file an oversized opening brief is denied.

The appeal is currently in default for appellant's failure to timely file the opening brief. This court grants appellant an extension of time to file the opening brief. The opening brief shall be filed no later than October 22, 2025.

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DATE: 10/09/2025

MINUTE ORDER

Page 1

DEPT:

Calendar No.

A-122

# Appendix C

In the Appellate Division of the Superior Court of California  
for the County of Orange

Consolidated Case Nos.:  
30-2025-1482941 (Lead Case) and 30-2025-01487778

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Adam Bereki,  
Appellant.

v.

Canjian Hou,  
Respondent.

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**EX PARTE APPLICATION FOR RECONSIDERATION OF  
OCTOBER 9, 2025 MINUTE ORDER**

**Hearing: Wednesday October 15, 2025**

**Time: 9:00AM**

**Location: Zoom (Court to provide link)**

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Adam Bereki  
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**TO THE APPELLATE DIVISION OF THE SUPERIOR COURT OF ORANGE COUNTY:**

I, Adam Bereki, respectfully move this Court, pursuant to Code of Civil Procedure § 1008(a) and California Rules of Court, Rules 3.1200 et seq. and 8.54, for ex parte reconsideration of its Minute Order dated October 9, 2025, denying my request to transfer this appeal to the Fourth District Court of Appeal and denying my application to file an oversized opening brief.

This Application is based on the new circumstance that this Court issued its ruling before I filed my Request for Judicial Notice (RJN) and supporting exhibits, which are essential to demonstrating that the trial Court lacked jurisdiction over the underlying unlawful detainer (UD) action (Case No. 30-2025-01459684) as Code of Civil Procedure (CCP) § 580(b)(3) states, “No relief may be granted in a limited civil case for... [t]he determination of title to real property,” and § 85(a) states, “A limited civil case is a civil action or proceeding in which the amount in controversy, including the value of any property or lien that is the subject of the action or proceeding, does not exceed thirty-five thousand dollars (\$35,000)...”

The Verified Opening Brief and supporting exhibits evidence an underlying title dispute and a ~\$1.5 million+ amount in controversy (the property’s value) and restitution and damages resulting from void UD judgment precluding limited civil jurisdiction. As this case is not a “limited civil case” within the meaning of CCP §§ 85 and 86, no appeal of judgments or orders was made pursuant to CCP § 904.2 as that section only applies to a “limited civil case”.

## **DECLARATION OF URGENCY FOR EX PARTE RELIEF AND NOTICE**

I, Adam Bereki, declare under penalty of perjury or the laws of California that all statements of fact made herein are true and correct and that ex parte relief is necessary to avert continued irreparable harm. The Court's ruling, issued before my RJN and supporting exhibits were filed, and its failure to address my unopposed title dispute and monetary jurisdictional threshold evidence perpetuate the unconstitutional taking of my home, ~\$1.2 million in equity (Cal. Const., Art. I, §§ 7, 19), have and/or continue to allow Respondent to make unauthorized alterations and to occupy my property unlawfully, violating due process by denying my right to appeal in a Court vested with subject matter jurisdiction to hear and determine it. The Fourth District's review of the related 2015 case (Case No. G065695) adds urgency, as it likely impacts the title dispute.

I provided notice to of this Ex parte Application to Respondent's counsel, Henry Paloci, by leaving a message on his phone (844.398.5500) on October 14, 2025 at around 0830 hours. I also sent an email giving notice to both Paloci and Respondent Hou on this same date and time. This Application was electronically served on them shortly thereafter.

## **STATEMENT OF FACTS AND GROUNDS FOR RECONSIDERATION**

### **A. This Court Lacks Subject Matter Jurisdiction to Hear and Determine This Appeal**

1. On October 7, 2025, I filed my Application for Transfer/ Re-Assignment ("AFT") to transfer the appeal in this case from this Court to the Fourth District Court of Appeal pursuant to CCP § 396(b) along with an Application to File an Oversized Brief

("AOB") and my Verified Opening Brief ("VOB"). Each of these documents is incorporated as if fully set forth herein.

2. The AFT, which fully incorporated the VOB, challenged this Court's fundamental subject matter jurisdiction to hear and determine this appeal on the grounds that two statutes bar it from exercising appellate jurisdiction: CCP §§ 85(a) and 580(b)(3)).
3. **CCP 85:** CCP 85(a) states that "...an action or special proceeding shall be treated as a limited civil case only if all the following conditions are satisfied: [Among the relevant conditions to be satisfied is sub-division (a) which states:] The amount in controversy does not exceed ...(\$35,000). As used in this section, "amount in controversy" means the amount of the demand, or the recovery sought, or the value of the property, ...that is in controversy in the action."
4. As established in my VOB and RJN, the amount in controversy in this case is minimally \$1.5 million+ which is the estimated value of the property (e.g.VOB, pp.31), \$1.2 million in equity (Id.; CT 51 Decl. ¶ 3). This amount was concealed from the Court by Respondents to fraudulently obtain jurisdiction pursuant to CCP § 1161a (VOB, pp.41-58 ; RJN Ex. 15), resulting in void UD judgment.
5. Damages related to the fraud and due process actions related the void UD action are estimated to be over \$150,000. These damages include moving expenses, storage, unauthorized alterations to Appellant's home (CT 52-3 ¶'s 13, 14, 16) RJN), and his lost time in earning an income while seeking remedy for the unlawful acts taken upon him and his estate.
6. These amounts far exceed the \$35k jurisdictional threshold set by CCP § 85(a).

7. **CCP 580:** CCP 580(b) states that “...the following types of relief **may not be granted** in a limited civil case:

(1) Relief exceeding the maximum amount in controversy for a limited civil case as provided in Section 85 [\$35k], exclusive of attorney’s fees, interest, and costs.

(2) [omitted, not relevant here].

(3) A determination of title to real property.

(4) Declaratory relief, except as authorized by Section 86.

8. I contend that subdivisions (1), (3), and (4) apply in this case. Subdivisions (1) and (4) pertain to the monetary limit of the controversy and have already been addressed above.

9. With regard to subdivision (3), the VOB and RJN establishes a prima facie case that a bona fide title dispute exists, including a void 2015 case judgment that lead to financial impairment of private contracts and obligations, irregularities in the foreclosure sale, and unresolved liens affecting title (collectively VOB pp. 17-38, RJN Ex. 15), all precluding the UD Court (and consequently this Court) from exercising jurisdiction because fundamental due process requires the underlying title dispute to be adjudicated before the issue of possession and the UD Court lacked subject matter jurisdiction to hear a title dispute pursuant to CCP § 580(b)(3) (*Asuncion v. Superior Court*, 108 Cal.App.3d 141 (1980) (“homeowners cannot be evicted, consistent with due process guaranties, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership” (Id. at 147))); *Dr. Leevil, LLC v. Westlake Health Care Center*, 6 Cal.5th 474, 480 (2018) (“relief not statutorily authorized [in unlawful detainer

proceedings] may not be given due to the summary nature of the proceedings.”)  
(Citation omitted)).

10. Because the UD Court lacked subject matter jurisdiction to hear and determine the title dispute, it had a mandatory, non-discretionary ministerial duty to transfer the case to the unlimited civil division of the Superior Court pursuant to CCP § 396(b); *Dr. Leevil*. This transfer never happened because of fraud, ethical, statutory, and due process violations by Respondent, his attorney, and Court officials, including actions that obstructed Appellant from Answering the UD complaint and presenting evidence of the underlying dispute in the UD case (VOB pp.41-58 ; RJN Ex. 15).
11. Based on the foregoing, this case is not a “limited civil case” as defined by CCP § 85(a), (c)(4), and 86(a)(1), (b)(1).
12. Pursuant to CCP §§ 85(a) and 580(b)(3), my Application for Transfer requested this Court abide its mandatory, non-discretionary, ministerial duty under CCP § 396(b) to transfer this case to the Fourth District Court of Appeal.
13. On October 9, 2025, before I filed the supporting Request for Judicial Notice and exhibits referenced in my VOB, this Court issued its Minute Order denying my transfer request and oversized brief application, asserting jurisdiction under CCP §§ 86(a)(4), 77(e), and 904.2, with a brief statement: “Appellant contends the appellate division lacks jurisdiction over this case. Not so.”
14. I intended to file my RJN and supporting exhibits (RJN Ex. 1-24 and Ex. 1-7) on or about October 10, 2025. I needed a short time to finish preparing these documents and was also awaiting the Court’s approval of my fee waiver request so that I would not incur further financial strain and damages from either printing and mailing

thousands of pages of documents or the fees associated with electronically filing them.

15. The RJN and supporting exhibits are essential as they establish Respondent's lack of UD standing (CCP § 1161a(b)(3)) including a prima facie case for a bona fide title dispute, the fact that the amount in controversy was/is in excess of \$35k, and the extrinsic fraud, fraud on the Court, ethical, statutory, and due process violations by Respondent, his attorney, and Court officials depriving the UD Court of fundamental jurisdiction.
16. Without these exhibits, this Court could not fully assess my claim that the UD Court and this Court lack subject matter jurisdiction, or the need for an oversized brief to the multiple complex issues involving the underlying title dispute (VOB pp. address five orders (VOB pp. 13-14), the sheriff's unlawful execution (VOB pp. 60-68; Ex.'s 2, 3, 5, 6) and two Constitutional challenges (VOB pp. 92-104).
17. This Court's ruling, issued without reviewing the RJN and exhibits, constitutes a new circumstance under CCP § 1008(a), as it limited my opportunity to present essential evidence and argue the need for additional brief length. Additionally, this Court's breach of mandatory duty to transfer this appeal, unlawful placement of this appeal in default, and unlawful order to resubmit the appeal to this Court when it lacks subject matter jurisdiction are violations of due process and new circumstances warranting reconsideration.
18. This Court's ruling does not provide a meaningful and substantive findings of fact or conclusions of law reconciling my jurisdictional challenge including how this Court has subject matter jurisdiction despite the underlying title dispute and

amount in controversy beyond the \$35k jurisdictional threshold. These issues are significant, as they risk this Court exercising jurisdiction it does not possess, further harming me by perpetuating the unconstitutional taking of my home, ~\$1.2 million in equity theft (Cal. Const., Art. I, §§ 7, 19; Cal. Penal Code § 487), damages to my home by Respondent through unauthorized alterations, and violation of my right to a judicial determination of my rights on appeal by a Court vested with subject matter jurisdiction:

*“We have no more to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution.” Cohens v. Virginia, 19 U.S. 264, 404 (1821).*

19. None of the statutes cited by this Court in its Order resolve the jurisdictional issues I raised. The following, examines each authority cited in the Order, and demonstrates, given the factual circumstances in this case, that this Court lacks subject matter jurisdiction to hear and determine this appeal:

20. **CCP § 86(a)**: CCP § 86(a) states “[t]he following civil cases and proceedings are limited civil cases: “...(4)[a] proceeding in forcible entry or forcible or unlawful detainer if the whole amount of damages claimed is thirty-five thousand dollars (\$35,000) or less.” As previously evidenced, the amount in controversy (~1.5 million+) is far beyond this jurisdictional limit.

21. **CCP § 77(e)**: CCP § 77(e) states: “[t]he appellate division of the superior court has jurisdiction on appeal in all cases in which an appeal may be taken to the superior court or the appellate division of the superior court as provided by law, except where the appeal is a retrial in the superior court.” Because this is cases is not a

“limited civil case” as defined by CCP 85 and 86 it is not “an appeal [that] may be taken” to this Court.

22. **CCP § 904.2:** CCP § 904.2 applies to rulings by the Court “in a limited civil case”.

As evidenced, this case does not meet the jurisdictional requisites of a “limited civil case” as evidenced and defined by CPP §§ 85 and 86. Consequently, this authority to hear and determine this appeal cannot be invoked because “[f]undamental jurisdiction cannot be conferred by waiver, estoppel, ...consent [,or judicial order] (*JHVS Grp., LLC v. Slate*, 107 Cal. App. 5th 30, 35 (2024)(citation omitted).

23. The Court’s ruling, without meaningfully and substantively addressing my *unopposed* jurisdictional arguments or evidence, violates due process by not providing a reasoned basis, hindering meaningful appellate review, transparency in rulings, and my ability to understand the law. One of the Constitutional challenges in my VOB addresses this issue (VOB, pp. 92-99).

24. This Court lacked subject matter jurisdiction to deny my AFT and AOB, place this appeal in default, or order me to file a brief in this Court, as it fundamentally lacks authority to hear and determine this appeal. The Judges of this appellate panel, including Krill, McConville, and Mittal, acted arbitrarily and without jurisdiction by failing to fulfill their sworn, mandatory, non-discretionary duty to transfer this appeal, violating due process. Their actions, which are subject to civil liability, caused me harm by requiring me to spend time in preparing this Application to correct this violation and ensure that a court of competent jurisdiction hears and determines this Appeal.

25. I spent eight hours (due in part to emotional distress) preparing and filing this Application and incurred approx. \$30 in e-filing fees. My hourly fee is \$300 per hour, resulting in \$2,430 in compensatory damages. (If paid, this amount will not affect my Fee Waiver as this money will go to repay a loan for food, rent, and other necessities and will not increase my ability to pay for future Court expenses that I currently cannot afford).
26. Each of the Judges should reasonably pay 1/3 of this amount to me within ten calendar days of this filing. Failure to compensate me will result in lawful action and additional damages necessary to obtain remedial justice. Appellant reserves the right to commence an action for additional damages.
27. Because the Judges of this appellate panel have a financial interest in the determination of this matter as indicated above and have acted without authority and violated due process, there is a conflict, and their impartiality is evident (Code Civ. Proc. § 170.1(a)(3)(A), (a)(6)(A)(iii); *Christie v. City of El Centro*, 135 Cal.App.4th 767, 776 (2006); Cal. Code of Judicial Ethics, Canon 3E(1); *Tumey v. Ohio*, 273 U.S. 510, 523 (1927)). I hereby request a new impartial panel be assembled to determine the issues presented herein.
28. I continue experience physical, psychological, and emotional distress resulting from the actions of Respondent, Paloci, and Court officials taken in this case, the 2015 case, and all other official complaints where officials have refused to investigate and/or to intervene to stop these egregious abuses of authority and crimes on me and my family.
29. My RJN and supporting exhibits will be filed within 1-2 days.

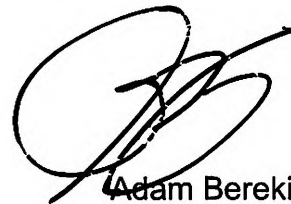
30. All bolded emphasis added.

### **REQUESTED RELIEF**

You will please grant the following relief:

1. Provide a zoom link or telephone number for the oral hearing to Respondent and I.
2. Vacate the Minute Order dated October 9, 2025, and grant the request to transfer the appeal to the Fourth District Court of Appeal.
3. Grant such other relief as the Court deems just and proper.

Singed on October 14, 2025, in Las Vegas, Nevada.



Adam Bereki

# Appendix D

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE**

**MINUTE ORDER**

DATE: 10/17/2025

TIME: 10:04:00 AM

DEPT:

JUDICIAL OFFICER PRESIDING: Appellate Panel

CLERK: N. Sharma

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2025-01482941-CL-UD-CJC** CASE INIT.DATE: 05/15/2025

CASE TITLE: **Hou vs. Bereki**

CASE CATEGORY: Civil - Limited

CASE TYPE: Unlawful Detainer - Residential

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**APPEARANCES**

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There are no appearances by any party.

Appellate Panel Judge(s):

Honorable Kimberly A. Knill, Presiding Judge

Honorable Thomas S. McConville, Judge

Honorable Vibhav Mittal, Judge

Trial Court Case Number: 30-2025-01459684

Appellant's ex parte application for reconsideration is denied.

# Appendix E

In the Fourth District Court of Appeal of California

Case No. GO66117

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Adam Bereki,  
Petitioner

v.

Appellate Division of the Superior Court of California  
for the County of Orange,  
Respondent

v.

Canjian Hou,  
Real Party in Interest

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**FIRST AMENDED PETITION FOR WRIT OF MANDATE  
TO THE APPELLATE DIVISION OF THE SUPERIOR COURT  
FOR THE COUNTY OF ORANGE  
RELATED APPEAL PENDING**

Consolidated Case Nos.:  
30-2025-1482941 (Lead Case) and 30-2025-01487778

**\*\*\*STAY REQUESTED\*\*\***

All Proceedings in the Appellate Division of the Superior Court of Orange County,  
Consolidated Case Nos. 30-2025-01482941 and 30-2025-01487778, Including Minute  
Orders Dated October 9 and 17, 2025. Stay requested for October 22, 2025 by 5:00 PM

**RELATED FOURTH DISTRICT APPEAL CASE NO: G055075**

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Adam Bereki  
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Las Vegas, Nevada 89129  
949.241.6693 | abereki@gmail.com

Jurisdiction is the right to hear and determine, not determine without hearing.

–*Windsor v. McVeigh*, 93 U.S. 277, 283-4 (1876)

## **CERTIFICATE OF INTERESTED PARTIES**

Pursuant to California Rules of Court, rule 8.208, Petitioner hereby certifies that the following listed persons and entities have an interest in the outcome of this appeal. This certificate includes: (1) all parties to the appeal; (2) all real parties in interest; (3) all judges and commissioners who issued orders or judgments challenged in this appeal; (4) all attorneys of record; (5) all persons or entities whose interests may be affected by the outcome of the appeal; (6) any unnamed or unknown court clerks, deputy clerks, or supervisory clerks involved in the proceedings below; and (7) any law enforcement officers, including sergeants and deputies, whose actions are challenged as aiding Constitutional violations (e.g., Sergeant Lopez and Deputy Murillo of the Orange County Sheriff's Department Civil Enforcement Division). The appellate panel justices (Justices Motoike, Delaney, and Scott, of the Fourth District Court of Appeal, Division Three) are included due to potential pecuniary interest arising from their involvement in similar § 7031 cases (*Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024)), subjecting them to disqualification under CCP § 170.1(a)(6)(ii) for bias or pecuniary interest in upholding prior rulings.

### **Parties to the Appeal:**

- Adam Bereki, Appellant
- Canjian Hou

**Real Parties in Interest:**

- Henry Paloci (Respondent's attorney)
- Orange County Superior Court (Judicial entity overseeing UD case No. 30-2025-01459684 and related 2015 case No. 30-2015-00805807)
- Fourth District Court of Appeal (Judicial entity overseeing case No. G055075)
- Orange County Sheriff's Department (Civil Enforcement Division; involved in writ execution and eviction)
- Citizens Bank NA (Foreclosing entity; interest in validity of foreclosure sale)
- Trustee Corps (Foreclosure trustee; interest in validity of trustee's deed)
- Citibank N.A. as Trustee (Senior lienholder; disputed in rem lien on property)
- Shellpoint Mortgage Servicing (Servicer for Citibank; ongoing payments on disputed lien)

**Judges and Commissioners Challenged in the Appeal:**

- Judge David Hesseltine (Orange County Superior Court; handled Ex Parte Application for Stay and Motion to Vacate in 2015 case, RJN Ex. 15.1, 15.3; denied vacatur of 2015 judgment; potential bias under CCP § 170.1(a)(6))
- Commissioner Carmen D. Snuggs-Spraggins (Orange County Superior Court; denied Motion to Vacate UD judgment and Ex Parte Application, CT 134–135, 145; unauthorized ruling without stipulation, Cal. Const., Art. VI, § 21)

**Appellate Justices with Alleged Pecuniary Interest**

- Justice Joanne Motoike (Associate Justice Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)
- Justice Thomas Delaney (Associate Justice, Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)
- Justice Nathan Scott (Associate Justice, Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)

**Attorneys of Record:**

- Henry Paloci (Attorney for Respondent Canjian Hou)

**Persons or Entities Whose Interests May Be Affected:**

- Unknown/Deputy Clerks and Supervisory Clerks (Orange County Superior Court; obstructed Answers on March 14 and 19, 2025, CT 55–60; prematurely entered default, CT 20–24; potential liability for ministerial breaches, *Baske v. Burke*, 125 Cal.App.3d 38 (1981))
- Sergeant Lopez (Orange County Sheriff's Department, Civil Enforcement Division; refused to investigate complaints on March 24, 2025, Ex. 2, pp. E189–E210; potential liability for aiding unconstitutional taking)
- Deputy Murillo (Orange County Sheriff's Department, Civil Enforcement Division; potential liability for aiding unconstitutional taking)

- California State License Board (CSLB) (Involved in 2015 license suspension under B&P § 7071.17; interest in validity of § 7031 enforcement)
- U.S. Bankruptcy Court, Central District of California (Judge Scott Clarkson; handled Case No. 8:22-BK-12076-SC; interest in discharge injunction and stay relief order validity, 11 U.S.C. § 524(a))
- David Chaffee (Superior Court Judge; issued 2015 case judgment)
- James Di Cesare (Superior Court Judge; affirmed 2015 case judgment)
- Kathleen O’Leary (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Thomas Goethals (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Richard Aronson (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Karen Humphreys (Plaintiff in 2015 case judgment)
- Gary Humphreys (Plaintiff in 2015 case judgment)
- William Bissell (Attorney for Plaintiff in 2015 case judgment)
- Kimberly Knill (Superior Court Judge, Appellate Division; see below)
- Thomas McConville (Superior Court Judge, Appellate Division; see below)
- Vibhav Mittal (Superior Court Judge, Appellate Division; see below)

**Declaration of Petitioner:**

I, Adam Bereki, declare under penalty of perjury under the laws of California that the foregoing is a true and complete list of persons and entities known to me to have an

interest in the outcome of this appeal, including those whose interests may be affected by the relief requested. This certificate is based on my personal knowledge and a reasonable inquiry.

Signed on October 27, 2025, at Las Vegas, Nevada.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Adam Bereki

**TO THE JUSTICES OF THE FOURTH DISTRICT COURT OF APPEAL, DIVISION 3:**

**OVERVIEW**

California Code of Civil Procedure (“CCP”) section 396 imposes a mandatory, non-discretionary, ministerial duty on a court to transfer an action or proceeding, including an appeal, when it lacks jurisdiction. The Appellate Division of the Superior Court of California for the County of Orange, which lacks subject matter jurisdiction of an appeal, is breaching this duty by refusing to transfer a consolidated appeal in main case no. 30-2025-01482941 to this court.

The Appellate Division has exercised jurisdiction without authority, violating due process (Cal. Const. Art. I, §§ 7, 9; U.S. Const. Art. I, § 10) by: (1) denying Petitioner’s Application for Transfer; (2) denying his request to submit an Oversized Brief (despite the complexity of appealing five court orders, evidencing numerous underlying title disputes, and making two Constitutional challenges); (3) placing the appeal in default; (4) denying his Request for Reconsideration to transfer; and (5) failing to provide a reasoned explanation of its decisions, stating “no so” or “denied” in response to the transfer requests despite clear jurisdictional statutes and supporting case law divesting it of jurisdiction.

This *First Amended Verified* Petition for Writ of Mandate supersedes the prior Petition filed on October 22, 2025.

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Petitioner Adam Bereki respectfully petitions this Court for a writ of mandate compelling Respondent Appellate Division of the Superior Court of Orange County to vacate its Minute Orders dated October 9, 2025, and October 17, 2025, in consolidated appellate main case No. 30-2025-01482941, and to transfer the appeal to this court pursuant to CCP § 396(b). This writ is necessary because the Appellate Division lacks jurisdiction over the appeal due to a bona fide title dispute that must be adjudicated prior to the issue of possession and an amount in controversy exceeding \$35,000, rendering the underlying unlawful detainer action a general civil case, not a “limited civil case” as defined by CCP §§ 85 and 86. The Appellate Division has a clear, present, and ministerial duty to transfer the appeal, and Petitioner has no adequate remedy at law.

This petition is brought under CCP § 1085, as the Appellate Division’s refusal to transfer violates due process and perpetuates a void unlawful detainer judgment, causing irreparable harm, including the ongoing deprivation/ unlawful taking/ theft of Petitioner’s home and approximately \$1.2 million in equity.

## **I. PARTIES**

1. **Petitioner Adam Bereki** is the appellant in the underlying appeal before the Appellate Division and the defendant in the unlawful detainer action (Orange County Superior Court Case No. 30-2025-01459684). Petitioner resides at 3649 Metter St., Las Vegas, Nevada 89129.
2. **Respondent Appellate Division of the Superior Court of Orange County** is the appellate body of the Orange County Superior Court that improperly asserted

jurisdiction over Petitioner's appeal in Consolidated Case Nos. 30-2025-01482941 (Lead Case) and 30-2025-01487778.

3. **Real Party in Interest Canjian Hou** is the respondent in the underlying appeal and the plaintiff in the unlawful detainer action.

## II. JURISDICTION

This Court has original jurisdiction to issue a writ of mandate under article VI, section 10 of the California Constitution and Code of Civil Procedure section 1085. Mandate is appropriate to compel the performance of a ministerial duty where there is no plain, speedy, and adequate remedy at law (CCP § 1086; *County of Sacramento v. Hickman*, 66 Cal.2d 841, 845 (1967)). Here, the Appellate Division has a mandatory duty under CCP § 396(b) to transfer the appeal to this Court, as it lacks jurisdiction. The Appellate Division's refusal to transfer (October 9 and 17, 2025, Minute Orders) necessitates immediate review by this Court to correct the jurisdictional error and determine which court has authority to hear and determine this appeal.

## III. REQUEST FOR JUDICIAL NOTICE

Petitioner resubmits his Request for Judicial Notice, previously filed in the Appellate Division of the Superior Court (attached hereto as Exhibit 7), and respectfully requests this Court take judicial notice of all exhibits therein as required by law.

**IV. VERIFIED STATEMENT OF FACTS AND ARGUMENT  
(MEMORANDUM)**

I, Adam Bereki, declare under penalty of perjury under the laws of California that the following statements of fact are true and correct, and that all exhibits referenced below and filed with this Petition, incorporated as if fully set forth herein, are true and correct copies of the documents they represent, except for any Bates numbering or other non-substantive markings made by myself or others.

Exhibit 1: Verified Opening Brief on Appeal

Exhibit 2: Applications for Transfer and to File an Oversized Brief

Exhibit 3: Minute Order- October 9, 2025

Exhibit 4: Ex parte Application for Reconsideration; Opposition; Reply to Opposition

Exhibit 5: Minute Order- October 17, 2025

Exhibit 6: Motion to Take Additional Evidence

Exhibit 7: Request for Judicial Notice (Separate filings due to file size >25mb)

Exhibit 8: Clerk's Transcript (Separate filing)

**A. An Underlying Title Dispute and Property Value Exceeding \$35,000 Require Resolution in an Unlimited Civil Proceeding Before Possession Can Be Determined, Divesting the Limited Civil Division and Its Appellate Division of Subject Matter Jurisdiction**

1. Each of the duties alleged to have been breached herein, whether declared by Constitution or statute, are those which are mandatory, non-discretionary,

ministerial duties to which a writ of mandate lies (*Common Cause v. Bd. of Supervisors*, 49 Cal. 3d 432 (1989))(reaffirming mandamus as the proper remedy to enforce mandatory duties; distinguishing between ministerial acts (which may be compelled) and discretionary acts (which may not be compelled by mandate); Cal. Const. Art. I, § 26 of the California Constitution “[t]he provisions of this Constitution are mandatory and prohibitory”; *Katzberg v. Regents of Univ. of California*, 29 Cal. 4th 300, 307 (2002) (“every constitutional provision is self-executing to this extent, that everything done in violation of it is void”)(Citation and brackets omitted).

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2. On February 11, 2025, Real Party in Interest (“RPI”) Canjian Hou filed an unlawful detainer complaint in the limited civil division of the Orange County Superior Court (Case No. 30-2025-01459684), seeking possession of the property at 818 Spirit, Costa Mesa, California, following a disputed foreclosure sale (UD Complaint: Ex. 7– Request for Judicial Notice (“RJN”) Ex. 15, pp. 609–620; Ex. 8– Clerk’s Transcript (“CT”) ROA 2). All allegations made herein pertaining to RPI also include his counsel, Henry Paloci III, unless otherwise stated.
3. Prior to this filing, Petitioner informed RPI of a bona fide title dispute, stemming from a 2015 case void judgment (Case No. 30-2015-00805807) that included suspension of his vested right to professional license which led to financial ruin, forced bankruptcy, and ultimately the foreclosure of his home (Ex. 1– Verified Opening Brief (“VOB”) p. 41– notice, pp. 19-26– 2015 case issues). Additionally,

the bankruptcy Court violated numerous protections including fresh start and California homestead guarantees, allowing a wrongful foreclosure on November 18, 2024 (Ex. 1– VOB pp. 27-40). The foreclosure resulted in an approximate \$1.2 million theft/ unlawful taking of Petitioners home equity, fraudulently transferred to RPI.

4. The issue of the validity of 2015 case judgment and license suspension, which directly and proximately caused Petitioner’s financial duress, is currently before this court in case no.: G065695.
5. Based on the underlying title dispute, due process required unlimited civil proceedings to determine this issue before possession pursuant to *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 147 (1980), holding that “homeowners cannot be evicted, consistent with due process guaranties, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership.” See also CCP § 580(b)(3), precluding the title dispute from being adjudicated in the summary limited civil division of the Superior Court. Adjudication of the underlying dispute is critical as Petitioner contends it will evidence the foreclosure was void due to fraud (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919 (2016)) and due process violations negating RPI’s standing under CCP § 1161a as RPI’s purported title is not “duly perfected”.
6. Despite the foregoing, the limited civil division awarded possession to RPI without adjudicating the title dispute after obstructing Petitioner’s repeated attempts to raise it through answers and motions including challenges to UD jurisdiction (see section B, *infra*; Ex. 1– VOB pp. 41-59). This premature adjudication of possession

rendered the UD judgment void, as the court lacked subject matter jurisdiction to determine possession without first resolving the title dispute in an unlimited civil proceeding (*Asuncion*, 108 Cal.App.3d at 147; *Windsor v. McVeigh*, 93 U.S. 274, 277–78 (1876)(denial of hearing negates notice of UD proceedings, judgment void).

7. Because of the underlying title dispute, the property value is at issue and must be accounted for in the determination of the monetary jurisdictional threshold amount for limited civil cases as stated in CCP § 85:

Notwithstanding any law, including, but not limited to, a law that classified an action or special proceeding as a limited civil case, an action or special proceeding shall be treated as a limited civil case only if all of the following conditions are satisfied:

(a) The amount in controversy does not exceed thirty-five thousand dollars (\$35,000). As used in this section, “amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys’ fees, interest, and costs.

8. CCP 85 clearly and unambiguously states that the “amount in controversy” in a limited civil case includes “the value of property” and that the action “shall be treated as a limited civil case **only** if ... the amount in controversy does not exceed ...\$35,000”. The property’s estimated value of \$1.5 million far surpasses the \$35,000 jurisdictional threshold (Ex. 1– VOB pp. 41 ¶2 –42).
9. Affirming that the “amount in controversy” includes the value of the property, the court in *Flowers & Sons Development Corp. v. Municipal Court*, 86 Cal.App.3d 818, 823 (1978) held that “if there is present in a case any material issue involving the title of real property which property is over the value of \$5,000 [the former threshold], the superior court[’s] [unlimited civil division] has jurisdiction over the

action” (citing *Vella v. Hudgins*, 20 Cal. 3d 251, 257 (1977) and Witkin, Cal.Procedure (2d ed. 1970) Jurisdiction, s 45, p. 569). See also *Reay v. Cotter*, 29 Cal. 168, 170 (1865) (“summary UD proceedings were] not intended to apply to any case where the title to the land could be made a question”); *Kessler v. Bridge*, 161 Cal. App. 2d Supp. 837, 839 (Cal. App. Dep’t Super. Ct. 1958) (“if it is shown that the real issue is not possession, but title, then unlawful detainer is held not to lie [Citation]”); and, *Dr. Leevil, LLC v. Westlake Health Care Center*, 6 Cal.5th 474 (2018) (distinguishing *Kessler* by noting that equitable defenses [in limited civil UD cases] are permissible only to the extent they negate title perfection for possession, not for broader equitable relief (e.g., fraud-based title disputes requiring unlimited jurisdiction)).

10. The bona fide title dispute stemming from the 2015 case void judgment, license suspension, bankruptcy violations, and wrongful foreclosure, combined with the property’s value of ~\$1.5 million, categorically excludes this case from being a “limited civil case” as defined by CCP §§ 85 and 86, as supported by *Asuncion v. Superior Court* (108 Cal.App.3d 141, 147 (1980)) and *Flowers & Sons Development Corp. v. Municipal Court* (86 Cal.App.3d 818, 823 (1978)). Consequently, the limited civil division lacked subject matter jurisdiction to adjudicate the unlawful detainer action, and the Appellate Division lacks appellate jurisdiction under CCP § 904.2, which only applies to limited civil cases:

An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case is to the appellate division of the superior court. An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case may be taken from any of the following:

11. The Appellate Division's refusal to transfer the appeal to this court under CCP § 396(b) perpetuates a void judgment, causing irreparable harm through the continued unlawful deprivation of Petitioner's home, deprivation of the rights to liberty (right to a judicial determination of rights) privacy, and property (home equity). This court must enforce the mandatory transfer to ensure due process and proper adjudication.

**B. Extrinsic Fraud and Due Process Violations in the UD Proceedings Resulted in Damages Exceeding \$35k Jurisdictional Threshold**

12. Assuming arguendo there was no title dispute, the due process violations that occurred during the UD proceedings denied Petitioner's fundamental right to be heard, resulting in a void judgment that unlawfully awarded possession of his home to RPI causing an unlawful taking resulting in estimated damages of at least \$150,000, exceeding the \$35k threshold.

13. The due process violations resulting in the denial of Petitioner's right to be heard include:

- a. the Superior Court breaching its mandatory duty to grant a stay of the UD proceedings given undisputed evidence of the underlying title dispute;
- b. the Superior Court breaching its mandatory duty to transfer the case to the unlimited civil division;
- c. The Deputy Clerk breaching its mandatory duty to accept Petitioner's Answer twice, despite having no authority to determine the form of sufficiency of a pleading;

- d. RPI's breach of the mandatory duty to cooperate (CCP §583.130) by filing of a stealth default request even though RPI knew Petitioner had appeared and answered and was obstructed by the Deputy Clerk;
  - e. The Deputy Clerk's breach of duty by issuing a default and default judgment in violation CCP § 1013 (five day delay in notice requirements for mail);
  - f. The Deputy Clerk's breach of duty by issuing a default and default judgment when, based on all the foregoing, it had no authority to do so (*Windsor v. McVeigh*, 93 U.S. 274 (1876)).
  - g. The Superior Court's breach of duty by failing to vacate the void UD case judgment (Ex. 1–VOB pp. 70-77). Petitioner contends this breach of duty is not an "abuse of discretion" as there is no discretion for the court to exercise jurisdiction it does not possess and/or to refuse to exercise jurisdiction it does (*Cohens v. Virginia*, 19 U.S. 264, 404 (1821) ("[w]e have no more to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution"))).
14. There are four cases at the heart of this Petition (and appeal) that clearly recognize the mandatory duties alleged to have been breached in the UD proceedings that denied Petitioner's fundamental right to a hearing and judicial determination of his rights:
- a. *Windsor v. McVeigh*, 93 U.S. 274 (1876) held that jurisdiction is the right to hear and determine, not determine without hearing and that a court's denial of a full, fair, and impartial hearing to a defendant negates notice, depriving the court of jurisdiction to enter judgment.

- b. *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 147 (1980) held that an underlying title dispute must be heard before possession can be determined.
- c. *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198 (2022) held that: (1) counsel breached ethical and statutory duties under CCP § 583.130 by failing to notify opposing counsel of the intent to seek default and default judgment, violating professional obligations to act with dignity, courtesy, and integrity.
- d. *Baske v. Burke*, 125 Cal.App.3d 38 (1981) held that clerk's lack authority to determine the form or sufficiency of a pleading and have no authority to enter default or default judgment when in possession of a responsive pleading.

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15. Even though RPI knew about the underlying title dispute from the void 2015 case judgment, void license suspension, bankruptcy protection violations, and wrongful foreclosure (Ex. 1– VOB p. 41: notice) and the monetary jurisdictional threshold precluding summary limited civil UD proceedings, RPI violated due process and fraudulently invoked limited civil jurisdiction to obtain possession, concealing the title dispute (Ex. 1– VOB pp. 41-44). RPI then engaged in a series of other ethical, statutory, and due process violations that resulted in extrinsic fraud, contributing to the denial of Petitioner's fundamental right to be heard before obtaining

judgment in its favor (Ex. 1– VOB pp. 41-76; *Windsor v. McVeigh*, 93 U.S. 274 (1876))

16. On March 14, 2025, within the authorized time to answer the UD Complaint, Petitioner attempted to file an answer in person at the court, challenging jurisdiction (RJN Ex. 15). Petitioner's Answer was combined with an Ex parte Application to Stay the UD proceedings in the unlimited civil division 2015 case as the UD proceeding was a continued unlawful enforcement of the void 2015 case judgment. The Deputy Clerk and her supervisor refused to file the Answer in the UD case citing combined filings. The Deputy Clerk instructed Petitioner that the document would not be filed in either case unless he crossed out information pertaining to the other case (Ex. 1– VOB pp. 45-48).

17. Without waiving his rights and following the Deputy Clerk's instructions to ensure a hearing, Petitioner crossed out the UD-related case and Answer information on the title page only, leaving the substance of the document intact, as shown in the record (Ex. 7– RJN Ex. 15, p. 256):

5	<b>SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE— CENTRAL JUSTICE CENTER</b>		
6			
7	Adam Bereki		Main Case No.: 30-2015-00805807
8		Defendant, Cross-	Related Case No.: 30-2025-01459684 (Unlawful Detainer) <i>W</i>
9		Complainant, Plaintiff	
10	vs.		
11	Karen Humphreys and Gary Humphreys,		<b>VERIFIED EX PARTE APPLICATION FOR EMERGENCY STAY OF UNLAWFUL DETAINDER ACTION</b>
12		Plaintiffs/ Cross-	DATE: <sup>03/18/25</sup> <del>Mon. March 17, 2025</del>
13		Complainants, Cross-	TIME: <del>8:30 AM - 9:00 AM</del>
14		Defendants	DEPT: Dept. C23
15	vs.		JUDGE: D. Hesseltime
16	Canjian Hou; MTC Financial, Inc., d/b/a		<b>WITH INCORPORATED:</b>
17	Prestige Default Services, LLC; Fourth		<b>ANSWER TO COMPLAINT (2025-</b>
18	District Court of Appeal of California (Interested Party); Superior Court of California for the County of Orange		<b>01459684)</b>

The verified pleading, including the Answer and challenge to jurisdiction with supporting exhibits, was filed in its entirety in the 2015 case (Ex. 7– RJN Ex. 15). For a list of issues raised thereby, including the title dispute and amount in controversy effecting the jurisdictional threshold, see Ex. 1– VOB pp. 46-48. The ex parte hearing was scheduled for March 18, 2025.

18. By rejecting Petitioner’s Answer, the Deputy Clerk violated her ministerial duty and due process because clerks lack authority to determine the form or sufficiency of a pleading (*Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981); *Stevens v. Torregano*, 192 Cal.App.2d 105, 112–113 (1961); see also e.g. Fed. R. Civ. P. 5: “The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice” .

19. On March 17, 2025, despite possessing: 1) Petitioner’s Answer and knowledge that his Answer had been obstructed by the Clerk and 2) notice of Petitioner’s

Appearance and the Application for Stay, RPI filed a stealth request for entry of default and default judgment (“Request”) in the UD case without notifying Petitioner prior, violating CCP § 583.130 and the ethical and due process obligations confirmed in this Court’s rulings in *Shapell Social Rental Properties, LLC v. Chico’s FAS, Inc.*, 85 Cal.App.5th 198 (2022) and *Lasalle v. Vogel*, 36 Cal.App.5th 127 (2019) (Ex. 1– VOB pp. 49-57).

20. RPI also omitted all of the foregoing material facts (e.g. title dispute) effecting jurisdiction in their Request, breaching their duty to disclose facts that materially affect the basis for relief, as established in *Gillespie v. Ormsby*, 126 Cal.App.2d 513, 527–528 (1954), and *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980) (affirming duty to disclose facts that might delay adjudication and finding fraud for breach). These omissions constituted extrinsic fraud on Petitioner and the court, violated due process, and breached attorney Paloci’s statutory duties per Cal. Bus. & Prof. Code § 6068(a)–(d) (Ex. 1– VOB, pp. 41-45).



21. At the Ex parte hearing on March 18, 2025, the Superior Court’s unlimited civil division (2015 case) refused to grant a stay or to transfer the case to the unlimited division despite Petitioner’s *unopposed* evidence of the title dispute and the amount in dispute exceeding the \$35k threshold (Ex. 1– VOB pp. 52-56), breaching its mandatory duties under *Ascunson*, Cal. Const. Art. I, § 7, and CCP § 396(b). The court also refused to accept Petitioner’s Answer, refused to order the Deputy Clerk to file it in the UD case, and told Petitioner to make a separate filing (*Id.*).

22. The rejection of Petitioner's Answers, denial of the stay, and refusal to transfer to the unlimited civil division (individually or collectively) divested the limited civil division of the Superior Court of jurisdiction to proceed (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)(denial of a full, fair, and impartial hearing, negates notice, depriving court of jurisdiction to declare default or enter judgment).
23. Shortly after the Ex parte hearing on March 18, 2025, the Deputy Clerk entered default (Ex. 8– CT 20–“FOR COURT USE ONLY”; Ex. 1– VOB, pp. 56 ¶4 – 57). This violated *Windsor* and due process as further recognized in *Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981), which prohibits a Deputy Clerk from entering a default when in possession of a responsive pleading (RJN Ex. 15).
24. The entry of default also violated due process by disregarding the five-day extension for mailed service under CCP § 1013(a). Due process requires notice reasonably calculated to reach the object of the notice (*Lasalle* 36 Cal.App.5th at 138 (Citation omitted)). The five-day extension of CCP § 1013 operates with the ethical and statutory duties recognized in *Lasalle* and *Shapell* to ensure due process safeguards in the event of counsel's breach of notice duty per CCP § 583.130 (Ex. 1– VOB, pp. 50-52).
25. Under CCP § 1169, the Deputy Clerk lacked authority to enter default without RPI's Request, made under penalty of perjury (Ex. 8– CT pp. 20–22, 21). RPI's request for default and default judgment, despite knowing of the court's obstruction of Petitioner's Answers and his good-faith efforts to appear and defend, constitutes fraud and a violation of due process by misleading the court, subverting the court's truth-seeking process. This also breached RPI's duty under Civil Code § 1708 to

avoid violating Petitioner’s rights. RPI also violated ethical and legal duties under CCP § 583.130, as established in *Lasalle v. Vogel*, 36 Cal.App.5th 127 (2019), and *Shapell Social Rental Properties, LLC v. Chico’s FAS, Inc.*, 85 Cal.App.5th 198 (2022), to cooperate and provide notice. Compliance with these duties is a prerequisite for requesting default.

26. Under CCP § 1169, default and default judgment are permitted only when the defendant “does not appear and defend.” Petitioner appeared and defended by filing pleadings in the 2015 case in the unlimited civil division, which had subject matter jurisdiction to: (1) address the title dispute arising from the enforcement of the void judgment; (2) issue a stay; and, (3) remedy the obstruction of his attempt to file an Answer, challenging jurisdiction. CCP § 1140 confirms that a defendant appears in an action by answering or providing written notice of appearance (Ex. 1– VOB, pp. 50–52).

27. On March 18, 2025, after the Ex Parte hearing, unaware of RPI’s Request and the court’s entry of default, Petitioner emailed RPI stating, “I will be filing an answer to the UD complaint by tomorrow” as evidenced in the screenshot of the email below (Ex. 1– VOB, p. 57):

I will be filing an answer to the UD complaint by tomorrow  

**Adam** <abereki@gmail.com> Tue, Mar 18, 3:21 PM ☆ 😊 ↶ ⋮  
to Henry, AngusHou0823 ▾

Please take notice that it is my intent to file an answer in the UD case by tomorrow. As you’ve been made aware I am under extreme duress given the unlawful acts that continue to be perpetrated against me.

Sincerely,

Adam Bereki

28. RPI did not respond or give notice the Request was filed, continuing to breach its duty under CCP § 583.130 to cooperate and give notice.
29. On March 19, 2025, still unaware the Request had been filed, Petitioner returned to the court with a separate Answer to file in the UD case, challenging jurisdiction and standing due to disputed actions and jurisdictional defects (Ex. 1– VOB, pp. 57-8; Ex. 7– CT pp. 55–60). The Deputy Clerk rejected the Answer citing the default judgment entered on March 18, 2025.
30. The Deputy Clerk breached her ministerial duty to file the pleading and again violated due process, as: **(1)** jurisdiction can be challenged at any time, including post-default (*Rochin v. Pat Johnson Mfg. Co.*, 67 Cal.App.4th 1239 (1998)); and **(2)** clerks lack authority to determine the form or sufficiency of a pleading (*Baske*, 125 Cal.App.3d 38, 45; *Stevens*, 192 Cal.App.2d at 112–113). The reason court clerks lack authority to determine the form or sufficiency of a pleading is because they have not been vested with the authority to exercise the judicial power of California or the concurrent jurisdiction of the judicial power of the United States and therefore cannot summarily hear and determine rights by summarily refusing to file a pleading.
31. The Deputy Clerk's rejection of Petitioner's Answers on March 14 and 19, 2025, violated his due process right to be heard, negating the UD court's jurisdiction by preventing a judicial determination of his rights (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)).
32. The Deputy Clerk failed to record Petitioner's attempts to file Answers or his appearance in the UD case docket, concealing jurisdictional facts, such as the title

dispute, and further violated due process by obstructing a transparent record. Petitioner digitally recorded these interactions to preserve evidence and will file certified transcripts if there is any dispute this occurred.

33. The Deputy Clerk's rejection of Petitioner's Answers enabled RPI's extrinsic fraud by preventing a challenge to the UD court's jurisdiction, constituting fraud on the court by impairing the truth-seeking process (*In re Marriage of Modnick*, 33 Cal.3d 897, 905 (1983)).
34. RPI's concealment of the title dispute and stealth default request, combined with the Deputy Clerk's obstruction of Petitioner's Answers and the court's denial of the stay, constituted extrinsic fraud by: (1) preventing Petitioner's defense through suppressed material facts, (2) with intent to deceive, and (3) causing prejudice via the void UD judgment and eviction, divesting the limited civil division of jurisdiction (*Kulchar v. Kulchar*, 1 Cal.3d 467, 471 (1969); *Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)).
35. On March 20, 2025, RPI, aware of the absence of a lawful right to relief due to the above issues, filed a false and fraudulent Application for Writ of Possession ("Writ") under penalty of perjury (signed by attorney Paloci) (Ex. 8– CT, p. 25; VOB, p. 58). The Writ was issued without authority on March 22, 2025 (Ex. 8– CT, pp. 26–28).
36. On March 24, 2025, RPI fraudulently invoked the executive authority of California through the Orange County Sheriff's Department to compel Peitioner's removal from his home (Ex. 1– VOB, p. 59, pp. 60-63).

37. Petitioner was evicted under threat of force by the Sheriff's Department and moved out under duress on or about April 1, 2025 (Ex. 1– VOB, pp. 60-63).
38. The extrinsic fraud and due process violations, including RPI's concealment of the title dispute, the Court's failure to grant a stay, the Deputy Clerk's obstruction of Petitioner's Answers and the executive officials refusal to investigate and intervene to stop the enforcement of the void Writ, directly caused Petitioner's eviction, resulting in an estimated \$150,000+ in damages, including moving expenses, loss of property use, and lost work time, exceeding the \$35,000 jurisdictional threshold under CCP § 85(a).
39. On October 7, 2025, Petitioner filed an Application for Transfer from the Appellate Division of the Superior Court to this Court pursuant to CCP § 396(b), along with an Application to File an Oversized Brief ("AOB") (Ex. 2) and the VOB addressed to this Court.
40. On October 9, 2025, Judges Krill, McConville, and Mittal of the Appellate Division issued a Minute Order denying the Application for Transfer, breaching their mandatory non-discretionary ministerial duty (Cal Const. Art. I, § 7 and CCP § 396(b)) (Ex. 3). The Order stated "Appellant contends the appellate division lacks jurisdiction over this case. Not so. The appellate division has jurisdiction over the unlawful detainer appeal (Code Civ. Proc. §§ 86 subd. (a)(4), 77 subd (e), 904.2.)"
41. The Order also denied the Application to File an Oversized Brief and placed the appeal in default. Petitioner contends these aspects of the Order were arbitrary and further violated due process as the Court lacked fundamental subject matter jurisdiction to make these orders.

42. The Judges' breaches of ministerial duties created a conflict that was not only evidence of bias evidenced through their arbitrary acts, but also due to a pecuniary interest in that they became civilly liable for damages to Petitioner for violating his rights (Code Civ. Proc. § 170.1(a)(3)(A), (a)(6)(A)(iii); *Christie v. City of El Centro*, 135 Cal.App.4th 767, 776 (2006); Cal. Code of Judicial Ethics, Canon 3E(1); *Turney v. Ohio*, 273 U.S. 510, 523 (1927)).
43. On October 14, 2025, Petitioner filed a Verified Ex parte Application for Reconsideration (Ex. 4, pp. 125–135), citing new circumstances (e.g., the premature ruling before his Request for Judicial Notice (Ex. 7) and supporting exhibits (Ex. 6) were filed) and reiterating the jurisdictional defects/ due process violations. RPI opposed (Ex. 4, pp. 137–141). RPI's Opposition failed to cite any authority that defeated Petitioner's jurisdictional arguments (Ex. 4– Reply to Opp. pp.142-147).
44. Petitioner's verified statements informed the Judges of the conflicts and requested a new panel be assigned (Ex. 4– Ex parte App., pp. 133 ¶¶24 – 134 ¶¶10).
45. On October 17, 2025, the same panel (Judges Krill, McConville, and Mittal) denied reconsideration without explanation, affirming the October 9, 2025 void Order (Ex. 5– Minute Order, October 17, 2025).
46. The Appellate Division's refusal to transfer perpetuates the Superior Court's jurisdictional errors, violations of due process, and the enforcement of a void judgment and writ by refusing to adjudicate the title dispute, and awarding possession without hearing Petitioner resulting in the unlawful taking/ theft of his home causing ongoing irreparable harm, including unauthorized alterations to the

property and deprivation of his inalienable rights (Cal Const. Art. I, § 1 liberty (judicial determination of rights), property, privacy).

*“We have no more to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution.”*

–*Cohens v. Virginia*, 19 U.S. 264, 404 (1821)

#### **D. No Adequate Remedy at Law Exists, and Irreparable Harm Will Result Absent Mandate**

Continued proceedings in the Appellate Division violate due process through the exercise of jurisdiction without lawful authority, depriving Petitioner of a lawful forum to hear and determine his rights resulting in the continuation of irreparable harm, including the loss of his home, unauthorized renovations thereto, loss of approximately \$1.2 million in equity, and denial of the right to liberty to obtain judicial relief. A writ of mandate is the sole effective remedy to compel the Appellate Division to fulfill its mandatory duty to transfer the appeal to this court under CCP § 396(b).

#### **CERTIFICATE OF WORD COUNT**

I, Adam Bereki, certify that the foregoing Petition for Writ of Mandate, including all sections, headings, captions, declarations, and attached exhibits referenced therein, contains 6,985 words, as calculated by Microsoft Word. This count includes all textual content in the document.

## V. REQUESTED RELIEF

This Court will please order the following relief:

1. Grant Petitioner's Request for Judicial Notice (Ex. 7).
2. Issue an alternative writ of mandate directing the Appellate Division to vacate its October 9 and 17, 2025, Minute Orders and transfer the appeal to this Court or show cause why it should not do so.
3. Upon return of the alternative writ, issue a peremptory writ of mandate compelling the transfer.
4. Issue a stay of all proceedings in the Appellate Division of the Superior Court of Orange County in Consolidated Case Nos. 30-2025-01482941 (main case) and 30-2025-01487778, pending resolution of this Petition, pursuant to California Rules of Court, rule 8.486, to preserve the status quo and prevent further due process violations pending the this Court's determination of the appellate jurisdiction governing this case. The stay should be effective October 22, 2025 at 5:00pm.
5. Upon determination that this Court has jurisdiction of this Appeal, assign a case number and file all of Petitioner's documents including the Verified Opening Brief (Ex. 1), Motion to File an Oversized Brief (Ex.2), Request for Judicial Notice (Ex.7 7), Motion to Take Additional Evidence (Ex.6), and the Clerk's Transcript (Ex.8) in the new case.
6. As soon as permissible by law, on this Court's own motion, grant immediate partial relief by vacating the unlawful detainer judgment as to possession in Orange

County Superior Court Case No. 30-2025-01459684, and order the restoration of the property at 818 Spirit, Costa Mesa, California, to Petitioner to prevent further irreparable harm, including the ongoing deprivation of Petitioner's possession thereof (and unauthorized renovations) pursuant to this Court's authority under California Rules of Court, rule 8.264(b) and CCP section 43, as the judgment is void for lack of subject matter jurisdiction due to the unresolved title dispute, amount in controversy exceeding \$35,000, and due process violations.

7. Upon transfer of the appeal to this Court: (1) grant Petitioner's Request for Judicial Notice (Ex. 7) and Motion to Take Evidence (Ex. 6); (2) award Petitioner damages against Real Party in Interest Canjian Hou in the amount of \$200 per day for the unlawful occupation of Petitioner's home at 818 Spirit, Costa Mesa, California, beginning April 2, 2025, as compensation for the extrinsic fraud and due process violations resulting in the void unlawful detainer judgment, causing Petitioner's wrongful eviction and loss of use of his property. Hou was given notice of the \$200 per day charges (Ex. 6– Motion to Take Addt'l. Evid., p.277 ¶2). As of the filing of this Writ on October 22, 2025, the total days are 203, resulting in \$40,600 damages.
8. Deny RPI any compensation for alterations made to the property at his expense, as such alterations were made without Petitioner's consent by a tortious possessor under a void judgment, pursuant to *Billings v. Hall*, 7 Cal. 1 (1857), which holds that a landowner has a vested right in improvements made by a tortious possessor. RPI was told not to make any alterations and that if he did they would not be with Petitioner's consent or compensated. Grant leave to file additional evidence of

damages upon inspection of the property to assess any further harm caused by RPI's occupation and alterations.

9. Hear and determine all remaining issues on appeal, including Petitioner's Constitutional challenges and enforcement issues by the Sheriff.
10. In this writ proceeding, award Petitioner damages and costs against the Superior Court of Orange County, pursuant to CCP § 1095, for loss of work opportunity at \$300 per hour and costs, totaling \$2,430 for preparing and filing the Ex parte Application for Reconsideration, \$2,987.46 for the Reply to Opposition, and \$8,700 for this Writ, due to the Appellate Division's breach of its ministerial duty to transfer the appeal under CCP § 396(b), caused by the panel judges' void actions in the clear absence of subject matter jurisdiction due to the unresolved title dispute and amount in controversy exceeding \$35,000. This relief should only be granted as long as it does not immunize liability of the judges for void acts and aligns with due process. Petitioner reserves the right to request additional damages incurred in further proceedings pertaining to this matter.
11. Award any other relief as the Court deems just and proper.
12. In the event this Court determines the Appellate Division has jurisdiction to hear and determine this appeal either explain why this is so, or direct the Appellate Division to abide its due process duty to do so. Petitioner contends the Appellate Divisions statements of "not so" and "denied" in the Minute Orders violate due process because they do not provide a reasoned explanation of how the Appellate Division made its determination(s) of his jurisdictional challenges in light of his unopposed verified evidence and the clarity of the statutes applying to limited civil

cases. This denied Petitioner the due process right: (1) to a transparent ruling; (2) to understand the law; (3) and to make a full, meaningful, and substantive Writ of Mandate addressing the specific issues underlying the Order. See *Nakamura v. Parker*, 156 Cal.App.4th 327, 334-335 (2007) (summary denial of facially adequate ex parte application without hearing or explanation is abuse of discretion and due process violation as it prevented the parties from understanding the basis of the ruling); *People v. Kelly*, 40 Cal.4th 106, 110 (2006) (decisions must be in writing with reasons stated for meaningful review); *C.S. v. Superior Court*, 29 Cal.App.5th 1009, 1023 (2018) (Court must articulate evaluative process and show evidence weighing for due process); *In re Harris*, 16 Cal.5th 292 (2024) (due process mandates reasoned findings on evidence reliability).

Signed on October 27, 2025 in Las Vegas, Nevada.

Respectfully filed,

A handwritten signature in black ink, appearing to read 'Adam Bereki', with a stylized flourish at the end.

Adam Bereki

# Appendix F

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE

ADAM BEREKI,

Petitioner,

v.

THE SUPERIOR COURT OF  
ORANGE COUNTY,

Respondent;

CANJIAN HOU,

Real Party in Interest.

G066117

(Super. Ct. Nos. 30-2025-1482941,  
30-2025-01487778)

O R D E R

THE COURT:\*

The petition for writ of mandate and request for immediate stay  
are DENIED.

MOORE, ACTING P. J.

\* Before Moore, Acting P. J., Delaney, J., and Gooding, J.

# Appendix G

**S294339**

Original Case No. S \_\_\_\_\_

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

---

Adam Bereki,  
*Petitioner.*

v.

Superior Court of California for the County of Orange  
(Limited Civil and Appellate Division)  
*Respondent.*

Canjian Hou  
*(Real Party in Interest)*

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**EMERGENCY PETITION FOR WRIT OF MANDATE OR PROHIBITION,  
REQUEST FOR STAY, RESTORATION OF POSSESSION, AND WRIT OF  
SUPERSEDEAS; REQUEST FOR CONSOLIDATION WITH PENDING MANDATE  
PETITION (*Bereki v. Humphreys*, No. S \_\_\_\_\_)**

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**\*\*\*STAY REQUESTED\*\*\*  
RELATED APPEAL PENDING**

Emergency request for immediate temporary stay of all further proceedings and enforcement in Orange County Superior Court (Limited Civil) Case No. 30-2025-01459684 and Appellate Division Consolidated Case Nos. 30-2025-01482941 (lead) and 30-2025-01487778, including enforcement of the March 18, 2025 unlawful-detainer judgment, the writ of possession, and the Appellate Division's November 17, 2025 Minute Order striking Petitioner's opening brief and threatening dismissal, and for restoration of possession pending this Court's determination of this Petition. There is no published phone number for the Appellate Div. of the Court.

Judges Knill, McConville, Mittal

---

Adam Bereki  
3649 Metter St.  
Las Vegas, NV 89129  
949.241.6693 | [abereki@gmail.com](mailto:abereki@gmail.com)

**NOTICE TO COUNSEL AND REAL PARTY IN INTEREST**  
**(Incorporated Verification Under Penalty of Perjury)**

I, Adam Bereki, declare under penalty of perjury under the laws of the State of California as follows:

On December 14, 2025, at about 1:40 p.m., Pacific Standard Time, I gave actual telephonic and emailed notice to all known opposing counsel of record that I am filing the following two emergency original proceedings either today (Sunday) or tomorrow morning:

1. Petition for Writ of Mandate/Certiorari and/or Exercise of Original Jurisdiction to Vacate Void Judgment (*Bereki v. Humphreys et al.*, Supreme Court Case No. S\_\_\_\_\_), with an emergency request for immediate temporary stay of all further enforcement of the April 20, 2017 judgment (Orange County Superior Court Case No. 30-2015-00805807) and restoration of the status quo ante; and
2. Emergency Petition for Writ of Mandate or Prohibition, Request for Stay, Restoration of Possession, and Writ of Supersedeas (*Bereki v. Superior Court* (Hou, Real Party in Interest), Supreme Court Case No. S\_\_\_\_).

Specifically:

- I telephoned William Bissell, Esq., counsel for respondents Karen Humphreys and Gary Humphreys, at (949) 287-4503, spoke with counsel personally, and emailed written confirmation to [wbissell@wgb-law.com](mailto:wbissell@wgb-law.com).
- I also telephoned Henry Paloci, Esq., counsel for real party in interest Canjian Hou, at (844) 398-5500, left a detailed voicemail, emailed written confirmation to [hpaloci@hotmail.com](mailto:hpaloci@hotmail.com).
- Office of the Counsel for the Superior Court will be notified on 12/15/25 at 8:00 a.m.

True and correct copies of the confirming emails (with full headers) are attached to the Proofs of Service filed with each Petition. Both parties were also served by e-filing on Trufiling.com.

I have therefore provided actual notice to all adverse parties' counsel of both emergency filings and the immediate relief sought in each.

Signed on December 14, 2025, at Las Vegas, Nevada.



Adam Bereki

## CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Petitioner Adam Bereki certifies that the following listed persons or entities (other than the parties themselves) have either (1) a financial interest in the subject matter of this proceeding or (2) any other interest that could be substantially affected by the outcome of this proceeding:

1. Canjian Hou – Purchaser of Petitioner’s former home at non-judicial foreclosure sale; Plaintiff in related unlawful-detainer action (Orange County Superior Court No. 30-2025-01459684) and concurrently filed mandate proceeding.
2. Henry Paloci – Counsel of record for Canjian Hou in the unlawful-detainer and mandate actions.
3. Orange County Sheriff’s Department, Civil Enforcement Division – Agency that executed the writ of possession in the unlawful-detainer action.
4. Citizens Bank NA (Foreclosing entity; interest in validity of foreclosure sale)
5. Trustee Corps (Foreclosure trustee; interest in validity of trustee's deed)
6. Citibank N.A. as Trustee (Senior lienholder; disputed in rem lien on property)
7. Shellpoint Mortgage Servicing (Servicer for Citibank; ongoing payments on disputed lien)

No other persons or entities are known to petitioner to have a financial or other interest in the outcome of this proceeding that would require disclosure under rule 8.208.

Dated: December 14, 2025

Respectfully filed,



Adam Bereki

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## **WHY EMERGENCY RELIEF AND STAY ARE REQUIRED**

Petitioner Adam Bereki faces immediate, ongoing, and irreparable injury that can only be prevented by this Court's urgent intervention. In April 2025, the Orange County Sheriff's Department threatened forcible removal of Petitioner from his long-time family home at 818 Spirit Avenue, Costa Mesa, California 92626, pursuant to a writ of possession issued under a March 18, 2025 default judgment entered in a limited-civil unlawful-detainer action (Orange County Superior Court Case No. 30-2025-01459684). Petitioner vacated under duress. The underlying judgment is void ab initio for multiple independent reasons, chief among them that the limited-civil division never possessed subject-matter jurisdiction over an action that necessarily adjudicates title to real property worth approximately \$1.5 million and involves more than \$1 million in lost equity (Code Civ. Proc., §§ 85, 86(a)(1), 86(a)(4)).

Real Party in Interest Canjian Hou, the purported foreclosure-sale purchaser, now occupies the property and, upon information and belief (included photos of the demolition taken by neighbors), has already begun making substantial and irreversible alterations to the premises despite notice to cease and desist. Every day that passes without a stay causes further permanent damage to the real property, destroys Petitioner's equity, and deepens the irreparable harm of being wrongfully separated from his home of many years.

The void unlawful-detainer judgment rests exclusively on a trustee's deed issued after a November 18, 2024 fraudulent and void non-judicial foreclosure sale. That foreclosure was triggered directly and proximately by a single event: enforcement of a

2017 penal forfeiture judgment of approximately \$930,000 entered against Petitioner in Orange County Superior Court Case No. 30-2015-00805807 for alleged unlicensed contracting even though Petitioner was the qualifying individual (a licensee) of a general contractor license held in his and his company's name. That judgment was enforced by the Contractors State License Board by operation of statute causing a suspension/ revocation of his vested license right without any hearing or appeal. Unable to obtain judicial relief, Petitioner's private contracts and obligations were impaired, including first and second mortgages on his home.

On October 30, 2025, the Court of Appeal (Fourth Dist., Div. Three) expressly held that no doctrine of res judicata, collateral estoppel, or law of the case bars relief from the 2017 judgment. Request for Judicial Notice. [RJN Ex. 15](#). Petitioner has concurrently filed in this Court a Petition for Writ of Mandate/Certiorari (*Bereki v. Humphreys*, S\_\_\_\_\_; incorporated as if fully set forth herein) establishing on multiple independent Constitutional and jurisdictional grounds that the 2017 judgment is void ab initio. A void judgment "is, in legal effect, no judgment" and "all proceedings founded upon it are equally worthless". *Bennett v. Wilson*, 122 Cal. 509, 513 (1898). It follows that the foreclosure sale, the trustee's deed, the unlawful-detainer judgment, and every order entered in the limited-civil and Appellate Division proceedings are likewise legal nullities.

Despite the patent jurisdictional defect and the active challenge to the sole obligation that caused the foreclosure, the Appellate Division of the Orange County Superior Court continues to assert jurisdiction over Petitioner's appeals (Consolidated Case Nos. 30-2025-01482941 and 30-2025-01487778). Most recently, on November 17, 2025, it struck Petitioner's opening brief and threatened dismissal — acts that themselves

are without the Appellate Division's fundamental jurisdiction when subject-matter jurisdiction is absent from the outset. [RJN Ex. 25](#); [Ex. 23](#). Additionally, the Fourth District Court of Appeal, on Petition for Writ of Mandate (Case No. G066117), refused to order the Appellate Division to abide its mandatory duty to transfer the case to the Fourth District Court of Appeal, issuing a one word "denied" to the Petition. [RJN Ex. 24– Writ Denial](#).

No adequate remedy exists at law. Monetary damages cannot restore Petitioner to his home or undo the daily destruction of his equity. The ordinary appellate process within the limited-civil system is powerless to grant relief because every order issued in that system is coram non iudice and void.

Absent an immediate stay, writ of supersedeas, and order restoring possession pending final resolution, Petitioner will continued to suffer the loss of his home while this Court adjudicates the indisputable voidness of the judgments on which the dispossession rests. Such a result would reward the enforcement of void judgments this Court has the inherent power to prevent by granting emergency relief now.

For these reasons, Petitioner respectfully requests that this Court immediately:

- Stay all further proceedings and enforcement in the courts below;
- Issue a writ of supersedeas; and
- Restore Petitioner to possession of 818 Spirit Avenue, Costa Mesa, California 92626 pending final determination of these consolidated proceedings.

The balance of hardships tips decisively in Petitioner’s favor, and the legal right to relief is clear. Emergency relief is not only warranted—it is required to prevent irreparable injury and to preserve this Court’s ability to grant meaningful relief.

## ISSUES PRESENTED

1. When an unlawful-detainer action filed in the limited-civil division necessarily requires adjudication of title to real property valued at approximately \$1.5 million, is the action outside the subject-matter jurisdiction of the limited-civil court under Code of Civil Procedure §§ 85, 86(a)(1), and 86(a)(4)?
2. When the foreclosure underlying the unlawful-detainer judgment was caused exclusively by a ~\$930,000 monetary judgment that the Court of Appeal has already declared is not shielded by res judicata, collateral estoppel, or law of the case ([RJN Ex. 15](#)), and a petition for writ of mandate challenging that monetary judgment on multiple voidness grounds is being filed concurrently, may this Court immediately stay enforcement of the unlawful-detainer judgment, issue supersedeas, restore possession, and consolidate the matters?

## NOTICE REGARDING EXHIBITS

All Exhibits are incorporated as if fully set forth herein.

All references in this Petition to Requests for Judicial Notice (“RJN Ex. \_\_\_\_”) are hyperlinked to the identical documents filed with the concurrently submitted Request for Judicial Notice in this proceeding. Pages are bates numbered in the bottom right corner. The linked files are the exact copies of the exhibits as lodged with the Court and are hosted on a secure, publicly accessible Cloudflare R2 storage instance for convenience of review. No alterations have been made to any document.

## INTRODUCTION

The limited-civil unlawful-detainer judgment that ejected Petitioner from his long-time domicile at 818 Spirit Avenue, Costa Mesa, rests entirely on a trustee’s deed obtained after a foreclosure that was caused solely by a void ~\$930,000 monetary judgment to be filed in this Court as soon as practically possible after this Emergency

Petition (*Bereki v. Humphreys*, S\_\_\_\_\_\_). The Court of Appeal has already held that no preclusion doctrine bars relief from that monetary judgment yet has declined merits determination of the judgment's validity. [RJN Ex. 15](#).

The limited-civil division of the Superior Court never had subject-matter jurisdiction over the unlawful-detainer action because: (1) the action required adjudication of title, and (2) the amount in controversy (the value of the property and Petitioner's lost equity) vastly exceeds \$35,000. Every order entered in that action—including the default judgment, the writ of possession, and the Appellate Division's refusal to transfer the appeal—is void ab initio.

Petitioner therefore seeks emergency relief: an immediate stay and writ of supersedeas, restoration of possession pending final resolution, vacatur of the void unlawful-detainer judgment, and consolidation with the pending petition for writ of mandate/ certiorari challenging the underlying monetary judgment.

**PRELIMINARY STATEMENT CONCERNING THE CONCURRENTLY  
FILED PETITION FOR REVIEW**

(*Bereki v. Humphreys*, Supreme Court No. S\_\_\_\_\_\_)

As soon as practically possible after this Emergency Petition is filed, Petitioner will also file a Petition for Writ of Mandate/Certiorari *Bereki v. Humphreys* (Cal. Ct. App. No. G065695; Supreme Court No. S\_\_\_\_\_\_) challenging the ~\$930,000 penal forfeiture judgment entered against him in 2017 (Orange County Superior Court Case No. 30-2015-00805807).

That 2017 judgment is the direct and proximate cause of every subsequent injury Petitioner has suffered: it stripped him of his ability to earn a living (summary suspension of his contractor's license under Bus. & Prof. Code § 7071.17), forced him into Chapter 7 bankruptcy (C.D. Cal. No. 8:22-BK-12076-SC), caused the non-judicial foreclosure of his home on November 18, 2024, and is the only basis on which Real Party in Interest Canjian Hou claims title and purportedly obtained the unlawful-detainer judgment now before this Court.

The Court of Appeal has already held that no doctrine of res judicata, collateral estoppel, or law of the case bars relief from that 2017 judgment but refused to determine whether the judgment was in fact void. [RJN Ex. 15](#). The concurrently filed Petition for Writ of Mandate will demonstrate, on more than ten independent Constitutional grounds, that the 2017 judgment is in fact void ab initio for the following reasons (among others):

1. It imposes a penal forfeiture masquerading as equitable disgorgement in violation of the Excessive Fines Clause (Cal. Const., Art. I, § 17) and due process (no criminal protections were afforded despite the penal character of Bus. & Prof. Code § 7031(a) and (b)).
2. Private plaintiffs were allowed to prosecute what is effectively a public-welfare offense without executive authority (violating separation of powers).
3. The trial court lacked fundamental jurisdiction to impose criminal-like punishment in a civil proceeding and without any heightened protections.
4. Subsequent authority (*Liu v. SEC*, 591 U.S. 71 (2020); *Eisenberg Village v. Suffolk Construction Co.*, 53 Cal.App.5th 1201 (2020) confirms that the nature of the remedy under § 7031(a) and (b) is a penalty, not equitable relief.

“A void judgment is, in legal effect, no judgment. By it, no rights are divested. From it no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless.” *Bennett v. Wilson* 122 Cal. 509, 513–514 (1898). Every act that flows from it—the license suspension, the foreclosure sale, the trustee’s deed, the unlawful-detainer judgment, and the Appellate Division’s ongoing proceedings—is likewise void.

Petitioner therefore requests that this Court take judicial notice of the entire record (see concurrently filed Request for Judicial Notice) and Petition for Writ of Mandate in *Bereki v. Humphreys* (S\_\_\_\_\_) and consolidate the two matters so that the validity of the 2017 judgment can be resolved once and for all, preventing the continued irreparable harm caused by enforcement of judgments that rest on a legal nullity.

## **JURISDICTION**

This Court has original jurisdiction over petitions for writs of mandate and prohibition. Cal. Const., Art. VI, § 10; Code Civ. Proc., § 1085. Mandate lies to compel performance of a ministerial duty (here, transfer under § 396(b)) and to restrain acts in absence of fundamental jurisdiction. This Court possesses broad power to issue stays, supersedeas, and ancillary orders necessary to preserve its jurisdiction and prevent irreparable injury. Code Civ. Proc., § 923; *Deepwell Homeowners’ Protective Assn. v. City of Palm Springs*, 239 Cal.App.2d 63 (1965).

## **PARTIES**

Petitioner Adam Bereki is the property owner and defendant in Orange County Superior Court Limited Civil Case No. 30-2025-01459684.

Respondent is the SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE (Limited Civil Division and its Appellate Division), Consolidated Case Nos. 30-2025-01482941 (lead case) and 30-2025-01487778.

Real Party in Interest Canjian Hou is the plaintiff in the unlawful-detainer action and the current occupant of the subject property.

### **STATEMENT OF FACTS**

1. Petitioner incorporates all verified facts, arguments, stated in his Verified Opening Brief on Appeal and all exhibits annexed thereto in support thereof. [RJN Ex. Ex 26](#).
2. In 2017 the Orange County Superior Court entered a ~\$930,000 penal judgment against Petitioner under Business & Professions Code § 7031(a) and (b) (Case No. 30-2015-00805807).
3. That judgment, coupled with the denial of judicial relief, was the direct and proximate cause of Petitioner's financial collapse, summary license suspension/revocations under Business & Professions Code § 7071.17, Chapter 7 bankruptcy (C.D. Cal. No. 8:22-BK-12076-SC), impairment of his private contracts and obligations (including the ability to service his mortgages), non-judicial foreclosure on November 18, 2024, and the subsequent unlawful-detainer action.
4. On February 11, 2025, Real Party in Interest Canjian Hou filed a limited-civil unlawful-detainer complaint (Case No. 30-2025-01459684) seeking possession

after purportedly purchasing the property at the foreclosure sale for approximately \$371,688.

5. Petitioner repeatedly notified Hou and his counsel (both before and after the complaint was filed) that the foreclosure was invalid, that the ~\$930,000 judgment that was the direct and proximate cause of the foreclosure was void, that title was in dispute, and that the amount in controversy (approx. \$1.5 million value of property) far exceeded limited-civil jurisdiction.
6. Despite these notices and after refusing to accept Petitioner's Answer, the Superior Court refused to grant a stay and transfer the case to the general jurisdiction to adjudicate the underlying dispute. After refusing to accept Petitioner's Answer challenging jurisdiction, the limited-civil division entered default and a default judgment on March 18, 2025, issued a writ of possession, and Petitioner was threatened with forcible removal from the property in late March 2025. He vacated the property under duress on or about April 1, 2025.
7. The Appellate Division of the Superior Court refused to transfer the appeal to the Court of Appeal under Code of Civil Procedure § 396(b). Minute Orders of Oct. 9 & Oct. 17, 2025; [RJN Ex. 23](#) and, on November 17, 2025, struck Petitioner's Opening brief (challenging five court orders, making three Constitutional challenges and review of executive enforcement) for exceeding the 6,800-word limit applicable only to limited-civil appeals. Minute Order of Nov. 17, 2025. [RJN Ex 25](#); [Ex. 26– Verified Opening Brief on Appeal](#). The Appellate Division has not provided any authority or reasoning, given the circumstances in this case that it possesses subject matter jurisdiction to hear and determine the appeal. [RJN Ex. 23](#); [RJN Ex. 25](#).

8. On October 22, 2025, Petitioner filed a Petition for Writ of Mandate in the Court of Appeal, Fourth Appellate District, Division Three (Case No. G066117), seeking to compel the Appellate Division to transfer the appeal to the Court of Appeal pursuant to Code of Civil Procedure § 396(b). On October 29, 2025, the Court of Appeal summarily denied the Petition without opinion or statement of reasons. [RJN Ex. 24](#).

### **PRESERVATION OF ALL ISSUES AND CONSTITUTIONAL CHALLENGES**

Petitioner expressly preserves and re-asserts every issue, question, and Constitutional challenge presented in his Verified Opening Brief ([RJN Ex. 26](#)) and related filings in Appellate Division Consolidated Case Nos. 30-2025-01482941 and 30-2025-01487778, including but not limited to:

- the voidness of the March 18, 2025 unlawful-detainer judgment for lack of subject-matter jurisdiction, extrinsic fraud, and due-process violations;
- the facial and as-applied constitutional challenge to California’s non-judicial foreclosure scheme (Civ. Code §§ 2924–2924k) both on its face and as applied in the November 18, 2024 foreclosure sale of Petitioner’s home at 818 Spirit, Costa Mesa, which transferred approximately \$1.2 million in home equity for ~\$371,688 after the repeated denial of a judicial determination of rights and remedy involving the 2017 judgment, thereby violating: – due process, and the Takings Clauses (Cal. Const., Art. I, §§ 7, 19; e.g. *Tyler v. Hennepin County*, 598 U.S. 631 (2023)) by authorizing state-action deprivation of a fundamental property interest without pre-deprivation hearing; the prohibition against bills of pains and penalties (Cal.

Const., Art. I, § 9; U.S. Const., Art. I, § 10); and the Excessive Fines Clause (Cal. Const. Art. I § 17).

- the Orange County Sheriff's Department's refusal to abide its mandatory ministerial duty to investigate credible complaints of criminal and Constitutional violations before enforcing a facially void writ of possession;
- the unauthorized exercise of judicial power by Commissioner Snuggs-Spraggins without stipulation;
- the excessive-fines and bills-of-pains-and-penalties violations arising from the 2017 judgment and its downstream effects;
- the clerk's refusal to file answers and premature entry of default;
- the Appellate Division's own lack of jurisdiction and refusal to transfer under Code of Civil Procedure § 396(b); and
- all other issues, arguments, and requests for relief set forth in the Verified Opening Brief, Motion to Take Additional Evidence, and Request for Judicial Notice.

These issues were fully briefed below (see [RJN Ex. 26– Verified Opening Brief](#)) and are inextricably intertwined with the jurisdictional question, and must be resolved in a court of competent jurisdiction. Petitioner requests that this Court adjudicate all of them on the merits due to the ongoing refusal of the lower Courts to abide their mandatory non-discretionary ministerial duties that continues to result in irreparable harm and damage to Petitioner and his estate.

## ARGUMENT

### I. The Limited-Civil Division and Its Appellate Division Lacked Subject-Matter Jurisdiction from the Outset

Code of Civil Procedure § 86(a) excludes from limited-civil jurisdiction any case (1) in which the amount in controversy exceeds \$35,000 or (2) that is brought to try title to real property.

Both exclusions apply here:

**A. Amount in Controversy.** Section 85 expressly provides that “amount in controversy” includes “the value of the property.” The property’s fair-market value is approximately \$1.5 million, and Petitioner’s lost equity exceeds \$1 million. The action therefore far exceeds the \$35,000 ceiling.

**B. Adjudication of Title Required.** Real Party’s claim to possession rests exclusively on a trustee’s deed obtained after a foreclosure that Petitioner has consistently contended was void because it was caused by a void ~\$930,000 judgment and fraud. Resolution of that dispute is a question of title that limited-civil courts are expressly prohibited from deciding. Code Civ. Proc., § 86(a)(1) & (4); *Flowers & Sons Development Corp. v. Municipal Court*, 86 Cal.App.3d 818, 823 (1978) (“if there is present in a case any material issue involving the title of real property which property is over the value of \$5,000 [the former threshold], the superior court[‘s] [unlimited civil division] has jurisdiction over the action”) citing *Vella v. Hudgins*, 20 Cal. 3d 251, 257 (1977) and Witkin, *Cal.Procedure* (2d ed. 1970) Jurisdiction, s 45, p. 569); see also *Reay v. Cotter*, 29 Cal. 168, 170 (1865) (“summary UD

proceedings were] not intended to apply to any case where the title to the land could be made a question”); *Kessler v. Bridge*, 161 Cal. App. 2d Supp. 837, 839 (Cal. App. Dep't Super. Ct. 1958) (“if it is shown that the real issue is not possession, but title, then unlawful detainer is held not to lie [Citation]”); *Dr. Leevil, LLC v. Westlake Health Care Center*, 6 Cal.5th 474 (2018) (distinguishing *Kessler* by noting that equitable defenses [in limited civil UD cases] are permissible only to the extent they negate title perfection for possession, not for broader equitable relief (e.g., fraud-based title disputes requiring unlimited jurisdiction)).

## **II. The \$930,000 Judgment Is the Sole Cause of the Foreclosure and the Unlawful-Detainer Judgment**

The Fourth District Court of Appeal has already recognized that no preclusion doctrine bars relief from the ~\$930,000 judgment. Petitioner’s imminently filed Petition for Writ of Mandate in *Bereki v. Humphreys* (S\_\_\_\_\_) presents multiple independent grounds establishing that the judgment is void ab initio. A void judgment confers no rights and cannot support a subsequent foreclosure or unlawful-detainer action. *Bennett v. Wilson*, 122 Cal. 509, 513–514 (1898). See also [RJN Ex. 26 pp. 501–514](#) (UD Appeal) for additional reasons the foreclosure sale was tainted by fraud and other state and federal law violations and is void.

## **III. The Appellate Division’s Refusal to Transfer and Its Subsequent Orders Are Acts Without Fundamental Jurisdiction.**

When subject-matter jurisdiction is absent, every subsequent order is coram non iudice. The Appellate Division therefore has a clear, present, and ministerial duty under Code of Civil Procedure § 396(b) to transfer the appeal to the Court of Appeal. Its refusal

to do so (Oct. 9 & Oct. 17, 2025) and its November 17, 2025 order striking Petitioner's Opening Brief challenging jurisdiction, placing the appeal in default, and imposing a new deadline are reviewable by mandate. [RJN Ex. 25](#); *Padilla v. Department of Alcoholic Beverage Control*, 43 Cal.App.4th 1151, 1155–1156 (1996).

#### **IV. The Limited-Civil Proceedings Violated Fundamental Due Process**

Due process is denied when a party is deprived of a full and fair opportunity to be heard. *Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876). Petitioner was prevented from filing answers ([RJN Ex. 26 pp. 520–533](#); *Baske v. Burke*, 125 Cal.App.3d 38 (1981)), the title dispute was concealed and never heard ([RJN Ex. 26 pp. 520–533](#); *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 147 (1980)), default was taken without proper notice (*Id.* p. 531), the Writ of Possession was awarded without authority (*Id.* pp. 532-44), and the court refused to vacate the resulting judgment (*Id.* pp. 544-54). These violations independently render the judgment void. *Windsor v. McVeigh*, 93 U.S. 274 (1876); *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198, 216 (2022). See also [RJN Ex. 26 pp. 501-514](#) regarding fraud that tainted the Bankruptcy proceedings and ultimately the foreclosure sale including violation of the emergency stay, fresh start, and homestead protections.

#### **V. Irreparable Injury Is Ongoing and No Adequate Remedy Exists at Law**

Petitioner has been permanently dispossessed of his long-time home. Real Party in Interest is in occupancy and has made substantial alterations without authority and despite notice to cease and desist. Monetary damages cannot compensate for the loss of a unique parcel of real property. Because the limited-civil court lacks jurisdiction and

the Fourth District Court of Appeal has breached its duty to order the Appellate Division to transfer the case, the ordinary appellate process cannot afford any relief.

### **INCORPORATION BY REFERENCE OF PRIOR FILINGS AND RELATED RECORDS**

Petitioner hereby incorporates by reference, as though fully set forth herein, every pleading, motion, declaration, exhibit, request for judicial notice, appellate brief, writ petition, complaint, and correspondence in all cases and all complaints or reports submitted by him to all state or federal agencies concerning the facts and parties involved or related to this matter. These documents collectively exceed 10,000 pages and include hundreds of exhibits. In the interest of judicial economy and to avoid burdening this Court with duplicative filings, Petitioner has not appended the entirety of these records to the present Petition. Complete copies of all incorporated documents are on file with the respective courts and agencies, including those identified above and are available for immediate retrieval by this Court on its own motion or upon request. Petitioner will promptly lodge any specific document the Court may direct. See also concurrently filed Request for Judicial Notice.

### **RELIEF REQUESTED**

Petitioner respectfully requests that this Court:

1. Issue an immediate stay and writ of supersedeas halting all proceedings in Orange County Superior Court Limited Civil Case No. 30-2025-01459684 and Appellate Division Consolidated Case Nos. 30-2025-01482941 and 30-2025-01487778, including enforcement of the November 17, 2025 Minute Order;

2. Order Petitioner restored to possession of the real property at 818 Spirit Avenue, Costa Mesa, California 92626 pending final resolution of these proceedings;
3. Issue a peremptory Writ of Mandate or Prohibition directing the Superior Court to vacate the March 18, 2025 default judgment and the writ of possession as void for lack of subject-matter jurisdiction;
4. Consolidate this proceeding with *Bereki v. Humphreys* (S\_\_\_\_\_) for unified determination of the validity of the underlying ~\$930,000 monetary judgment and the validity of the foreclosure proceedings;
5. Award Petitioner monetary damages against Real Party in Interest Canjian Hou in an amount according to proof at an evidentiary hearing for (a) the reasonable rental value of the premises from April 2025 through the date possession is restored to Petitioner, (b) waste, destruction of property, alterations and renovations performed without Petitioner's consent following execution of the void writ of possession, and (c) all other consequential damages directly flowing from the unlawful occupation of the property;
6. Grant such other and further relief as the Court deems just and proper.

Dated: December 14, 2025

Respectfully filed,



Adam Bereki

## VERIFICATION

I, Adam Bereki, declare:

1. I am the Petitioner in this proceeding.
2. The facts stated herein are true of my own personal knowledge, except as to those matters stated on information and belief, and as to those I believe them to be true.
3. If called as a witness, I could and would competently testify to the matters stated herein.
4. All Exhibits referenced herein are true and correct copies of the documents or other evidence they purport to be.

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

Signed on December 14, 2025, at Las Vegas, Nevada.

A handwritten signature in black ink, appearing to read 'Adam Bereki', with a stylized, cursive script.

Adam Bereki

## CERTIFICATE OF WORD COUNT

I certify, pursuant to California Rules of Court, rule 8.204(c), that the foregoing Petition for Writ of Mandate/Certiorari (including the caption, cover page, tables of contents and authorities, certificate of interested entities or persons, verification, signature block, notice of bankruptcy and this certificate) contains 5,199 words, as calculated by Microsoft Word.

Dated: December 14, 2025

A handwritten signature in black ink, appearing to read 'Adam Bereki', with a stylized, cursive script.

Adam Bereki

# Appendix H

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

ADAM BEREKI,

Petitioner,

v.

THE SUPERIOR COURT OF  
ORANGE COUNTY,

Respondent;

CANJIAN HOU,

Real Party in Interest.

G066337

(Super. Ct. Nos. 30-2025-01459684,  
30-2025-01482941, 30-2025-01487778)

O R D E R

THE COURT:\*

Petitioner's request for judicial notice is GRANTED. The petition for writ of mandate or other relief, as well as the request for immediate stay, are DENIED.

MOORE, ACTING P. J.

\* Before Moore, Acting P. J., Delaney, J., and Gooding, J.

# Appendix I



## Supreme Court of California

JORGE E. NAVARRETE  
CLERK AND EXECUTIVE OFFICER  
OF THE SUPREME COURT

EARL WARREN BUILDING  
350 McALLISTER STREET  
SAN FRANCISCO, CA 94102  
(415) 865-7000

January 26, 2026

### SENT VIA EMAIL & USPS

Adam Bereki  
3649 Metter Street  
Las Vegas, NV 89129  
[abereki@gmail.com](mailto:abereki@gmail.com)

**Re: *BEREKI v. S.C. (HOU)* – S294339**

Dear Mr. Bereki:

No action may be taken on your “Application to recall transfer and for reinstatement or original jurisdiction”, received on January 26, 2026. The order transferring your petition was final forthwith and may not be reconsidered. Without jurisdiction, this court is unable to consider your request for legal relief.

Sincerely,

JORGE E. NAVARRETE  
Clerk and  
Executive Officer of the Supreme Court

*M. Chang*

By: M. Chang, Deputy Clerk

Enclosure

cc: Rec.

Original Case No. **S294339**

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

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Adam Bereki,  
*Petitioner.*

v.

Superior Court of California for the County of Orange  
*Respondent.*

Karen Humphreys and Gary Humphreys  
*(Real Parties in Interest)*

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**APPLICATION TO RECALL TRANSFER AND FOR REINSTATEMENT  
OF ORIGINAL JURISDICTION**

---

Adam Bereki  
3649 Metter St.  
Las Vegas, Nevada 89129  
949.241.6693 | abereki@gmail.com

**TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF CALIFORNIA:**

**INTRODUCTION**

Petitioner Adam Bereki respectfully applies for an order:

(1) recalling this Court's transfer of this original writ proceeding to the Court of Appeal for the limited purpose of determining whether *Hagan v. Superior Court*, 57 Cal.2d 767 (1962) applies;

(2) reinstating this matter on the Supreme Court's original-jurisdiction docket; and

(3) exercising original jurisdiction, because the limited transfer failed and no lower court made the determination this Court requested.

This Court did not find that the petitions were substantially identical. It transferred this matter only so the Fourth District could determine whether *Hagan* applies.

The Fourth District did not make that determination. It issued a one-word disposition, "Denied," without analysis (Exhibit A), without a finding of substantial identity, and without addressing whether any abuse of the writ existed.

*Hagan* does not authorize a court to deny jurisdiction simply because two petitions are alleged to be similar. *Hagan* holds that a denial without opinion is not a decision on the merits and is not *res judicata* of the legal issues presented unless it affirmatively appears that the denial was intended to be on the merits or the sole possible ground was

a merits determination. It further holds that even where petitions are identical, the court is not deprived of jurisdiction, and any refusal to consider a second petition is discretionary only, justified solely to prevent evasion of time limits through repetitive filings in the same court.

The abuse found in *Hagan* was narrow: a petitioner filed the same petition in the same appellate court 50 days later to circumvent the time for seeking Supreme Court review. The Court emphasized that this was an attempt to extend jurisdictional deadlines and that the discretionary refusal was grounded in orderly administration of justice, not in any lack of power to decide.

That circumstance is not present here. Petitioner did not file repetitive petitions in the same court to evade time limits. He filed two distinct original proceedings in two different courts, seeking different relief, based on different injuries, invoking different jurisdictional powers, and supported by different records.

The two petitions have been attached as Exhibits B (First Amended Petition for Writ of Mandate, Fourth District case. no. G066117; writ only without exhibits) and C (Petition for Writ of Mandate, Cal. Supreme Court case no. S294339) and are incorporated by reference as if fully set forth herein. They are not substantially identical in any respect material to *Hagan*:

1. The relief differs. This proceeding seeks a stay, writ of supersedeas, restoration of possession, and consolidation with related original proceedings. The Fourth

District petition sought only a ministerial transfer under Code of Civil Procedure section 396(b).

2. The jurisdictional power differs. This proceeding invokes this Court's original and supervisory jurisdiction to halt enforcement of void judgments and prevent irreparable harm based on the refusal of all inferior courts to exercise the judicial power of California to afford Petitioner a judicial determination of rights. The Fourth District petition invoked mandamus solely to compel transfer between appellate tribunals.
3. The legal theory and injury differ. This proceeding challenges ongoing enforcement (punishment/ deprivation of property by state power without adjudication) and seeks immediate protective relief. The Fourth District petition challenged a forum-allocation defect only.
4. This proceeding expressly incorporates and is contingent upon the companion original proceeding S294386, which independently sought vacatur of the void 2017 judgment and systemic constitutional relief. The Fourth District petition contains no incorporation of S294386, no challenge to the underlying judgment's constitutional validity, and no request for supervisory relief.

Because the petitions differ in relief, jurisdiction, theory, and record, they cannot be substantially identical under *Hagan*. The factual predicate for transfer therefore never existed.

## PROCEDURAL HISTORY

On December 15, 2025, Petitioner filed an Emergency Petition in this Court, invoking original jurisdiction to halt enforcement of a void unlawful-detainer judgment, issue supersedeas, restore possession, and consolidate with the companion original proceeding challenging the 2017 judgment that caused the foreclosure.

On December 16, 2025, this Court transferred the matter to the Fourth District solely so that court could determine whether *Hagan* applied. The Court did not find the petitions duplicative and did not relinquish original jurisdiction.

On December 18, 2025, the Fourth District issued a one-word disposition: “Denied.” Exhibit A. It did not determine whether the petitions were substantially identical, did not analyze *Hagan*, and did not decide whether any abuse existed.

The Fourth District’s summary denial also failed to determine its own jurisdiction. The petition before it sought enforcement of a ministerial duty to transfer under Code of Civil Procedure section 396(b). By entering a one-word “Denied” without addressing jurisdiction or the statutory command to transfer, the court neither accepted jurisdiction nor performed the transfer duty imposed by statute, breaching multiple non-discretionary ministerial duties. The result is that the Court of Appeal did not decide the matter and did not transfer it, leaving the jurisdictional defect unresolved and Petitioner without a judicial forum.

The limited purpose of the transfer was therefore never fulfilled.

**SUPREME COURT SUMMARY DENIAL OF S294386 CONFIRMS THE  
STRUCTURAL INJURY ALLEGED HERE**

On January 21, 2026, this Court summarily denied the companion original proceeding S294386 by a one-word disposition (“Denied”), while granting the request for judicial notice. The docket reflects that S294386 was fully briefed, accepted for filing with permission to exceed word limits, and amended by a First Amended Petition filed January 13, 2026. No opinion issued, and no constitutional claim was adjudicated.

Under *Hagan v. Superior Court*, 57 Cal.2d 767 (1962), a summary denial of an original writ does not constitute a decision on the merits and is not *res judicata* of the legal issues presented unless it affirmatively appears that the denial was intended to be on the merits, which does not appear here.

Accordingly this Court’s summary denial of S294386 did not adjudicate the merits, but instead confirms the precise structural injury now alleged: that no California court will hear Petitioner’s constitutional claims while enforcement continues.

S294339 fully incorporates S294386 by reference. The summary denial of S294386 therefore operates not as a bar, but as evidence of the closed judicial loop described in this proceeding. The issues in S294386 remain fully alive in this proceeding and require full, fair, and impartial adjudication.

## **THE TRANSFER FAILED AND MUST BE RECALLED**

A *Hagan* transfer is valid only if it results in a determination of identity and discretionary abuse. Where the transferee court declines to perform the assigned function and disposes of the matter without findings, the transfer fails.

Courts possess inherent authority to recall a transfer where its predicate proves mistaken, its mechanism fails, or manifest injustice would result. All three conditions are present here including that Petitioner has no other forum in California to obtain relief.

The transferee court's refusal to determine jurisdiction or to perform its statutory transfer duty under section 396(b) independently confirms that the transfer failed and that this Court must resume jurisdiction to prevent a denial of a judicial forum.

### **THIS COURT CANNOT RETURN THE MATTER TO A COURT THAT HAS DISCLAIMED IT**

Once the Fourth District issued its disposition in the previous Mandate case (G066117), and again in this case, it conclusively declined to exercise its mandatory duty. The subsequent transfer back to the Fourth District thus created a closed procedural loop in which no court will hear the matter. Such a loop operates as a constructive denial of original jurisdiction and violates due process by ensuring that no forum will adjudicate a properly raised constitutional challenge while enforcement continues.

### **THE CONSTITUTION FORBIDS A CLOSED ENFORCEMENT LOOP: COURTS MUST DECIDE CONSTITUTIONAL VALIDITY BEFORE PUNISHMENT MAY PROCEED**

This case now presents a single, dispositive constitutional question:

Is California operating a closed judicial system in which no court will hear certain constitutional claims while enforcement and punishment proceed?

The United States Supreme Court has held that such a system is unconstitutional. In *SEC v. Jarkesy*, 603 U.S. 109 (2024), the Court reaffirmed that when the government seeks to impose punishment, the Constitution requires that the legality of that scheme be adjudicated in an Article III court with full constitutional safeguards before sanctions may be enforced. Where the sanction is penal in nature, courts have a duty to determine constitutional validity before enforcement may proceed.

In *Axon Enterprise, Inc. v. FTC*, 598 U.S. 175, 187–90 (2023), the Court held that structural constitutional challenges must be heard immediately, not postponed until after enforcement, because forcing a party to undergo an unconstitutional proceeding is itself a constitutional injury.

And in *Free Enterprise Fund v. PCAOB*, 561 U.S. 477, 489–91 (2010), the Court held that a system which insulates enforcement from judicial review by routing claims into a procedural loop that no court will hear violates separation of powers and due process.

Together, these cases establish a controlling rule: the Constitution does not permit a closed enforcement loop in which punishment proceeds while no court will hear a properly raised constitutional challenge to the authority for that punishment.

That is exactly what has occurred here.

The punishment imposed here is not limited to a monetary sanction or a loss of possession. It is the complete denial of all applicable rights secured by the California and United States Constitutions, including the fundamental liberty right to a judicial determination of rights before deprivation of liberty and property. By refusing to adjudicate the constitutional validity of the judgments and statutes at issue, while nevertheless permitting their enforcement, the State has deprived Petitioner of liberty and property without lawful authority, resulting in the forced sale of Petitioner's home and the transfer of approximately \$1.2 million in equity to a purchaser who acquired no valid title. That uncompensated transfer constitutes an unlawful taking and a continuing due-process violation.

Where the State imposes punishment by denying every forum for constitutional adjudication, the system itself becomes the instrument of punishment. Under *Jarkesy*, *Axon*, and *Free Enterprise Fund*, that condition compels this Court to resume original jurisdiction and provide a forum.

#### **INDEPENDENT BASIS FOR RELIEF IN THIS PROCEEDING, WITHOUT REACHING THE 2017 JUDGMENT**

This proceeding does not require any adjudication of the 2017 judgment challenged in S294386. Relief may be granted here based solely on the unlawful and void enforcement process that culminated in the foreclosure, eviction, and transfer of title. Multiple independent jurisdictional and constitutional violations occurred in that enforcement chain, including: authorization of foreclosure in violation of the automatic stay and without prior adjudication of lien validity; enforcement of a discharged debt in contravention of the discharge injunction; failure to honor mandatory homestead

protections; denial of the right to answer and be heard in the unlawful detainer proceeding; and the issuance of enforcement orders without subject-matter jurisdiction. Each of these defects independently deprives the enforcing courts of lawful authority and renders all downstream orders and transfers void.

California law provides a narrow, statutory path to unwind such void enforcement without reaching the merits of the underlying judgment. In *Shapell SoCal Rental Properties, LLC v. Chico's FAS, Inc.*, 84 Cal.App.5th 166, as modified, 85 Cal.App.5th 198 (4th Dist., Div. 3)), the Fourth District held that where enforcement is void or jurisdictionally defective, the entire enforcement chain must be unwound and restitution is authorized under Code of Civil Procedure section 908, even where possession has changed hands and third parties are involved. The court rejected mootness and “too late” arguments and confirmed that effective relief remains available to restore all property and rights lost through the void enforcement. Accordingly, this Court may grant relief in S294339 by addressing only the independent defects in the foreclosure and eviction process, without reaching the merits of the 2017 judgment at issue in S294386.

### **MANDATORY RELIEF**

This Court will please provide the following relief:

- (1) recall the transfer of S294339;
- (2) reinstate the petition on this Court's original-jurisdiction docket;

(3) exercise original jurisdiction or issue such orders as are necessary to ensure that a court of competent jurisdiction hears and lawfully determines the matter.

January 25, 2026

Respectfully filed,

A handwritten signature in black ink, appearing to read 'Adam Bereki', with a stylized flourish at the end.

Adam Bereki

# Exhibit A

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE

ADAM BEREKI,

Petitioner,

v.

THE SUPERIOR COURT OF  
ORANGE COUNTY,

Respondent;

CANJIAN HOU,

Real Party in Interest.

G066337

(Super. Ct. Nos. 30-2025-01459684,  
30-2025-01482941, 30-2025-01487778)

O R D E R

THE COURT:\*

Petitioner's request for judicial notice is GRANTED. The petition for writ of mandate or other relief, as well as the request for immediate stay, are DENIED.

MOORE, ACTING P. J.

\* Before Moore, Acting P. J., Delaney, J., and Gooding, J.

## Exhibit B

In the Fourth District Court of Appeal of California

Case No. GO66117

---

Adam Bereki,  
Petitioner

v.

Appellate Division of the Superior Court of California  
for the County of Orange,  
Respondent

v.

Canjian Hou,  
Real Party in Interest

---

**FIRST AMENDED PETITION FOR WRIT OF MANDATE  
TO THE APPELLATE DIVISION OF THE SUPERIOR COURT  
FOR THE COUNTY OF ORANGE  
RELATED APPEAL PENDING**

Consolidated Case Nos.:  
30-2025-1482941 (Lead Case) and 30-2025-01487778

**\*\*\*STAY REQUESTED\*\*\***

All Proceedings in the Appellate Division of the Superior Court of Orange County,  
Consolidated Case Nos. 30-2025-01482941 and 30-2025-01487778, Including Minute  
Orders Dated October 9 and 17, 2025. Stay requested for October 22, 2025 by 5:00 PM

**RELATED FOURTH DISTRICT APPEAL CASE NO: G055075**

---

Adam Bereki  
3649 Metter St.  
Las Vegas, Nevada 89129  
949.241.6693 | abereki@gmail.com

Jurisdiction is the right to hear and determine, not determine without hearing.

–*Windsor v. McVeigh*, 93 U.S. 277, 283-4 (1876)

## **CERTIFICATE OF INTERESTED PARTIES**

Pursuant to California Rules of Court, rule 8.208, Petitioner hereby certifies that the following listed persons and entities have an interest in the outcome of this appeal. This certificate includes: (1) all parties to the appeal; (2) all real parties in interest; (3) all judges and commissioners who issued orders or judgments challenged in this appeal; (4) all attorneys of record; (5) all persons or entities whose interests may be affected by the outcome of the appeal; (6) any unnamed or unknown court clerks, deputy clerks, or supervisory clerks involved in the proceedings below; and (7) any law enforcement officers, including sergeants and deputies, whose actions are challenged as aiding Constitutional violations (e.g., Sergeant Lopez and Deputy Murillo of the Orange County Sheriff's Department Civil Enforcement Division). The appellate panel justices (Justices Motoike, Delaney, and Scott, of the Fourth District Court of Appeal, Division Three) are included due to potential pecuniary interest arising from their involvement in similar § 7031 cases (*Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024)), subjecting them to disqualification under CCP § 170.1(a)(6)(ii) for bias or pecuniary interest in upholding prior rulings.

### **Parties to the Appeal:**

- Adam Bereki, Appellant
- Canjian Hou

**Real Parties in Interest:**

- Henry Paloci (Respondent's attorney)
- Orange County Superior Court (Judicial entity overseeing UD case No. 30-2025-01459684 and related 2015 case No. 30-2015-00805807)
- Fourth District Court of Appeal (Judicial entity overseeing case No. G055075)
- Orange County Sheriff's Department (Civil Enforcement Division; involved in writ execution and eviction)
- Citizens Bank NA (Foreclosing entity; interest in validity of foreclosure sale)
- Trustee Corps (Foreclosure trustee; interest in validity of trustee's deed)
- Citibank N.A. as Trustee (Senior lienholder; disputed in rem lien on property)
- Shellpoint Mortgage Servicing (Servicer for Citibank; ongoing payments on disputed lien)

**Judges and Commissioners Challenged in the Appeal:**

- Judge David Hesseltine (Orange County Superior Court; handled Ex Parte Application for Stay and Motion to Vacate in 2015 case, RJN Ex. 15.1, 15.3; denied vacatur of 2015 judgment; potential bias under CCP § 170.1(a)(6))
- Commissioner Carmen D. Snuggs-Spraggins (Orange County Superior Court; denied Motion to Vacate UD judgment and Ex Parte Application, CT 134–135, 145; unauthorized ruling without stipulation, Cal. Const., Art. VI, § 21)

**Appellate Justices with Alleged Pecuniary Interest**

- Justice Joanne Motoike (Associate Justice Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)
- Justice Thomas Delaney (Associate Justice, Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)
- Justice Nathan Scott (Associate Justice, Fourth District Court of Appeal, Division Three; involved in *Am. Bldg. Innovation LP v. Balfour Beatty Constr., LLC*, 104 Cal.App.5th 954 (2024); potential pecuniary interest)

**Attorneys of Record:**

- Henry Paloci (Attorney for Respondent Canjian Hou)

**Persons or Entities Whose Interests May Be Affected:**

- Unknown/Deputy Clerks and Supervisory Clerks (Orange County Superior Court; obstructed Answers on March 14 and 19, 2025, CT 55–60; prematurely entered default, CT 20–24; potential liability for ministerial breaches, *Baske v. Burke*, 125 Cal.App.3d 38 (1981))
- Sergeant Lopez (Orange County Sheriff's Department, Civil Enforcement Division; refused to investigate complaints on March 24, 2025, Ex. 2, pp. E189–E210; potential liability for aiding unconstitutional taking)
- Deputy Murillo (Orange County Sheriff's Department, Civil Enforcement Division; potential liability for aiding unconstitutional taking)

- California State License Board (CSLB) (Involved in 2015 license suspension under B&P § 7071.17; interest in validity of § 7031 enforcement)
- U.S. Bankruptcy Court, Central District of California (Judge Scott Clarkson; handled Case No. 8:22-BK-12076-SC; interest in discharge injunction and stay relief order validity, 11 U.S.C. § 524(a))
- David Chaffee (Superior Court Judge; issued 2015 case judgment)
- James Di Cesare (Superior Court Judge; affirmed 2015 case judgment)
- Kathleen O’Leary (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Thomas Goethals (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Richard Aronson (Associate Justice Fourth District Court of Appeal, Division Three; Affirmed 2015 case judgment on appeal)
- Karen Humphreys (Plaintiff in 2015 case judgment)
- Gary Humphreys (Plaintiff in 2015 case judgment)
- William Bissell (Attorney for Plaintiff in 2015 case judgment)
- Kimberly Knill (Superior Court Judge, Appellate Division; see below)
- Thomas McConville (Superior Court Judge, Appellate Division; see below)
- Vibhav Mittal (Superior Court Judge, Appellate Division; see below)

**Declaration of Petitioner:**

I, Adam Bereki, declare under penalty of perjury under the laws of California that the foregoing is a true and complete list of persons and entities known to me to have an

interest in the outcome of this appeal, including those whose interests may be affected by the relief requested. This certificate is based on my personal knowledge and a reasonable inquiry.

Signed on October 27, 2025, at Las Vegas, Nevada.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Adam Bereki

**TO THE JUSTICES OF THE FOURTH DISTRICT COURT OF APPEAL, DIVISION 3:**

**OVERVIEW**

California Code of Civil Procedure (“CCP”) section 396 imposes a mandatory, non-discretionary, ministerial duty on a court to transfer an action or proceeding, including an appeal, when it lacks jurisdiction. The Appellate Division of the Superior Court of California for the County of Orange, which lacks subject matter jurisdiction of an appeal, is breaching this duty by refusing to transfer a consolidated appeal in main case no. 30-2025-01482941 to this court.

The Appellate Division has exercised jurisdiction without authority, violating due process (Cal. Const. Art. I, §§ 7, 9; U.S. Const. Art. I, § 10) by: (1) denying Petitioner’s Application for Transfer; (2) denying his request to submit an Oversized Brief (despite the complexity of appealing five court orders, evidencing numerous underlying title disputes, and making two Constitutional challenges); (3) placing the appeal in default; (4) denying his Request for Reconsideration to transfer; and (5) failing to provide a reasoned explanation of its decisions, stating “no so” or “denied” in response to the transfer requests despite clear jurisdictional statutes and supporting case law divesting it of jurisdiction.

This *First Amended* Verified Petition for Writ of Mandate supersedes the prior Petition filed on October 22, 2025.

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Petitioner Adam Bereki respectfully petitions this Court for a writ of mandate compelling Respondent Appellate Division of the Superior Court of Orange County to vacate its Minute Orders dated October 9, 2025, and October 17, 2025, in consolidated appellate main case No. 30-2025-01482941, and to transfer the appeal to this court pursuant to CCP § 396(b). This writ is necessary because the Appellate Division lacks jurisdiction over the appeal due to a bona fide title dispute that must be adjudicated prior to the issue of possession and an amount in controversy exceeding \$35,000, rendering the underlying unlawful detainer action a general civil case, not a “limited civil case” as defined by CCP §§ 85 and 86. The Appellate Division has a clear, present, and ministerial duty to transfer the appeal, and Petitioner has no adequate remedy at law.

This petition is brought under CCP § 1085, as the Appellate Division’s refusal to transfer violates due process and perpetuates a void unlawful detainer judgment, causing irreparable harm, including the ongoing deprivation/ unlawful taking/ theft of Petitioner's home and approximately \$1.2 million in equity.

## I. PARTIES

1. **Petitioner Adam Bereki** is the appellant in the underlying appeal before the Appellate Division and the defendant in the unlawful detainer action (Orange County Superior Court Case No. 30-2025-01459684). Petitioner resides at 3649 Metter St., Las Vegas, Nevada 89129.
2. **Respondent Appellate Division of the Superior Court of Orange County** is the appellate body of the Orange County Superior Court that improperly asserted

jurisdiction over Petitioner's appeal in Consolidated Case Nos. 30-2025-01482941 (Lead Case) and 30-2025-01487778.

3. **Real Party in Interest Canjian Hou** is the respondent in the underlying appeal and the plaintiff in the unlawful detainer action.

## II. JURISDICTION

This Court has original jurisdiction to issue a writ of mandate under article VI, section 10 of the California Constitution and Code of Civil Procedure section 1085. Mandate is appropriate to compel the performance of a ministerial duty where there is no plain, speedy, and adequate remedy at law (CCP § 1086; *County of Sacramento v. Hickman*, 66 Cal.2d 841, 845 (1967)). Here, the Appellate Division has a mandatory duty under CCP § 396(b) to transfer the appeal to this Court, as it lacks jurisdiction. The Appellate Division's refusal to transfer (October 9 and 17, 2025, Minute Orders) necessitates immediate review by this Court to correct the jurisdictional error and determine which court has authority to hear and determine this appeal.

## III. REQUEST FOR JUDICIAL NOTICE

Petitioner resubmits his Request for Judicial Notice, previously filed in the Appellate Division of the Superior Court (attached hereto as Exhibit 7), and respectfully requests this Court take judicial notice of all exhibits therein as required by law.

#### **IV. VERIFIED STATEMENT OF FACTS AND ARGUMENT (MEMORANDUM)**

I, Adam Bereki, declare under penalty of perjury under the laws of California that the following statements of fact are true and correct, and that all exhibits referenced below and filed with this Petition, incorporated as if fully set forth herein, are true and correct copies of the documents they represent, except for any Bates numbering or other non-substantive markings made by myself or others.

Exhibit 1: Verified Opening Brief on Appeal

Exhibit 2: Applications for Transfer and to File an Oversized Brief

Exhibit 3: Minute Order- October 9, 2025

Exhibit 4: Ex parte Application for Reconsideration; Opposition; Reply to Opposition

Exhibit 5: Minute Order- October 17, 2025

Exhibit 6: Motion to Take Additional Evidence

Exhibit 7: Request for Judicial Notice (Separate filings due to file size >25mb)

Exhibit 8: Clerk's Transcript (Separate filing)

#### **A. An Underlying Title Dispute and Property Value Exceeding \$35,000 Require Resolution in an Unlimited Civil Proceeding Before Possession Can Be Determined, Divesting the Limited Civil Division and Its Appellate Division of Subject Matter Jurisdiction**

1. Each of the duties alleged to have been breached herein, whether declared by Constitution or statute, are those which are mandatory, non-discretionary,

ministerial duties to which a writ of mandate lies (*Common Cause v. Bd. of Supervisors*, 49 Cal. 3d 432 (1989))(reaffirming mandamus as the proper remedy to enforce mandatory duties; distinguishing between ministerial acts (which may be compelled) and discretionary acts (which may not be compelled by mandate); Cal. Const. Art. I, § 26 of the California Constitution “[t]he provisions of this Constitution are mandatory and prohibitory”; *Katzberg v. Regents of Univ. of California*, 29 Cal. 4th 300, 307 (2002) (“every constitutional provision is self-executing to this extent, that everything done in violation of it is void”)(Citation and brackets omitted).

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2. On February 11, 2025, Real Party in Interest (“RPI”) Canjian Hou filed an unlawful detainer complaint in the limited civil division of the Orange County Superior Court (Case No. 30-2025-01459684), seeking possession of the property at 818 Spirit, Costa Mesa, California, following a disputed foreclosure sale (UD Complaint: Ex. 7– Request for Judicial Notice (“RJN”) Ex. 15, pp. 609–620; Ex. 8– Clerk’s Transcript (“CT”) ROA 2). All allegations made herein pertaining to RPI also include his counsel, Henry Paloci III, unless otherwise stated.
3. Prior to this filing, Petitioner informed RPI of a bona fide title dispute, stemming from a 2015 case void judgment (Case No. 30-2015-00805807) that included suspension of his vested right to professional license which led to financial ruin, forced bankruptcy, and ultimately the foreclosure of his home (Ex. 1– Verified Opening Brief (“VOB”) p. 41– notice, pp. 19-26– 2015 case issues). Additionally,

the bankruptcy Court violated numerous protections including fresh start and California homestead guarantees, allowing a wrongful foreclosure on November 18, 2024 (Ex. 1– VOB pp. 27-40). The foreclosure resulted in an approximate \$1.2 million theft/ unlawful taking of Petitioners home equity, fraudulently transferred to RPI.

4. The issue of the validity of 2015 case judgment and license suspension, which directly and proximately caused Petitioner’s financial duress, is currently before this court in case no.: G065695.
5. Based on the underlying title dispute, due process required unlimited civil proceedings to determine this issue before possession pursuant to *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 147 (1980), holding that “homeowners cannot be evicted, consistent with due process guaranties, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership.” See also CCP § 580(b)(3), precluding the title dispute from being adjudicated in the summary limited civil division of the Superior Court. Adjudication of the underlying dispute is critical as Petitioner contends it will evidence the foreclosure was void due to fraud (*Yvanova v. New Century Mortg. Corp.*, 62 Cal.4th 919 (2016)) and due process violations negating RPI’s standing under CCP § 1161a as RPI’s purported title is not “duly perfected”.
6. Despite the foregoing, the limited civil division awarded possession to RPI without adjudicating the title dispute after obstructing Petitioner’s repeated attempts to raise it through answers and motions including challenges to UD jurisdiction (see section B, *infra*; Ex. 1– VOB pp. 41-59). This premature adjudication of possession

rendered the UD judgment void, as the court lacked subject matter jurisdiction to determine possession without first resolving the title dispute in an unlimited civil proceeding (*Asuncion*, 108 Cal.App.3d at 147; *Windsor v. McVeigh*, 93 U.S. 274, 277–78 (1876)(denial of hearing negates notice of UD proceedings, judgment void).

7. Because of the underlying title dispute, the property value is at issue and must be accounted for in the determination of the monetary jurisdictional threshold amount for limited civil cases as stated in CCP § 85:

Notwithstanding any law, including, but not limited to, a law that classified an action or special proceeding as a limited civil case, an action or special proceeding shall be treated as a limited civil case only if all of the following conditions are satisfied:

(a) The amount in controversy does not exceed thirty-five thousand dollars (\$35,000). As used in this section, “amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys’ fees, interest, and costs.

8. CCP 85 clearly and unambiguously states that the “amount in controversy” in a limited civil case includes “the value of property” and that the action “shall be treated as a limited civil case **only** if ... the amount in controversy does not exceed ...\$35,000”. The property’s estimated value of \$1.5 million far surpasses the \$35,000 jurisdictional threshold (Ex. 1– VOB pp. 41 ¶¶2 –42).
9. Affirming that the “amount in controversy” includes the value of the property, the court in *Flowers & Sons Development Corp. v. Municipal Court*, 86 Cal.App.3d 818, 823 (1978) held that “if there is present in a case any material issue involving the title of real property which property is over the value of \$5,000 [the former threshold], the superior court[’s] [unlimited civil division] has jurisdiction over the

action” (citing *Vella v. Hudgins*, 20 Cal. 3d 251, 257 (1977) and Witkin, Cal.Procedure (2d ed. 1970) Jurisdiction, s 45, p. 569). See also *Reay v. Cotter*, 29 Cal. 168, 170 (1865) ([“summary UD proceedings were] not intended to apply to any case where the title to the land could be made a question”); *Kessler v. Bridge*, 161 Cal. App. 2d Supp. 837, 839 (Cal. App. Dep't Super. Ct. 1958) (“if it is shown that the real issue is not possession, but title, then unlawful detainer is held not to lie [Citation]”); and, *Dr. Leevil, LLC v. Westlake Health Care Center*, 6 Cal.5th 474 (2018) (distinguishing *Kessler* by noting that equitable defenses [in limited civil UD cases] are permissible only to the extent they negate title perfection for possession, not for broader equitable relief (e.g., fraud-based title disputes requiring unlimited jurisdiction)).

10. The bona fide title dispute stemming from the 2015 case void judgment, license suspension, bankruptcy violations, and wrongful foreclosure, combined with the property’s value of ~\$1.5 million, categorically excludes this case from being a “limited civil case” as defined by CCP §§ 85 and 86, as supported by *Asuncion v. Superior Court* (108 Cal.App.3d 141, 147 (1980)) and *Flowers & Sons Development Corp. v. Municipal Court* (86 Cal.App.3d 818, 823 (1978)). Consequently, the limited civil division lacked subject matter jurisdiction to adjudicate the unlawful detainer action, and the Appellate Division lacks appellate jurisdiction under CCP § 904.2, which only applies to limited civil cases:

An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case is to the appellate division of the superior court. An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case may be taken from any of the following:

11. The Appellate Division's refusal to transfer the appeal to this court under CCP § 396(b) perpetuates a void judgment, causing irreparable harm through the continued unlawful deprivation of Petitioner's home, deprivation of the rights to liberty (right to a judicial determination of rights) privacy, and property (home equity). This court must enforce the mandatory transfer to ensure due process and proper adjudication.

**B. Extrinsic Fraud and Due Process Violations in the UD Proceedings Resulted in Damages Exceeding \$35k Jurisdictional Threshold**

12. Assuming arguendo there was no title dispute, the due process violations that occurred during the UD proceedings denied Petitioner's fundamental right to be heard, resulting in a void judgment that unlawfully awarded possession of his home to RPI causing an unlawful taking resulting in estimated damages of at least \$150,000, exceeding the \$35k threshold.

13. The due process violations resulting in the denial of Petitioner's right to be heard include:

- a. the Superior Court breaching its mandatory duty to grant a stay of the UD proceedings given undisputed evidence of the underlying title dispute;
- b. the Superior Court breaching its mandatory duty to transfer the case to the unlimited civil division;
- c. The Deputy Clerk breaching its mandatory duty to accept Petitioner's Answer twice, despite having no authority to determine the form of sufficiency of a pleading;

- d. RPI's breach of the mandatory duty to cooperate (CCP §583.130) by filing of a stealth default request even though RPI knew Petitioner had appeared and answered and was obstructed by the Deputy Clerk;
  - e. The Deputy Clerk's breach of duty by issuing a default and default judgment in violation CCP § 1013 (five day delay in notice requirements for mail);
  - f. The Deputy Clerk's breach of duty by issuing a default and default judgment when, based on all the foregoing, it had no authority to do so (*Windsor v. McVeigh*, 93 U.S. 274 (1876)).
  - g. The Superior Court's breach of duty by failing to vacate the void UD case judgment (Ex. 1– VOB pp. 70-77). Petitioner contends this breach of duty is not an "abuse of discretion" as there is no discretion for the court to exercise jurisdiction it does not possess and/or to refuse to exercise jurisdiction it does (*Cohens v. Virginia*, 19 U.S. 264, 404 (1821) ("[w]e have no more to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution"))).
14. There are four cases at the heart of this Petition (and appeal) that clearly recognize the mandatory duties alleged to have been breached in the UD proceedings that denied Petitioner's fundamental right to a hearing and judicial determination of his rights:
- a. *Windsor v. McVeigh*, 93 U.S. 274 (1876) held that jurisdiction is the right to hear and determine, not determine without hearing and that a court's denial of a full, fair, and impartial hearing to a defendant negates notice, depriving the court of jurisdiction to enter judgment.

- b. *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 147 (1980) held that an underlying title dispute must be heard before possession can be determined.
- c. *Shapell Social Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198 (2022) held that: (1) counsel breached ethical and statutory duties under CCP § 583.130 by failing to notify opposing counsel of the intent to seek default and default judgment, violating professional obligations to act with dignity, courtesy, and integrity.
- d. *Baske v. Burke*, 125 Cal.App.3d 38 (1981) held that clerk's lack authority to determine the form or sufficiency of a pleading and have no authority to enter default or default judgment when in possession of a responsive pleading.

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15. Even though RPI knew about the underlying title dispute from the void 2015 case judgment, void license suspension, bankruptcy protection violations, and wrongful foreclosure (Ex. 1– VOB p. 41: notice) and the monetary jurisdictional threshold precluding summary limited civil UD proceedings, RPI violated due process and fraudulently invoked limited civil jurisdiction to obtain possession, concealing the title dispute (Ex. 1– VOB pp. 41-44). RPI then engaged in a series of other ethical, statutory, and due process violations that resulted in extrinsic fraud, contributing to the denial of Petitioner's fundamental right to be heard before obtaining

judgment in its favor (Ex. 1– VOB pp. 41-76; *Windsor v. McVeigh*, 93 U.S. 274 (1876))

16. On March 14, 2025, within the authorized time to answer the UD Complaint, Petitioner attempted to file an answer in person at the court, challenging jurisdiction (RJN Ex. 15). Petitioner's Answer was combined with an Ex parte Application to Stay the UD proceedings in the unlimited civil division 2015 case as the UD proceeding was a continued unlawful enforcement of the void 2015 case judgment. The Deputy Clerk and her supervisor refused to file the Answer in the UD case citing combined filings. The Deputy Clerk instructed Petitioner that the document would not be filed in either case unless he crossed out information pertaining to the other case (Ex. 1– VOB pp. 45-48).

17. Without waiving his rights and following the Deputy Clerk's instructions to ensure a hearing, Petitioner crossed out the UD-related case and Answer information on the title page only, leaving the substance of the document intact, as shown in the record (Ex. 7– RJN Ex. 15, p. 256):

5	<b>SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE- CENTRAL JUSTICE CENTER</b>		
6			
7			
8	Adam Bereki		Main Case No.: 30-2015-00805807
9		Defendant, Cross-Complainant, Plaintiff	<b>Related Case No.: 30-2025-01459684</b> (Unlawful Detainer) <i>DF</i>
10	vs.		
11	Karen Humphreys and Gary Humphreys,		<b>VERIFIED EX PARTE APPLICATION FOR EMERGENCY STAY OF UNLAWFUL DETAINDER ACTION</b>
12			DATE: <sup>03/16/25</sup> <del>Mon. March 17, 2025</del>
13		Plaintiffs/ Cross-Complainants, Cross-Defendants	TIME: <del>8:30 AM - 9:00 AM</del>
14	vs.		DEPT: Dept. C23
15			JUDGE: D. Hesseltine
16	Canjian Hou; MTC Financial, Inc., d/b/a Prestige Default Services, LLC; Fourth District Court of Appeal of California (Interested Party); Superior Court of California for the County of Orange		<b>WITH INCORPORATED: ANSWER TO COMPLAINT (2025- 01459684)</b>

The verified pleading, including the Answer and challenge to jurisdiction with supporting exhibits, was filed in its entirety in the 2015 case (Ex. 7- RJN Ex. 15). For a list of issues raised thereby, including the title dispute and amount in controversy effecting the jurisdictional threshold, see Ex. 1- VOB pp. 46-48. The ex parte hearing was scheduled for March 18, 2025.

18. By rejecting Petitioner's Answer, the Deputy Clerk violated her ministerial duty and due process because clerks lack authority to determine the form or sufficiency of a pleading (*Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981); *Stevens v. Torregano*, 192 Cal.App.2d 105, 112-113 (1961); see also e.g. Fed. R. Civ. P. 5: "The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice".

19. On March 17, 2025, despite possessing: 1) Petitioner's Answer and knowledge that his Answer had been obstructed by the Clerk and 2) notice of Petitioner's

Appearance and the Application for Stay, RPI filed a stealth request for entry of default and default judgment (“Request”) in the UD case without notifying Petitioner prior, violating CCP § 583.130 and the ethical and due process obligations confirmed in this Court’s rulings in *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198 (2022) and *Lasalle v. Vogel*, 36 Cal.App.5th 127 (2019) (Ex. 1– VOB pp. 49-57).

20. RPI also omitted all of the foregoing material facts (e.g. title dispute) effecting jurisdiction in their Request, breaching their duty to disclose facts that materially affect the basis for relief, as established in *Gillespie v. Ormsby*, 126 Cal.App.2d 513, 527–528 (1954), and *In re Marriage of Park*, 27 Cal.3d 337, 342–343 (1980) (affirming duty to disclose facts that might delay adjudication and finding fraud for breach). These omissions constituted extrinsic fraud on Petitioner and the court, violated due process, and breached attorney Paloci’s statutory duties per Cal. Bus. & Prof. Code § 6068(a)–(d) (Ex. 1– VOB, pp. 41-45).




21. At the Ex parte hearing on March 18, 2025, the Superior Court’s unlimited civil division (2015 case) refused to grant a stay or to transfer the case to the unlimited division despite Petitioner’s *unopposed* evidence of the title dispute and the amount in dispute exceeding the \$35k threshold (Ex. 1– VOB pp. 52-56), breaching its mandatory duties under *Ascunsion*, Cal. Const. Art. I, § 7, and CCP § 396(b). The court also refused to accept Petitioner’s Answer, refused to order the Deputy Clerk to file it in the UD case, and told Petitioner to make a separate filing (*Id.*).





22. The rejection of Petitioner's Answers, denial of the stay, and refusal to transfer to the unlimited civil division (individually or collectively) divested the limited civil division of the Superior Court of jurisdiction to proceed (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)(denial of a full, fair, and impartial hearing, negates notice, depriving court of jurisdiction to declare default or enter judgment).
23. Shortly after the Ex parte hearing on March 18, 2025, the Deputy Clerk entered default (Ex. 8– CT 20–“FOR COURT USE ONLY”; Ex. 1– VOB, pp. 56 ¶4 – 57). This violated *Windsor* and due process as further recognized in *Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981), which prohibits a Deputy Clerk from entering a default when in possession of a responsive pleading (RJN Ex. 15).
24. The entry of default also violated due process by disregarding the five-day extension for mailed service under CCP § 1013(a). Due process requires notice reasonably calculated to reach the object of the notice (*Lasalle* 36 Cal.App.5th at 138 (Citation omitted)). The five-day extension of CCP § 1013 operates with the ethical and statutory duties recognized in *Lasalle* and *Shapell* to ensure due process safeguards in the event of counsel's breach of notice duty per CCP § 583.130 (Ex. 1– VOB, pp. 50-52).
25. Under CCP § 1169, the Deputy Clerk lacked authority to enter default without RPI's Request, made under penalty of perjury (Ex. 8– CT pp. 20–22, 21). RPI's request for default and default judgment, despite knowing of the court's obstruction of Petitioner's Answers and his good-faith efforts to appear and defend, constitutes fraud and a violation of due process by misleading the court, subverting the court's truth-seeking process. This also breached RPI's duty under Civil Code § 1708 to

avoid violating Petitioner’s rights. RPI also violated ethical and legal duties under CCP § 583.130, as established in *Lasalle v. Vogel*, 36 Cal.App.5th 127 (2019), and *Shapell Social Rental Properties, LLC v. Chico’s FAS, Inc.*, 85 Cal.App.5th 198 (2022), to cooperate and provide notice. Compliance with these duties is a prerequisite for requesting default.

26. Under CCP § 1169, default and default judgment are permitted only when the defendant “does not appear and defend.” Petitioner appeared and defended by filing pleadings in the 2015 case in the unlimited civil division, which had subject matter jurisdiction to: (1) address the title dispute arising from the enforcement of the void judgment; (2) issue a stay; and, (3) remedy the obstruction of his attempt to file an Answer, challenging jurisdiction. CCP § 1140 confirms that a defendant appears in an action by answering or providing written notice of appearance (Ex. 1– VOB, pp. 50–52).

27. On March 18, 2025, after the Ex Parte hearing, unaware of RPI’s Request and the court’s entry of default, Petitioner emailed RPI stating, “I will be filing an answer to the UD complaint by tomorrow” as evidenced in the screenshot of the email below (Ex. 1– VOB, p. 57):

I will be filing an answer to the UD complaint by tomorrow   

**Adam** <abereki@gmail.com> Tue, Mar 18, 3:21 PM      
to Henry, AngusHou0823 ▾

Please take notice that it is my intent to file an answer in the UD case by tomorrow. As you’ve been made aware I am under extreme duress given the unlawful acts that continue to be perpetrated against me.

Sincerely,

Adam Bereki

28. RPI did not respond or give notice the Request was filed, continuing to breach its duty under CCP § 583.130 to cooperate and give notice.
29. On March 19, 2025, still unaware the Request had been filed, Petitioner returned to the court with a separate Answer to file in the UD case, challenging jurisdiction and standing due to disputed actions and jurisdictional defects (Ex. 1– VOB, pp. 57-8; Ex. 7– CT pp. 55–60). The Deputy Clerk rejected the Answer citing the default judgment entered on March 18, 2025.
30. The Deputy Clerk breached her ministerial duty to file the pleading and again violated due process, as: **(1)** jurisdiction can be challenged at any time, including post-default (*Rochin v. Pat Johnson Mfg. Co.*, 67 Cal.App.4th 1239 (1998)); and **(2)** clerks lack authority to determine the form or sufficiency of a pleading (*Baske*, 125 Cal.App.3d 38, 45; *Stevens*, 192 Cal.App.2d at 112–113). The reason court clerks lack authority to determine the form or sufficiency of a pleading is because they have not been vested with the authority to exercise the judicial power of California or the concurrent jurisdiction of the judicial power of the United States and therefore cannot summarily hear and determine rights by summarily refusing to file a pleading.
31. The Deputy Clerk's rejection of Petitioner's Answers on March 14 and 19, 2025, violated his due process right to be heard, negating the UD court's jurisdiction by preventing a judicial determination of his rights (*Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)).
32. The Deputy Clerk failed to record Petitioner's attempts to file Answers or his appearance in the UD case docket, concealing jurisdictional facts, such as the title

dispute, and further violated due process by obstructing a transparent record. Petitioner digitally recorded these interactions to preserve evidence and will file certified transcripts if there is any dispute this occurred.

33. The Deputy Clerk's rejection of Petitioner's Answers enabled RPI's extrinsic fraud by preventing a challenge to the UD court's jurisdiction, constituting fraud on the court by impairing the truth-seeking process (*In re Marriage of Modnick*, 33 Cal.3d 897, 905 (1983)).

34. RPI's concealment of the title dispute and stealth default request, combined with the Deputy Clerk's obstruction of Petitioner's Answers and the court's denial of the stay, constituted extrinsic fraud by: (1) preventing Petitioner's defense through suppressed material facts, (2) with intent to deceive, and (3) causing prejudice via the void UD judgment and eviction, divesting the limited civil division of jurisdiction (*Kulchar v. Kulchar*, 1 Cal.3d 467, 471 (1969); *Windsor v. McVeigh*, 93 U.S. 274, 277–278 (1876)).

35. On March 20, 2025, RPI, aware of the absence of a lawful right to relief due to the above issues, filed a false and fraudulent Application for Writ of Possession ("Writ") under penalty of perjury (signed by attorney Paloci) (Ex. 8– CT, p. 25; VOB, p. 58). The Writ was issued without authority on March 22, 2025 (Ex. 8– CT, pp. 26–28).

36. On March 24, 2025, RPI fraudulently invoked the executive authority of California through the Orange County Sheriff's Department to compel Peitioner's removal from his home (Ex. 1– VOB, p. 59, pp. 60-63).

37. Petitioner was evicted under threat of force by the Sheriff's Department and moved out under duress on or about April 1, 2025 (Ex. 1– VOB, pp. 60-63).
38. The extrinsic fraud and due process violations, including RPI's concealment of the title dispute, the Court's failure to grant a stay, the Deputy Clerk's obstruction of Petitioner's Answers and the executive officials refusal to investigate and intervene to stop the enforcement of the void Writ, directly caused Petitioner's eviction, resulting in an estimated \$150,000+ in damages, including moving expenses, loss of property use, and lost work time, exceeding the \$35,000 jurisdictional threshold under CCP § 85(a).
39. On October 7, 2025, Petitioner filed an Application for Transfer from the Appellate Division of the Superior Court to this Court pursuant to CCP § 396(b), along with an Application to File an Oversized Brief ("AOB") (Ex. 2) and the VOB addressed to this Court.
40. On October 9, 2025, Judges Krill, McConville, and Mittal of the Appellate Division issued a Minute Order denying the Application for Transfer, breaching their mandatory non-discretionary ministerial duty (Cal Const. Art. I, § 7 and CCP § 396(b)) (Ex. 3). The Order stated "Appellant contends the appellate division lacks jurisdiction over this case. Not so. The appellate division has jurisdiction over the unlawful detainer appeal (Code Civ. Proc. §§ 86 subd. (a)(4), 77 subd (e), 904.2.)"
41. The Order also denied the Application to File an Oversized Brief and placed the appeal in default. Petitioner contends these aspects of the Order were arbitrary and further violated due process as the Court lacked fundamental subject matter jurisdiction to make these orders.

42. The Judges' breaches of ministerial duties created a conflict that was not only evidence of bias evidenced through their arbitrary acts, but also due to a pecuniary interest in that they became civilly liable for damages to Petitioner for violating his rights (Code Civ. Proc. § 170.1(a)(3)(A), (a)(6)(A)(iii); *Christie v. City of El Centro*, 135 Cal.App.4th 767, 776 (2006); Cal. Code of Judicial Ethics, Canon 3E(1); *Tumey v. Ohio*, 273 U.S. 510, 523 (1927)).
43. On October 14, 2025, Petitioner filed a Verified Ex parte Application for Reconsideration (Ex. 4, pp. 125–135), citing new circumstances (e.g., the premature ruling before his Request for Judicial Notice (Ex. 7) and supporting exhibits (Ex. 6) were filed) and reiterating the jurisdictional defects/ due process violations. RPI opposed (Ex. 4, pp. 137–141). RPI's Opposition failed to cite any authority that defeated Petitioner's jurisdictional arguments (Ex. 4– Reply to Opp. pp.142-147).
44. Petitioner's verified statements informed the Judges of the conflicts and requested a new panel be assigned (Ex. 4– Ex parte App., pp. 133 ¶24 – 134 ¶10).
45. On October 17, 2025, the same panel (Judges Krill, McConville, and Mittal) denied reconsideration without explanation, affirming the October 9, 2025 void Order (Ex. 5– Minute Order, October 17, 2025).
46. The Appellate Division's refusal to transfer perpetuates the Superior Court's jurisdictional errors, violations of due process, and the enforcement of a void judgment and writ by refusing to adjudicate the title dispute, and awarding possession without hearing Petitioner resulting in the unlawful taking/ theft of his home causing ongoing irreparable harm, including unauthorized alterations to the

property and deprivation of his inalienable rights (Cal Const. Art. I, § 1 liberty (judicial determination of rights), property, privacy).

*“We have no more to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution.”*

–*Cohens v. Virginia*, 19 U.S. 264, 404 (1821)

**D. No Adequate Remedy at Law Exists, and Irreparable Harm Will Result Absent Mandate**

Continued proceedings in the Appellate Division violate due process through the exercise of jurisdiction without lawful authority, depriving Petitioner of a lawful forum to hear and determine his rights resulting in the continuation of irreparable harm, including the loss of his home, unauthorized renovations thereto, loss of approximately \$1.2 million in equity, and denial of the right to liberty to obtain judicial relief. A writ of mandate is the sole effective remedy to compel the Appellate Division to fulfill its mandatory duty to transfer the appeal to this court under CCP § 396(b).

**CERTIFICATE OF WORD COUNT**

I, Adam Bereki, certify that the foregoing Petition for Writ of Mandate, including all sections, headings, captions, declarations, and attached exhibits referenced therein, contains 6,985 words, as calculated by Microsoft Word. This count includes all textual content in the document.

## V. REQUESTED RELIEF

This Court will please order the following relief:

1. Grant Petitioner's Request for Judicial Notice (Ex. 7).
2. Issue an alternative writ of mandate directing the Appellate Division to vacate its October 9 and 17, 2025, Minute Orders and transfer the appeal to this Court or show cause why it should not do so.
3. Upon return of the alternative writ, issue a peremptory writ of mandate compelling the transfer.
4. Issue a stay of all proceedings in the Appellate Division of the Superior Court of Orange County in Consolidated Case Nos. 30-2025-01482941 (main case) and 30-2025-01487778, pending resolution of this Petition, pursuant to California Rules of Court, rule 8.486, to preserve the status quo and prevent further due process violations pending the this Court's determination of the appellate jurisdiction governing this case. The stay should be effective October 22, 2025 at 5:00pm.
5. Upon determination that this Court has jurisdiction of this Appeal, assign a case number and file all of Petitioner's documents including the Verified Opening Brief (Ex. 1), Motion to File an Oversized Brief (Ex.2), Request for Judicial Notice (Ex.7 7), Motion to Take Additional Evidence (Ex.6), and the Clerk's Transcript (Ex.8) in the new case.
6. As soon as permissible by law, on this Court's own motion, grant immediate partial relief by vacating the unlawful detainer judgment as to possession in Orange

County Superior Court Case No. 30-2025-01459684, and order the restoration of the property at 818 Spirit, Costa Mesa, California, to Petitioner to prevent further irreparable harm, including the ongoing deprivation of Petitioner's possession thereof (and unauthorized renovations) pursuant to this Court's authority under California Rules of Court, rule 8.264(b) and CCP section 43, as the judgment is void for lack of subject matter jurisdiction due to the unresolved title dispute, amount in controversy exceeding \$35,000, and due process violations.

7. Upon transfer of the appeal to this Court: (1) grant Petitioner's Request for Judicial Notice (Ex. 7) and Motion to Take Evidence (Ex. 6); (2) award Petitioner damages against Real Party in Interest Canjian Hou in the amount of \$200 per day for the unlawful occupation of Petitioner's home at 818 Spirit, Costa Mesa, California, beginning April 2, 2025, as compensation for the extrinsic fraud and due process violations resulting in the void unlawful detainer judgment, causing Petitioner's wrongful eviction and loss of use of his property. Hou was given notice of the \$200 per day charges (Ex. 6– Motion to Take Addt'l. Evid., p.277 ¶2). As of the filing of this Writ on October 22, 2025, the total days are 203, resulting in \$40,600 damages.
8. Deny RPI any compensation for alterations made to the property at his expense, as such alterations were made without Petitioner's consent by a tortious possessor under a void judgment, pursuant to *Billings v. Hall*, 7 Cal. 1 (1857), which holds that a landowner has a vested right in improvements made by a tortious possessor. RPI was told not to make any alterations and that if he did they would not be with Petitioner's consent or compensated. Grant leave to file additional evidence of

damages upon inspection of the property to assess any further harm caused by RPI's occupation and alterations.

9. Hear and determine all remaining issues on appeal, including Petitioner's Constitutional challenges and enforcement issues by the Sheriff.
10. In this writ proceeding, award Petitioner damages and costs against the Superior Court of Orange County, pursuant to CCP § 1095, for loss of work opportunity at \$300 per hour and costs, totaling \$2,430 for preparing and filing the Ex parte Application for Reconsideration, \$2,987.46 for the Reply to Opposition, and \$8,700 for this Writ, due to the Appellate Division's breach of its ministerial duty to transfer the appeal under CCP § 396(b), caused by the panel judges' void actions in the clear absence of subject matter jurisdiction due to the unresolved title dispute and amount in controversy exceeding \$35,000. This relief should only be granted as long as it does not immunize liability of the judges for void acts and aligns with due process. Petitioner reserves the right to request additional damages incurred in further proceedings pertaining to this matter.
11. Award any other relief as the Court deems just and proper.
12. In the event this Court determines the Appellate Division has jurisdiction to hear and determine this appeal either explain why this is so, or direct the Appellate Division to abide its due process duty to do so. Petitioner contends the Appellate Divisions statements of "not so" and "denied" in the Minute Orders violate due process because they do not provide a reasoned explanation of how the Appellate Division made its determination(s) of his jurisdictional challenges in light of his unopposed verified evidence and the clarity of the statutes applying to limited civil

cases. This denied Petitioner the due process right: (1) to a transparent ruling; (2) to understand the law; (3) and to make a full, meaningful, and substantive Writ of Mandate addressing the specific issues underlying the Order. See *Nakamura v. Parker*, 156 Cal.App.4th 327, 334-335 (2007) (summary denial of facially adequate ex parte application without hearing or explanation is abuse of discretion and due process violation as it prevented the parties from understanding the basis of the ruling); *People v. Kelly*, 40 Cal.4th 106, 110 (2006) (decisions must be in writing with reasons stated for meaningful review); *C.S. v. Superior Court*, 29 Cal.App.5th 1009, 1023 (2018) (Court must articulate evaluative process and show evidence weighing for due process); *In re Harris*, 16 Cal.5th 292 (2024) (due process mandates reasoned findings on evidence reliability).

Signed on October 27, 2025 in Las Vegas, Nevada.

Respectfully filed,

A handwritten signature in black ink, appearing to read 'Adam Bereki', with a stylized flourish at the end.

Adam Bereki

# Exhibit C

**S294339**

Original Case No. S \_\_\_\_\_

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

---

Adam Bereki,  
*Petitioner.*

v.

Superior Court of California for the County of Orange  
(Limited Civil and Appellate Division)  
*Respondent.*

Canjian Hou  
*(Real Party in Interest)*

---

**EMERGENCY PETITION FOR WRIT OF MANDATE OR PROHIBITION,  
REQUEST FOR STAY, RESTORATION OF POSSESSION, AND WRIT OF  
SUPERSEDEAS; REQUEST FOR CONSOLIDATION WITH PENDING MANDATE  
PETITION (*Bereki v. Humphreys*, No. S \_\_\_\_\_)**

---

**\*\*\*STAY REQUESTED\*\*\*  
RELATED APPEAL PENDING**

Emergency request for immediate temporary stay of all further proceedings and enforcement in Orange County Superior Court (Limited Civil) Case No. 30-2025-01459684 and Appellate Division Consolidated Case Nos. 30-2025-01482941 (lead) and 30-2025-01487778, including enforcement of the March 18, 2025 unlawful-detainer judgment, the writ of possession, and the Appellate Division's November 17, 2025 Minute Order striking Petitioner's opening brief and threatening dismissal, and for restoration of possession pending this Court's determination of this Petition. There is no published phone number for the Appellate Div. of the Court.

Judges Knill, McConville, Mittal

---

Adam Bereki  
3649 Metter St.  
Las Vegas, NV 89129  
949.241.6693 | [abereki@gmail.com](mailto:abereki@gmail.com)

# Appendix J

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE**

**MINUTE ORDER**

DATE: 12/18/2025

TIME: 07:50:00 AM

DEPT:

JUDICIAL OFFICER PRESIDING: Appellate Panel

CLERK: N. Sharma

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2025-01482941-CL-UD-CJC** CASE INIT.DATE: 05/15/2025

CASE TITLE: **Hou vs. Berek**

CASE CATEGORY: Civil - Limited

CASE TYPE: Unlawful Detainer - Residential

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**APPEARANCES**

---

Appellate Panel Judge(s):

Honorable Megan L. Wagner, Assistant Presiding Judge

Honorable Thomas S. McConville, Judge

Honorable Vibhav Mittal, Judge

Trial Court Case Number: 30-2025-01459684

Written notice of the briefing schedule having been given to the parties, and the Appellant having failed to comply with California Rules of Court, rule 8.882(a), the Court on its own motion orders the appeal dismissed pursuant to California Rules of Court, rule 8.882(c).

Respondent is awarded costs on appeal.

# Appendix K


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### CODE OF CIVIL PROCEDURE - CCP

**PART 1. OF COURTS OF JUSTICE [35 - 286]** (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.*)

**TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155]** (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.*)

**CHAPTER 5.1. Limited Civil Cases [85 - 100]** (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.*)

**ARTICLE 1. Jurisdiction in Limited Civil Cases [85 - 89]** (*Article 1 added by Stats. 1998, Ch. 931, Sec. 28.*)

**85.** Notwithstanding any law, including, but not limited to, a law that classified an action or special proceeding as a limited civil case, an action or special proceeding shall be treated as a limited civil case only if all of the following conditions are satisfied:

(a) The amount in controversy does not exceed thirty-five thousand dollars (\$35,000). As used in this section, "amount in controversy" means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys' fees, interest, and costs.

(b) The relief sought is a type that may be granted in a limited civil case.

(c) The relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of a type described in one or more laws that classify an action or special proceeding as a limited civil case or that provide that an action or special proceeding is within the original jurisdiction of the superior court, including, but not limited to, the following provisions:

- (1) Section 798.61 or 798.88 of the Civil Code.
- (2) Section 1719 of the Civil Code.
- (3) Section 3342.5 of the Civil Code.
- (4) Section 86.
- (5) Section 86.1.
- (6) Section 1710.20.
- (7) Section 7581 of the Food and Agricultural Code.
- (8) Section 12647 of the Food and Agricultural Code.
- (9) Section 27601 of the Food and Agricultural Code.
- (10) Section 31503 of the Food and Agricultural Code.
- (11) Section 31621 of the Food and Agricultural Code.
- (12) Section 52514 of the Food and Agricultural Code.
- (13) Section 53564 of the Food and Agricultural Code.
- (14) Section 53069.4 of the Government Code.
- (15) Section 53075.6 of the Government Code.
- (16) Section 53075.61 of the Government Code.

(17) Section 5411.5 of the Public Utilities Code.

(18) Section 9872.1 of the Vehicle Code.

(19) Section 10751 of the Vehicle Code.

(20) Section 14607.6 of the Vehicle Code.

(21) Section 40230 of the Vehicle Code.

(22) Section 40256 of the Vehicle Code.

*(Amended by Stats. 2023, Ch. 861, Sec. 2. (SB 71) Effective January 1, 2024.)*

# Appendix L


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**CHAPTER 5.1. Limited Civil Cases [85 - 100]** (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.*)

**ARTICLE 1. Jurisdiction in Limited Civil Cases [85 - 89]** (*Article 1 added by Stats. 1998, Ch. 931, Sec. 28.*)

**86.** (a) The following civil cases and proceedings are limited civil cases:

(1) A case at law if the demand, exclusive of interest, or the value of the property in controversy amounts to thirty-five thousand dollars (\$35,000) or less. This paragraph does not apply to a case that involves the legality of any tax, impost, assessment, toll, or municipal fine, except an action to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) An action for dissolution of partnership if the total assets of the partnership do not exceed thirty-five thousand dollars (\$35,000) or an action of interpleader if the amount of money or the value of the property involved does not exceed thirty-five thousand dollars (\$35,000).

(3) An action to cancel or rescind a contract if the relief is sought in connection with an action to recover money not exceeding thirty-five thousand dollars (\$35,000) or property of a value not exceeding thirty-five thousand dollars (\$35,000), paid or delivered under, or in consideration of, the contract; an action to revise a contract where the relief is sought in an action upon the contract if the action otherwise is a limited civil case.

(4) A proceeding in forcible entry or forcible or unlawful detainer if the whole amount of damages claimed is thirty-five thousand dollars (\$35,000) or less.

(5) An action to enforce and foreclose a lien on personal property if the amount of the lien is thirty-five thousand dollars (\$35,000) or less.

(6) An action to enforce and foreclose, or a petition to release, a lien arising under Chapter 4 (commencing with Section 8400) of Title 2 of Part 6 of Division 4 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 4100 or 6534 of the Civil Code, if the amount of the liens is thirty-five thousand dollars (\$35,000) or less. However, if an action to enforce the lien affects property that is also affected by a similar pending action that is not a limited civil case, or if the total amount of liens sought to be foreclosed against the same property aggregates an amount in excess of thirty-five thousand dollars (\$35,000), the action is not a limited civil case.

(7) An action for declaratory relief if brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding that is otherwise a limited civil case.

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, if the amount in controversy is thirty-five thousand dollars (\$35,000) or less.

(8) An action to issue a temporary restraining order or preliminary injunction; to take an account, if necessary to preserve the property or rights of any party to a limited civil case; to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments) in a limited civil

case; to appoint a receiver pursuant to Section 564 in a limited civil case; or to determine title to personal property seized in a limited civil case.

(9) An action under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor if the interest claimed adversely is of a value not exceeding thirty-five thousand dollars (\$35,000) or the debt denied does not exceed thirty-five thousand dollars (\$35,000).

(10) An arbitration-related petition filed pursuant to either of the following:

(A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is a limited civil case under paragraphs (1) to (9), inclusive, of subdivision (a) or if the petition is filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within paragraphs (1) to (9), inclusive, of subdivision (a).

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, if the arbitration award is thirty-five thousand dollars (\$35,000) or less.

(b) The following cases in equity are limited civil cases:

(1) A case to try title to personal property when the amount involved is not more than thirty-five thousand dollars (\$35,000).

(2) A case when equity is pleaded as a defensive matter in any case that is otherwise a limited civil case.

(3) A case to vacate a judgment or order of the court obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

*(Amended by Stats. 2023, Ch. 861, Sec. 3. (SB 71) Effective January 1, 2024.)*

# Appendix M



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**CODE OF CIVIL PROCEDURE - CCP**

**PART 2. OF CIVIL ACTIONS [307 - 1062.34]** ( Part 2 enacted 1872. )

**TITLE 4. OF THE PLACE OF TRIAL, RECLASSIFICATION, AND COORDINATION OF CIVIL ACTIONS [392 - 404.9]** ( *Heading of Title 4 amended by Stats. 1999, Ch. 344, Sec. 6. )*

**CHAPTER 1. Place of Trial [392 - 403]** ( *Heading of Chapter 1 amended by Stats. 1999, Ch. 344, Sec. 7. )*

**396.** (a) No appeal or petition filed in the superior court shall be dismissed solely because the appeal or petition was not filed in the proper state court.

(b) If the superior court lacks jurisdiction of an appeal or petition, and a court of appeal or the Supreme Court would have jurisdiction, the appeal or petition shall be transferred to the court having jurisdiction upon terms as to costs or otherwise as may be just, and proceeded with as if regularly filed in the court having jurisdiction.

*(Repealed and added by Stats. 2008, Ch. 56, Sec. 2. Effective January 1, 2009.)*

# Appendix N


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### CIVIL CODE - CIV

**DIVISION 3. OBLIGATIONS [1427 - 3273.91]** (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

**PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.91]** (*Part 4 enacted 1872.*)

**TITLE 14. LIEN [2872 - 3081]** (*Title 14 enacted 1872.*)

**CHAPTER 2. Mortgage [2920 - 2968]** (*Chapter 2 enacted 1872.*)

### ARTICLE 1. Mortgages in General [2920 - 2944.10]

 (*Article 1 enacted 1872.*)

**2924.** (a) Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge. If, by a mortgage created after July 27, 1917, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust made after July 27, 1917, of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which that mortgage or transfer is a security, the power shall not be exercised except where the mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Financial Protection and Innovation, or is made by a public utility subject to the provisions of the Public Utilities Act, until all of the following apply:

(1) The trustee, mortgagee, or beneficiary, or any of their authorized agents shall first file for record, in the office of the recorder of each county wherein the mortgaged or trust property or some part or parcel thereof is situated, a notice of default. That notice of default shall include all of the following:

(A) A statement identifying the mortgage or deed of trust by stating the name or names of the trustor or trustors and giving the book and page, or instrument number, if applicable, where the mortgage or deed of trust is recorded or a description of the mortgaged or trust property.

(B) A statement that a breach of the obligation for which the mortgage or transfer in trust is security has occurred.

(C) A statement setting forth the nature of each breach actually known to the beneficiary and of the beneficiary's election to sell or cause to be sold the property to satisfy that obligation and any other obligation secured by the deed of trust or mortgage that is in default.

(D) If the default is curable pursuant to Section 2924c, the statement specified in paragraph (1) of subdivision (b) of Section 2924c.

(2) Not less than three months shall elapse from the filing of the notice of default.

(3) Except as provided in paragraph (4), after the lapse of the three months described in paragraph (2), the mortgagee, trustee, or other person authorized to take the sale shall give notice of sale, stating the time and place thereof, in the manner and for a time not less than that set forth in Section 2924f.

(4) Notwithstanding paragraph (3), the mortgagee, trustee, or other person authorized to take sale may record a notice of sale pursuant to Section 2924f up to 5 days before the lapse of the three-month period described in paragraph (2), provided that the date of sale is no earlier than three months and 20 days after the recording of the notice of default.

(5) Whenever a sale is postponed for a period of at least 10 business days pursuant to Section 2924g, a mortgagee, beneficiary, or authorized agent shall provide written notice to a borrower regarding the new sale date and time, within 5 business days following the postponement. Information provided pursuant to this paragraph shall not constitute the public declaration required by subdivision (d) of Section 2924g. Failure to comply with this paragraph shall not invalidate any sale that would otherwise be valid under Section 2924f.

(6) An entity shall not record or cause a notice of default to be recorded or otherwise initiate the foreclosure process unless it is the holder of the beneficial interest under the mortgage or deed of trust, the original trustee or the substituted trustee under the deed of trust, or the designated agent of the holder of the beneficial interest. An agent of the holder of the beneficial interest under the mortgage or deed of trust, original trustee, or substituted trustee under the deed of trust shall not record a notice of default or otherwise commence the foreclosure process except when acting within the scope of authority designated by the holder of the beneficial interest.

(b) In performing acts required by this article or responding to requests for payoff or reinstatement information, the trustee shall not incur liability for any good faith error resulting from reliance on information provided in good faith by the beneficiary regarding the nature and the amount of the default under the secured obligation, deed of trust, or mortgage. In performing the acts required by this article or responding to requests for payoff or reinstatement information, a trustee shall not be subject to Title 1.6c (commencing with Section 1788) of Part 4.

(c) A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding the mailing of copies of notices or the publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the posting of copies of the notice of sale or the publication of a copy thereof shall constitute prima facie evidence of compliance with these requirements and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice.

(d) All of the following shall constitute privileged communications pursuant to Section 47:

(1) The mailing, publication, and delivery of notices as required by this section.

(2) Performance of the procedures set forth in this article.

(3) Performance of the functions and procedures set forth in this article if those functions and procedures are necessary to carry out the duties described in Sections 729.040, 729.050, and 729.080 of the Code of Civil Procedure.

(e) There is a rebuttable presumption that the beneficiary actually knew of all unpaid loan payments on the obligation owed to the beneficiary and secured by the deed of trust or mortgage subject to the notice of default. However, the failure to include an actually known default shall not invalidate the notice of sale and the beneficiary shall not be precluded from asserting a claim to this omitted default or defaults in a separate notice of default.

(f) With respect to residential real property containing no more than four dwelling units, a separate document containing a summary of the notice of default information in English and the languages described in Section 1632 shall be attached to the notice of default provided to the mortgagor or trustor pursuant to Section 2923.3.

*(Amended by Stats. 2024, Ch. 142, Sec. 1. (AB 295) Effective July 18, 2024.)*

# Appendix O

Adam Berekı Conversation with Clerk Harris

Recording Name:

[E32 US SUPREME COURT- CLERK SCOTT HARRIS  
111521]

Transcript Prepared By:



**DITTO**

720-287-3710  
1355 S. Colorado Blvd.  
Suite C515  
Denver, CO 80222

DUNS Number: 037801851  
CAGE Code: 6C7D5  
Tax ID #: 27-2983097

1 Berekı: -- and it appears to me that, um, in order to file an  
2 original action, there is a 9000-count, or 9000-word  
3 count limit on the Motion for Leave to File, but there  
4 isn't one for the, um, actual complaint, and so I  
5 wanted to verify that.

6 Harris: Well what kind of original action are you thinking  
7 about, uh, filing?

8 Berekı: The original action is a complaint against 16 state  
9 and federal judges, and the reason that it's come  
10 about is that I have gone through all of the state and  
11 federal processes to get, um, uh -- uh, a remedy or  
12 relief, and there is none. And so the last, uh,  
13 bastion of hope, if you will, is the Supreme Court.  
14 And that is in- -- that includes having gone through  
15 the, um, appellate process of the Supreme Court as  
16 well.

17 Harris: Well, so the original jurisdiction of the court is  
18 very limited. Um, you know, uh, virtually everything  
19 that we do is through, um, a -- a served petition.  
20 And, um, it -- the -- the primary way we hear original  
21 cases is when there's a suit -- suit between two  
22 states, um, like one state's suing another state, like  
23 alleging that they are taking too much water from a  
24 river, or somethin' like that. Um, so we don't have  
25 jurisdiction -- original jurisdiction, um, for, you



1 know, one private litigant suing another litigant.  
2 Um, so, um, what I probably ought to do is put you in  
3 charge with somebody who would end up processing that.  
4 But I think it's unlikely that you would be able to  
5 file something like that.

6 Berek: So, I -- I appreciate you taking the time to explain  
7 that. M- -- um, m- -- my research, I've concluded  
8 something different, and that's why I'm calling, is to  
9 work with the court and find out, um, so that we don't  
10 needlessly waste each other's time. Um --

11 Harris: Mm-hmm.

12 Berek: Um, as -- the case that I'm referencing is -- is  
13 Cohens v Virginia, and in there, uh, you know, one of  
14 the most famous quotes of all times is, "Every person,  
15 uh, having a claim upon his" -- the Constitution gave  
16 every person having c- -- a claim upon a state the  
17 right to submit his case to the court of the nation.  
18 And, so I'm basing my -- the court's jurisdiction, not  
19 on a statute, but on Article 3, Section 2 --

20 Harris: Mm-hmm.

21 Berek: -- which is that every, uh -- the court has  
22 jurisdiction over all cases at law and equity.

23 Harris: Mm.

24 Berek: So I'm bringing a case at law, and potentially equity  
25 because there's injunctive relief.



1 Harris: Mm.

2 Bereki: So I'm not going upon the jurisdiction of the court  
3 based upon the parties, but upon the nature of the  
4 case. So --

5 Harris: Mm-hmm.

6 Bereki: -- um --

7 Harris: Well, let me just -- let me just pull up the, uh, I  
8 should've pulled this up ahead of time. But, um, we --  
9 -- we would not accept a filing like that, and I'll --  
10 I'll t- -- we are bound by our, uh, both the  
11 Constitution and the statute dealing with original  
12 jurisdiction. Uh --

13 Bereki: So if I understand what you just said correctly, that  
14 --

15 Harris: Mm-hmm.

16 Bereki: -- the statute overrules the Constitution? Is that  
17 correct?

18 Harris: No, but the Const- -- the statute is consistent with  
19 the Constitution, and if you look at Article 3 of the  
20 Constitution, uh, oh, where's that? It says -- well,  
21 um, yeah, so the statu- -- the -- I'm gonna find the  
22 statute that deals with original jurisdiction. The  
23 statute is what allows us to exercise jurisdiction.  
24 Um --

25 Bereki: That's what I'm confused about, because --



1 Harris: Mm.

2 Bereki: -- if I read Article 3, Section 2, it says right here,  
3 "The judicial power shall extend to all cases in law  
4 and equity arising under the Constitution."

5 Harris: Mm-hmm.

6 Bereki: And s- --

7 Harris: Yeah, but see, we have, um, that is -- that outlines  
8 what it is that the, um, that Congress can give us the  
9 authority to do. But our discretion in our  
10 jurisdiction is created by statute. And --  
11 jurisdiction -- maybe 1251. Just give me a second  
12 here. I'm sorry I don't have this more at the tip of  
13 my fingertips.

14 Bereki: That's okay. I understand, it's an unusual instance.

15 Harris: Mm-hmm. So the c- -- okay, it's 28 USC 1251.

16 Bereki: Okay.

17 Harris: Um, "The Supreme Court shall have original and  
18 exclusive jurisdiction of all controversies between  
19 two or more States. The Supreme Court shall have  
20 original but not exclusive jurisdiction of, one,  
21 actions or proceedings to which ambassadors, other  
22 public ministers, consuls, or vice consuls of foreign  
23 states are parties, two, all controversies between the  
24 United States and a State, and three, all actions or  
25 proceedings by a State against the citizens of another



1 State or against aliens." So that's the only, uh,  
2 authorization that we have to file original actions.

3 So, um, uh --

4 Bereki: So this -- um, Scott, if I could interrupt you.

5 Harris: Mm-hmm.

6 Bereki: This is -- this is the jurisdiction pertaining to the  
7 parties of the case. So --

8 Harris: Mm-hmm. It outlines our -- yeah, our jurisdiction for  
9 original cases.

10 Bereki: But -- but -- but only pertaining to the parties,  
11 because if you see -- if the -- you see everything in  
12 there is all about parties to a case.

13 Harris: That's right.

14 Bereki: If you, um, read Cohens, the case of Cohens versus  
15 Virginia --

16 Harris: Mm-hmm.

17 Bereki: -- the clear- -- the court clearly distinguishes in  
18 there that there are basically two types of orig- --  
19 original jurisdiction, or two -- two different types  
20 of cases to which the original jurisdiction extends.  
21 One is to the type of case, which is, here it says in  
22 Article 3, Section 2, "All cases in Law and Equity  
23 arising under the Constitution, the Laws of the United  
24 States, and Treaties," or, two, it is the -- the  
25 Court's jurisdiction extends to the type of case based



1           upon the parties that are there. So, um, if you look  
2           at 28 USD 1251, this is only basically putting into  
3           statute form what the Constitution already says about  
4           the parties to the case --

5 Harris:    Mm.

6 Bereki:    -- not the actual type of the case. So, um, I'm not -  
7           -

8 Harris:    Yeah, I hear you, but that's not the way we -- that's  
9           not the way our practice works. That's not the way  
10           our jurisdiction works. We are -- we are bound by the  
11           statute, in terms of jurisdiction. So you -- you can  
12           submit something, but what I'm telling you is it's --  
13           it's, uh, it's not going to be accepted for filing  
14           unless it falls within one of the, um, provisions of,  
15           uh, 2- -- 28 USC 1251. So the -- the main reason I  
16           say it is I don't want you to go to the trouble and  
17           expense of submitting something if it's not gonna be  
18           accepted.

19 Bereki:    And I so appreciate that, Scott.

20 Harris:    Yeah, yeah.

21 Bereki:    Um, is there a way that you could share with me,  
22           because, um, I -- what -- what I'm feeling right now  
23           is that, um -- and -- and I don't mean this, um, with  
24           any sort of, um, uh, ego or anything like that. But -  
25           -



1 Harris: Mm-hmm.

2 Bereki: -- it's -- it's very clear to me that you're incorrect  
3 about what you're saying. And I know that you're the  
4 Clerk of Court, but --

5 Harris: Mm-hmm.

6 Bereki: -- how -- could you imagine the problem that if I  
7 submitted this case and I had a right under the  
8 Constitution to submit this case, and the Co- -- the  
9 Clerk of the Court didn't know what the Constitution  
10 specifically said and then dismissed my case on some  
11 grounds that were essentially unlawful?

12 Harris: Mm-hmm.

13 Bereki: Do you see -- I'm not saying that a hundred percent  
14 that that's the case, but what if that were to happen?  
15 That -- that would be, I mean, just historical  
16 monumentally. So h- -- w- -- would it be possible for  
17 you to review, um, the Cohens case and for us to talk  
18 about it? Because I -- there's -- there's clearly --  
19 the Constitution says one thing as I'm interpreting  
20 it, and what you're sharing with me is something  
21 different. What you're sharing with me is that, uh,  
22 essentially that the Constitution isn't what gives the  
23 court jurisdiction, it's the statute, if -- if I'm  
24 understanding you correctly. And, um, based upon what  
25 you shared with me, that statute does not apply to the



1 actual type of case, it applies only to the parties  
2 that are in the case. Um --

3 Harris: Well, look, um, I -- I'm just tellin' you the way we  
4 would, uh, what we would do with it. I mean, if you -  
5 - you know, obviously there's a printing requirement  
6 for, uh, those -- for cases, unless you're presenting  
7 it forma pauperis. Um, if you would, uh, you know,  
8 want -- I -- you know, if you would want to show it to  
9 me, um, before you get it printed, um, I can look at  
10 it, but I'm -- but I'm -- but I -- again, I'm just --  
11 I know what the answer is gonna be, and it's not gonna  
12 be accepted for filing. So I -- I just don't want --  
13 I just don't want to put you to the trouble, uh, or  
14 expense of doing it.

15 Bereki: Okay, how -- how might then, if you could guide me to  
16 do this, how might I get my case to a justice or to  
17 the justices to challenge this question? Because, um,  
18 this is not something that could be challenged in a  
19 lower court. This is essentially the rules of the  
20 Supreme Court that are -- or the rules as you're  
21 sharing them with me, that, um, I need to challenge.  
22 So, is it possible to submit my case to one of the  
23 justices directly and have them decide on that issue,  
24 or --

25 Harris: No, we don't -- we don't do -- I mean, that's what the



1 Clerk's Office is here for, right, is to determine  
2 whether things can be filed. And, you know, this is  
3 not new, right? Like we've had, um, many people that  
4 have tried to file, uh, original actions and we've,  
5 uh, done the same thing. Um, uh, you know, over and  
6 over in the court. Um, so this is -- this is not  
7 gonna be controversial, um, here. Uh, so, um --

8 Berek: Well, i- -- is -- is it the -- the Clerk's Office that  
9 has actually denied these prior, um, uh, original  
10 actions, or was it the justices? Did it -- did it  
11 ever make it to the justices?

12 Harris: You know, let me -- let me see if I have -- let me --  
13 can I call you -- I got your number. Let me call you  
14 back and see if I can find any instances that are on  
15 the record where it shows that that's not been, um,  
16 permitted, and I'll give you a call back.

17 Berek: Oh, that would be wonderful, Scott. Thank you.

18 Harris: Okay.

19 Berek: Thank you so much. I'd really appreciate that.

20 Harris: Sure.

21 Berek: Look, I'm w- -- I'm willing to admit -- Scott, if --  
22 if I'm wrong, I'm so willing to admit that. And --  
23 and I --

24 Harris: Mm-hmm.

25 Berek: -- I'm so grateful for your time. But, um, at the



1 present time, um, yeah, it -- it -- it's not adding up  
2 for me, so I -- I really appreciate the fact that  
3 you're taking the time to -- to help me, and like I  
4 said --

5 Harris: Okay, yeah. (Inaudible - 00:11:37).

6 Bereki: -- if it's not possible, I'll go away. Okay, buddy.  
7 Thank you.

8 Harris: All right, bye.

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DATED this 25th day of June, 2025.



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# Appendix P

Adam Bereki  
818 Spirit  
Costa Mesa, California 92626  
[abereki@gmail.com](mailto:abereki@gmail.com) | 949.241.6693

Scott S. Harris  
Clerk, United States Supreme Court  
1 First St., NE  
Washington, DC 20543

John Roberts  
Chief Justice, United States Supreme Court  
1 First St., NE  
Washington, DC 20543

December 6, 2021

RE: Petition for Redress of Grievance: Clerk Harris's Unwritten Policy and Practice to Exercise the Judicial Power of the United States to Deny Rights Secured by the Constitution and to Overrule Article III of the Constitution.

Good day,

I sent a lawsuit be filed in the Court under Article III of the Constitution on or about September 19, 2021. The suit was also in the form of a Petition for Redress of Grievance pursuant to the First Amendment. The suit/Petition were returned un-filed by Jacob Levitan on September 22, 2021 because they allegedly did not comply with the Court's procedural rules regarding form.

On November 15, 2021, I called the Court to speak with the Clerk's office to ensure that my complaint/petition would be amenable to the Rules and accepted upon re-presentment. At that time, Clerk Harris told me that my complaint would *not* be accepted because I was not one of the parties stated in 28 USC §1251 (ie a State, public minister, consul, etc.) under which the Court was authorized to exercise its original jurisdiction.

I explained that I was not filing my case pursuant to 28 USC §1251 because it did not apply. 28 USC §1251 *only* applies to an action involving the parties of the case. I further explained that I was filing my case under Article III, §2 of the Constitution, which vests the judicial power of the United States in "all Cases, in Law and Equity" arising under the Constitution. I also referred Harris to the case of *Cohens v. Virginia*, 19 U.S. 264 (1821), where this subject matter was directly addressed by the Court. The Court held that "a case arising under the constitution of laws of the United States, is cognizable in the Courts of the Union, whoever may be the parties to that case." *Id.* At 383.

Harris told me that:

“We don’t have original jurisdiction for one private litigant suing another private litigant.”

“We would not accept a filing like that.”

“The statute is what allows us to exercise jurisdiction.”

“Our jurisdiction is created by statute.”

“28 USC §1251 is the only authorization we have to file original actions.”

“I hear you but that’s not the way our jurisdiction works. We are bound by the statute.”

“You can submit something but it’s not going to be accepted for filing unless it falls in one of the provisions of 28 USC §1251.”

“It’s not gonna be accepted for filing. I just don’t want to put you through the trouble or expense of doing it.”

“This is not new. We’ve had Many people have tried to file original actions and we’ve done the same thing. You know, over and over. This is not going to be controversial here.”

At the conclusion of the call, Harris told me he would get back to me with some examples of similar cases the Court had denied. He has not done so.

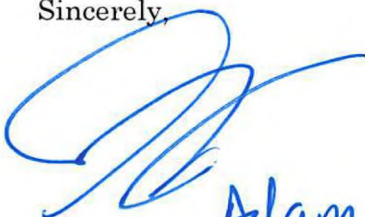
I called and left a follow-up message to speak with Harris on November 16, 2021. He has not returned my call.

Based on the foregoing, Clerk Harris appears to have a created and executed an unwritten policy and practice whereby he is unlawfully using his office to not only exercise the judicial power of the United States to deny rights guaranteed thereby (by refusing to file cases), but also to overrule Article III of the Constitution in violation of the amending procedures of Article V. As a result, I am unable to file my case in the only apparent judicial Court of the Nation with subject matter jurisdiction to hear and determine it.

Your prompt attention to and resolution of this egregiously unlawful and unconstitutional behavior is demanded.

Please also provide the rules of Court pertaining to the filing of a Petition for Redress of Grievance.

Sincerely,



Adam Bereski

A-279

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# Appendix Q

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

December 15, 2021

Adam Bereki  
818 Spirit  
Costa Mesa, CA 92626

RE: Letter

Dear Mr. Bereki:

In reply to your letter or submission, received December 14, 2021, I regret to inform you that the Court is unable to assist you in the matter you present.

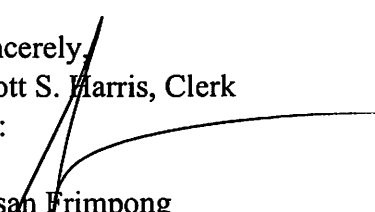
Under Article III of the Constitution, the jurisdiction of this Court extends only to the consideration of cases or controversies properly brought before it from lower courts in accordance with federal law and filed pursuant to the Rules of this Court.

Please be advised the Rules of this Court make no provision for the filing of a petition for redress of grievance.

Your papers are herewith returned.

The Rules of this Court are enclosed.

Sincerely,  
Scott S. Harris, Clerk  
By:

  
Susan Frimpong  
(202) 479-3039

Enclosures

Adam Bereki  
818 Spirit  
Costa Mesa, California 92626  
[abereki@gmail.com](mailto:abereki@gmail.com) | 949.241.6693

Scott S. Harris  
Clerk, United States Supreme Court  
1 First St., NE  
Washington, DC 20543

John Roberts  
Chief Justice, United States Supreme Court  
1 First St., NE  
Washington, DC 20543

December 6, 2021

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Harris told me that:

"We don't have original jurisdiction for one private litigant suing another private litigant."

"We would not accept a filing like that."

"The statute is what allows us to exercise jurisdiction."

"Our jurisdiction is created by statute."

"28 USC §1251 is the only authorization we have to file original actions."

"I hear you but that's not the way our jurisdiction works. We are bound by the statute."

"You can submit something but it's not going to be accepted for filing unless it falls in one of the provisions of 28 USC §1251."

"It's not gonna be accepted for filing. I just don't want to put you through the trouble or expense of doing it."

"This is not new. We've had Many people have tried to file original actions and we've done the same thing. You know, over and over. This is not going to be controversial here."

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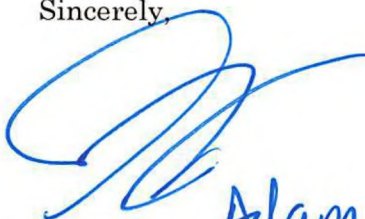
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Please also provide the rules of Court pertaining to the filing of a Petition for Redress of Grievance.


Sincerely,



Adam Bereki

A-287

REWD 12/28/21

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
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1. Article Addressed to: <b>Scotts. Harrig Clark, US Supreme Ct 1 First St. NE Washington DC 20543</b>	<p>B. Received by (<i>Printed Name</i>) _____ C. Date of Delivery _____</p>
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SUPREME COURT OF THE UNITED STATES  
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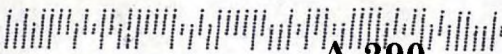
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A-290

# Appendix R

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

February 25, 2022

Adam Bereki  
818 Spirit  
Costa Mesa, CA 92626

RE: Petition for Redress of Grievance

Dear Mr. Bereki:

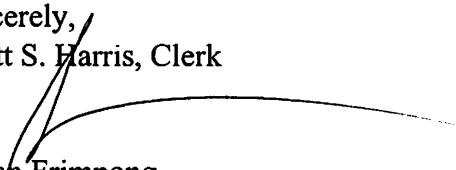
In reply to your letter or submission referred to this office by on February 15, 2022, I regret to inform you that the Court is unable to assist you in the matter you present.

Under Article III of the Constitution, the jurisdiction of this Court extends only to the consideration of cases or controversies properly brought before it from lower courts in accordance with federal law and filed pursuant to the Rules of this Court.

Please be advised the Rules of this Court make no provision for the filing of a petition for redress of grievance.

Your papers are herewith returned.

Sincerely,  
Scott S. Harris, Clerk  
By:

  
Susan Frimpong  
(202) 479-3039

Enclosures

Adam Bereki  
c/o 818 Spirit  
Costa Mesa, California 92626  
[abereki@gmail.com](mailto:abereki@gmail.com) | 949.241.6693

Via U.S. Certified Mail (7021 0950 0000 9107 8665) addressed to:  
John Roberts  
Chief Justice  
United States Supreme Court  
1 First St., NE  
Washington, DC 20543

Via U.S. First Class Mail addressed to each the following Associate Justices  
at the above address:

Samuel Alito  
Amy Coney Barrett  
Stephen Breyer  
Neil Gorsuch  
Brett Kavanaugh  
Elena Kagan  
Clarence Thomas  
Sonia Sotomayor

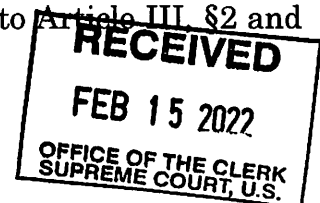
February 7, 2022

RE: Petition for Redress of Grievance (First Amendment)

Good day,

This letter is in response to the letter I received from Clerk Harris dated December 15, 2022 denying my Petition for Redress of Grievance dated December 6, 2021. In his letter, Harris stated that “the Court is unable to assist you in [this matter]” and that “the Rules of this Court make no provision for the filing a petition for redress of grievance.” Harris then returned my Petition. (See attached for a copy of the Petition I sent along with Harris’ response).

The reason I filed a Petition for Redress of Grievance is because I attempted to file a complaint in the Court’s original jurisdiction pursuant to Article III, §2 and



it was returned it un-filed. Consequently, I called the Court on November 15, 2021 and spoke with Clerk Harris who told me that my complaint would not be filed because the Court's "jurisdiction is created by statute" and "28 USC §1251 is the only authorization we have to file original actions."

Clerk Harris then read 28 USC §1251 aloud on the phone and told me "you can submit something but what I'm telling you is it's not going to be accepted for filing unless it falls within one of the provisions of 28 USC §1251." Notably, 28 USC §1251 only involves one of the two classes of cases to which the Court's jurisdiction extends— those involving the parties to the case.

In response, I shared the case of *Cohens v. Virginia*, 19 U.S. 264 (1821) where the Court stated that it's jurisdiction extended to two classes of cases and that the case I was filing was according to the nature of the case, not the parties:

"The second section of the third article of the constitution defines the extent of the judicial power of the United States. Jurisdiction is given to the Courts of the Union in two classes of cases. In the first, their jurisdiction depends on the character of the cause, whoever may be the parties. This class comprehends "all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." This clause extends the jurisdiction of the Court to all the cases described, without making in its terms any exception whatever, and without any regard to the condition of the party. If there be any exception, it is to be implied against the express words of the article.

In the second class, the jurisdiction depends entirely on the character of the parties. In this are comprehended "controversies between two or more States, between a State and citizens of another State," "and between a State and foreign States, citizens or subjects." If these be the parties, it is entirely unimportant what may be the subject of controversy. Be it what it may, these parties have a constitutional right to come into the Courts of the Union." *Id.* p.285.

Despite the foregoing, Harris reaffirmed that my complaint would not be accepted for filing. He also told me that "this is not new, right, like, we've had many people that have to tried to file original actions and we've done the same thing. You know, over and over. This is not going to be controversial here."

In Harris's response letter dated December 15, 2022, he again affirmed that "[u]nder Article III of the Constitution, the jurisdiction of this Court extends only to the consideration of cases or controversies properly brought before it from lower courts in accordance with federal law and filed pursuant to the Rules of this Court."

It is obvious that there is a major contradiction between Article III of the Constitution, this Court's proper historical interpretation thereof, (*Cohens, supra*), and the apparent unwritten policy(ies) of the Court today and/or Clerk Harris that were used to deny my complaint (and apparently many others). This Court must have subject matter jurisdiction "in all cases in Law and Equity arising under [the] Constitution" (the first class of case) otherwise Congress would control the entire judicial power of the United States (see for e.g. *Ex Parte Mc Cardle*, 74 U.S. 506), which was clearly not the intent of the framers.

While the second sentence of Article III §2 definitely distributes the jurisdiction conferred in the first sentence thereof, this distribution clearly only applies to the second class of cases involving parties. The jurisdiction conferred by the first sentence regarding the first class of cases is not limited in any way— it clearly states that the judicial power extends to "all cases in Law and Equity arising under this Constitution[.]" (Bolded emphasis added).

The other reasons this Court must exercise original jurisdiction are because there is no other Constitutional Court in California or the United States to bring these claims. As evidenced in the case I attempted to file, the Court's of California had no personal and subject matter jurisdiction, yet fined me nearly one million dollars for allegedly contracting without a license. Even more troubling, there is no judicial Constitutional Court in California under the purported California Constitution of 1879 that is vested with subject matter jurisdiction in cases in Law and Equity. The "California Constitution of 1879" also fails to authorize the Legislature to create lower Courts and vest them with any or all of the judicial power of California. The Clerk of the California Supreme Court has also refused to file at least one Petition for Writ of Habeas Corpus claiming "[t]he question[s] raised by the petition are beyond the jurisdiction of California Courts as they appear to raise Federal issues." (See attached).

Other astounding reasons why this Court must exercise original jurisdiction in this case are because: (1) the lower Federal Court in my case claimed it did not have subject matter jurisdiction to vacate a void State "Court" judgment in violation of the Constitution for the United States of America; and, (2) Congress has not vested the judicial power of the United States in Law or Equity in any inferior Court. See for e.g. *Sheldon v. Sill*, 49 U.S. 441 (1850) finding Congress has no duty to create lower Courts or to vest them with any or all of the judicial power of the United States.

28 USC §1331 also known as "Federal question jurisdiction" declares that: "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

According to the United States House of Representatives Committee on Revision of the Laws,<sup>1</sup> the “[w]ords ‘all civil actions’ [of 28 USC §1331] were substituted for ‘all suits of a civil nature, at common law or in equity’ to conform with Rule 2 of the Federal Rules of Civil Procedure, [“FRCP”]. FRCP Rule 2 states “There is one form of action—the civil action.”

In further explanation of the meaning of “the civil action” the 1966 Amendment to the FRCP stated in the Notes of the Advisory Committee on Rules, declares “[t]his is the fundamental change [of the FRCP] necessary to effect unification of the civil and admiralty procedure. Just as the 1938 rules abolished the distinction between actions at law and suits in equity, this change would abolish the distinction between civil actions and suits in admiralty.”<sup>2</sup>

The Constitution does not confer the judicial power of the United States in any jurisdiction known as “the civil action.”<sup>3</sup> The only jurisdictions that arise under the Constitution and laws of the United States are Law and Equity.

The principles and distinctions between law, equity, and admiralty, upon which the judicial power of the United States is vested by Article III of the Constitution cannot be abolished or blended together in one suit known as “the civil action.” This is not only because “[a] case in Admiralty does not [...] arise under the Constitution or laws of the United States,”<sup>4</sup> but because the Constitution specifically sets out the procedures for making amendments in Article V and these procedures in the form of the Federal Rules of Civil Procedure “govern[ing] the procedure in all civil actions and proceedings in the United States district courts [...]”<sup>5</sup> have clearly not been followed.

The means of properly conferring subject matter jurisdiction on an inferior Court can be found in section 11 of the Judiciary Act of 1789, (1 Stat. 73) whereby the Circuit Courts of the United States were vested with subject matter jurisdiction of all suits of a civil nature “[...] at common law or in equity[...]” with omitted exceptions.

---

<sup>1</sup> Revision of Title 28, United States Code. Report from the Committee on Revision of the Laws, House of Representatives, 79<sup>th</sup> Congress, 2d Session, House Report No. 2646, p. A111.

<sup>2</sup> [https://www.law.cornell.edu/rules/frcp/rule\\_1](https://www.law.cornell.edu/rules/frcp/rule_1); US Code.

<sup>3</sup> See Federal Rules of Civil Procedure, Rule 2.

<sup>4</sup> *American Insurance v. 365 Bales of Cotton*, 26 U.S. 511, 545 (1828).

<sup>5</sup> Federal Rules of Civil Procedure, Rule 1.

As declared by this Court, “[t]he Constitution of the United States [...] recognize[s] and establish[es] the distinction between law and equity. The remedies in the courts of the United States are, at common law or in equity, not according to the practice of State courts, but according to the principles of common law and equity, as distinguished and defined in that country from which we derive our knowledge of these principles.”<sup>6</sup> See also *Mc Faul v. Ramsey*,<sup>7</sup> holding that “[i]n those States where the courts of the United States administer the common law, [National Courts] cannot adopt these novel inventions, which propose to amalgamate law and equity by enacting a hybrid system of pleadings unsuited to the administration of either.”

Finally, the Federal Rules of Civil Procedure which purport to have the force and effect of law were not given “any affirmative consideration, action, or approval of the rules by Congress or by the President”<sup>8</sup> and have therefore not followed the Constitutionally required means of enactment as required by Article I, §7, Cl.2.

Therefore, it seems obvious Congress not vested any inferior Court of the United States with the judicial Power of the United States in any Case in Law or Equity recognized under the Constitution, leaving this Court the only Constitutional Court of the United States in which to present this case. “Courts created by statute can have no jurisdiction but such as the statute confers.” *Sheldon, supra* at 449.

As a result of the foregoing and the other circumstances involved in my case, “[u]nless the jurisdiction of this Court [...] be exercised[,] the constitution would be violated, and [I would be] unable to bring [my] case before [any] tribunal to which the people of the United States have assigned all such cases.”<sup>9</sup>

It appears Clerk Harris has created and executed an unwritten policy and practice (either unilaterally or at the direction of this Court) whereby he is unlawfully using his office to not only exercise the judicial power of the United States to summarily deny rights guaranteed by the Constitution (by refusing to file cases to which the Court’s jurisdiction extends), but also to overrule Article III in violation of the amending procedures of Article V. As a result, I am unable to file my

---

<sup>6</sup> *Thompson v. R.R. Cos.*, 73 U.S. 134, 137 (1867); See also *Scott v. Neely*, 140 U.S. 106, 111 (1891). Superseded on other grounds; *Robinson v. Campbell*, 16 U.S. 212 (1818); *Fenn v. Holme*, 62 U.S. 481 (1858).

<sup>7</sup> *McFaul v. Ramsey*, 61 U.S. 523, 526 (1857).

<sup>8</sup> 374 U.S. 865-66.

<sup>9</sup> *Cohens v. Virginia*, 19 U.S. 264, 403-4 (1821).

case in the only apparent judicial Constitutional Court of the Nation with subject matter jurisdiction to hear and determine it.

I'm not sure how much clearer it can get than this Court's own words: "The constitution gave to every person having a claim upon a State, a right to submit his case to the Court of the nation. However unimportant his claim might be, however little the community might be interested in its decision, the framers of our constitution thought it necessary for the purposes of justice, to provide a tribunal as superior to influence as possible, in which that claim might be decided." *Cohens, supra*, p. 384.

### Redress

If, as according to Clerk Harris, this Court only has appellate jurisdiction, then you will please provide the name and address for the Constitutional Court whose jurisdiction under Article III "extend[s] to all cases, in law and equity[.]"

If the Constitution has been amended, you will please provide me a current as amended copy immediately and inform me when, how, by whom, and what authority these amendment(s) have occurred.

You will also please inform me: (1) by what authority the offices of the Clerk and the Chief Justice are not subject to a Petition for Redress of Grievance pursuant to the First Amendment; and, (2) by what authority the Clerk is authorized to exercise the judicial Power of the United States to summarily deny complaints and/or other documents sent to the Court concerning rights secured by the Constitution based upon the form of the documents not complying with the Rules of Court. See for e.g. *Miranda v. Arizona*, 384 U.S. 436, 491 (1966) "[w]here rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them[.]" *Nashville, C. & St. Louis Ry. Co. v. Wallace*, 288 U.S. 249, 264 (1933) "[b]ut the Constitution does not require that the case or controversy should be presented by traditional forms of procedure, invoking only traditional remedies. The judiciary clause of the Constitution defined and limited judicial power, not the particular method by which that power might be invoked[.]" and *Marbury v. Madison*, 5 U.S. 137, 163 (1803)"[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection[.]"

Alternatively, if this is in fact the Article III Court whose jurisdiction "extend[s] to all cases, in law and equity[.]" then you will please order the Clerk to immediately cease and desist the aforementioned policy(ies) and file my case and

notify me in writing immediately so that I may send the complaint to the Court to be filed.

“We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution.”

-*Cohens v. Virginia*, 19 U.S. 264, 404 (1821)

Sincerely,



Adam Bereki

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

December 15, 2021

Adam Bereki  
818 Spirit  
Costa Mesa, CA 92626

RE: Letter

Dear Mr. Bereki:

In reply to your letter or submission, received December 14, 2021, I regret to inform you that the Court is unable to assist you in the matter you present.

Under Article III of the Constitution, the jurisdiction of this Court extends only to the consideration of cases or controversies properly brought before it from lower courts in accordance with federal law and filed pursuant to the Rules of this Court.

Please be advised the Rules of this Court make no provision for the filing of a petition for redress of grievance.

Your papers are herewith returned.

The Rules of this Court are enclosed.

Sincerely,  
Scott S. Harris, Clerk  
By:

Susan Frimpong  
(202) 479-3039

Enclosures

Adam Bereki  
818 Spirit  
Costa Mesa, California 92626  
[abereki@gmail.com](mailto:abereki@gmail.com) | 949.241.6693

Scott S. Harris  
Clerk, United States Supreme Court  
1 First St., NE  
Washington, DC 20543

John Roberts  
Chief Justice, United States Supreme Court  
1 First St., NE  
Washington, DC 20543

December 6, 2021

RE: Petition for Redress of Grievance: Clerk Harris's Unwritten Policy and Practice to Exercise the Judicial Power of the United States to Deny Rights Secured by the Constitution and to Overrule Article III of the Constitution.

Good day,

I sent a lawsuit be filed in the Court under Article III of the Constitution on or about September 19, 2021. The suit was also in the form of a Petition for Redress of Grievance pursuant to the First Amendment. The suit/Petition were returned un-filed by Jacob Levitan on September 22, 2021 because they allegedly did not comply with the Court's procedural rules regarding form.

On November 15, 2021, I called the Court to speak with the Clerk's office to ensure that my complaint/petition would be amenable to the Rules and accepted upon representation. At that time, Clerk Harris told me that my complaint would *not* be accepted because I was not one of the parties stated in 28 USC §1251 (ie a State, public minister, consul, etc.) under which the Court was authorized to exercise its original jurisdiction.

I explained that I was not filing my case pursuant to 28 USC §1251 because it did not apply. 28 USC §1251 *only* applies to an action involving the parties of the case. I further explained that I was filing my case under Article III, §2 of the Constitution, which vests the judicial power of the United States in "all Cases, in Law and Equity" arising under the Constitution. I also referred Harris to the case of *Cohens v. Virginia*, 19 U.S. 264 (1821), where this subject matter was directly addressed by the Court. The Court held that "a case arising under the constitution of laws of the United States, is cognizable in the Courts of the Union, whoever may be the parties to that case." *Id.* At 383.

RECEIVED

DEC 14 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Harris told me that:

"We don't have original jurisdiction for one private litigant suing another private litigant."

"We would not accept a filing like that."

"The statute is what allows us to exercise jurisdiction."

"Our jurisdiction is created by statute."

"28 USC §1251 is the only authorization we have to file original actions."

---

"I hear you but that's not the way our jurisdiction works. We are bound by the statute."

"You can submit something but it's not going to be accepted for filing unless it falls in one of the provisions of 28 USC §1251."

"It's not gonna be accepted for filing. I just don't want to put you through the trouble or expense of doing it."

"This is not new. We've had Many people have tried to file original actions and we've done the same thing. You know, over and over. This is not going to be controversial here."

At the conclusion of the call, Harris told me he would get back to me with some examples of similar cases the Court had denied. He has not done so.

I called and left a follow-up message to speak with Harris on November 16, 2021. He has not returned my call.

---

~~Based on the foregoing, Clerk Harris appears to have created and executed an unwritten policy and practice whereby he is unlawfully using his office to not only exercise the judicial power of the United States to deny rights guaranteed thereby (by refusing to file cases), but also to overrule Article III of the Constitution in violation of the amending procedures of Article V. As a result, I am unable to file my case in the only apparent judicial Court of the Nation with subject matter jurisdiction to hear and determine it.~~

Your prompt attention to and resolution of this egregiously unlawful and unconstitutional behavior is demanded.

Please also provide the rules of Court pertaining to the filing of a Petition for Redress of Grievance.

Sincerely,



Adam Beraki

**GEORGE NAVARRETE**  
ASSISTANT CLERK/Administrator

**MARY JAMESON**  
AUTOMATIC APPEALS SUPERVISOR



**EARL WARREN BUILD**  
350 McALLISTER ST  
SAN FRANCISCO, CA 9  
(415) 865-7000

**Supreme Court of California**

**FRANK A. McGUIRE**  
COURT ADMINISTRATOR AND  
CLERK OF THE SUPREME COURT

**November 18, 2013**

**William Henshall**  
P.O. Box 281676  
San Francisco, CA 94128-1676


**Re: Petition**

**Dear Mr. Henshall:**

**Returned unfiled is your petition for writ of habeas corpus and letters. The question raised by the petition are beyond the jurisdiction of the California courts as they appear to raise Federal issues.**

**Very truly yours,**

**FRANK A. McGUIRE**  
Court Administrator and  
Clerk of the Supreme Court

  
By: **J.L. Casados,**  
Supervising Deputy Clerk

**Enclosures**

**OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES  
WASHINGTON, D.C. 20543-0001**

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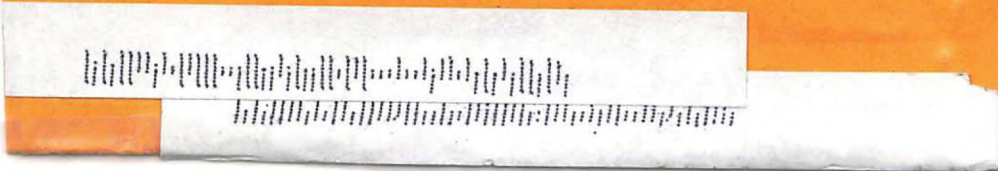
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US SUPREME COURT PETITION FOR REDRESS  
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**Tracking History**



**February 14, 2022, 6:54 am**

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WASHINGTON, DC 20515

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**February 13, 2022, 9:32 am**

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WASHINGTON, DC 20515

Feedback

**February 13, 2022, 9:09 am**

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**February 12, 2022**

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**FAQs**

# Appendix S

1 Adam A. Bereki  
2 3649 Metter St.  
3 Las Vegas, NV 89129  
4 949.241.6693  
5 abereki@gmail.com  
6 www.thespiritoflaw.com

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **FOR THE COUNTY OF ORANGE- CENTRAL JUSTICE CENTER**

9 Canjian Hou

10 Plaintiff,

11 vs.

12 Adam Bereki,

13 Defendant.

Case No.: 30-2025-01459684  
Appeal Case. No: 30-2025-01482941

Additional Cases in this Court:

Related Case No.: 30-2015-00805807  
(Unlimited Civil)

Related Open Case No.: 22-12076: U.S.  
Bankruptcy Court, Central Dist. of CA

14 **NOTICE OF EMERGENCY EX PARTE**  
15 **APPLICATION AND EMERGENCY EX**  
16 **PARTE APPLICATION FOR:**

- 17 1) **TEMPORARY RESTRAINING**  
18 **ORDER,**
- 19 2) **STAY OF UNLAWFUL DETAINER**  
20 **ACTION AND RESTORATION OF**  
21 **POSSESSION PENDING**  
22 **RESOLUTION OF MOTION TO**  
23 **VACATE VOID JUDGMENT AND**  
24 **RELATED BANKRUPTCY**  
25 **ADVERSARY PROCEEDING;**

26 **MEMORANDUM OF POINTS AND**  
27 **AUTHORITIES;**

28 **DECLARATION OF ADAM BEREKI**

**FILED CONCURRENTLY WITH NOTICE**  
**OF MOTION AND MOTION TO VACATE**  
**VOID JUDGMENT**

**EX PARTE HEARING:**

(Requested May 20, 2025 at 9:00AM)

Date:

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Time:  
Judge:

**TO ALL PARTIES, THEIR ATTORNEY(S), AND THE COURT:**

**NOTICE OF EX PARTE APPLICATION**

Please take notice that on May 21, 2025, at \_\_\_\_\_ (a time to be assigned by the court), or as soon thereafter as the matter may be heard, in Department C61 of the above-entitled court, located at 700 W. Civic Center Dr, Santa Ana, California, Defendant Adam Bereki, appearing in propria persona, will apply ex parte for an order to:

1. Issue a Temporary Restraining Order (TRO) enjoining Plaintiff Canjian Hou, his agents, and assigns from conducting further demolition or alterations to the property at 818 Spirit, Costa Mesa, CA 92626, pending resolution of Defendant's Motion to Vacate Void Judgment in this case or the appeal of the Default Judgment, whichever occurs first, the related imminently filed adversary proceeding for fraudulent transfer and violation of the discharge order in Bankruptcy Case No. 8:22-BK-12076-SC (Ex. I [Rough Draft of Adversary Proceeding] concurrently filed Motion to Vacate) , and the imminently filed Motion to Vacate Void Judgement in related Case No. 30-2015-00805807 (See Dkt. ROA's 306-322 for substantive arguments).
2. Stay the execution of the writ of possession issued on March 22, 2025, and any further actions by Plaintiff to occupy or alter the property pending resolution of: 1) the Motion to Vacate or the appeal of the Judgment, whichever occurs first, as the default judgement is void; and, 2) the imminently filed related adversary proceeding, and the

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imminently filed Motion to Vacate Void Judgment in related Case No. 30-2015-00805807 as these actions will determine the validity of Hou's title.

3. Restore Defendant to possession of the property at 818 Spirit, Costa Mesa, CA 92626, pending resolution of: 1) the Motion to Vacate or the appeal of the default Judgment, as the default judgment is void; and, 2) the imminently filed adversary proceeding and the imminently filed Motion to Vacate Void Judgment in related Case No. 30-2015-00805807 as these actions will determine the validity of Hou's title.
4. Shorten the time for hearing Defendant's Motion to Vacate Void Judgment to an expedited date, given the irreparable harm caused by the ongoing demolition resulting in Defendants home being rendered uninhabitable and assign a hearing date and time for the motion.

This application is made on the grounds that:

1. The default judgment entered on March 18, 2025, is void due to due process violations, including Plaintiff's counsel's failure to notify Defendant of the default request (*Lasalle v. Vogel*, 36 Cal.App.5th 127, 135-136 (2019); *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198 (2022)), the clerk's premature entry of default one day after the request (CCP § 1013), and the Court's refusal to recognize Defendant's pro se filing (*Asuncion v. Superior Court*, 108 Cal.App.3d 141 (1980)). See concurrently filed Motion to Vacate.
2. The unlawful detainer action must be stayed because it stems from a 2017 judgment (Case No. 30-2015-00805807), alleged to be void due to extrinsic fraud and lack of subject matter jurisdiction, which caused the wrongful foreclosure sale on November 18, 2024 (e.g. *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973)). The validity of the 2017 judgment, imminently challenged in Case No. 30-2015-00805807, determines a substantive issue in the chain of causation pertaining to Plaintiff's standing and the Court's jurisdiction in this UD action (*People ex rel. Becerra v. Superior Court*, 29 Cal.App.5th 486, 496 (2018)). The imminent adversary proceeding (related to Bankruptcy Case No. 8:22-BK-12076-SC) for fraudulent transfer and violation

1 of the discharge order further necessitates a stay, as it challenges the  
2 foreclosure's validity.


- 3 3. Plaintiff's wrongful occupation and unauthorized demolition, causing an  
4 estimated \$50,000 in damage (demolished kitchen, removed bamboo flooring,  
5 repainted interior) and an estimated \$10,000 in lost personal property,  
6 constitute irreparable harm, justifying a TRO (CCP § 526; *Tobias v. Alameda*  
7 *County*, 69 Cal.App.5th 1030 (2021)).
- 8 4. The Court has a non-discretionary duty to vacate the void UD default  
9 judgment, as it violates due process and relies on a wrongful foreclosure  
10 stemming from the 2017 judgment, which Defendant imminently seeks to  
11 vacate as stated above. (*MacMillan Petroleum Corp. v. Griffin*, 99 Cal.App.2d  
12 523 (1950)).

13 This application is based on this Notice, the attached Memorandum of Points and  
14 Authorities, the Declaration of Adam Bereki, the concurrently filed Motion to Vacate Void  
15 Judgment (incorporated as if fully set forth herein), an imminently filed Motion to Consolidate  
16 Cases, all pleadings and papers on file, including the ex parte application filed March 14,  
17 2025, in Case No. 30-2015-00805807, the imminently filed adversary complaint in  
18 Bankruptcy Case No. 8:22-BK-12076-SC (see rough draft Ex. I [Motion to Vacate]), the Jira  
19 correspondence with the clerk (May 8-9, 2025 Ex.C [Motion to Vacate]), all cases in there  
20 entirety stated in the Notice of Related cases (incorporated as if fully set forth herein) and  
21 any further evidence or argument presented at the hearing.

22 Defendant will notify Plaintiff's counsel, Henry D. Paloci III, of this application on May  
23 19, 2025, at around 8:00 AM PDT, by email to hpaloci@hotmail.com and phone call to  
24 844.398.5500, in compliance with CRC Rule 3.1203. (See Bereki Decl., ¶ 18.)

25 Dated: May 20, 2025

26 By:

27   
28 Adam Bereki

1  
2 **I. EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER, STAY OF**  
3 **UNLAWFUL DETAINER ACTION, AND RESTORATION OF POSSESSION**

4 Defendant Adam Bereki, appearing in propria persona, respectfully applies ex parte  
5 for a Temporary Restraining Order (TRO) to enjoin Plaintiff Canjian Hou, his agents, and  
6 assigns from further demolishing or altering the property at 818 Spirit, Costa Mesa, CA  
7 92626, a stay of the unlawful detainer (UD) action, including the writ of possession issued  
8 on March 22, 2025, and all further proceedings in Case No. 30-2025-01459684, and  
9 restoration of Defendant to possession, pending resolution of the Motion to Vacate Void  
10 Default Judgment, the imminently filed Motion to Vacate Void Judgment in related Case No.  
11 30-2015-00805807, and the imminently filed adversary proceeding in related Bankruptcy  
12 Case No. 8:22-BK-12076-SC for fraudulent transfer and violation of the discharge order as  
13 these actions will determine the validity of Hou's title. Defendant also requests an expedited  
14 hearing on the Motion to Vacate, with a court-assigned hearing date and time.

15 The default judgment entered on March 18, 2025, is void due to due process  
16 violations, including Plaintiff's counsel's failure to notify Defendant of the default request  
17 (*Lasalle v. Vogel*, 36 Cal.App.5th 127, 135-136 (2019)), premature entry by the clerk, and  
18 rejection of Defendant's pro se filings. The UD action stems from a 2017 judgment (Case  
19 No. 30-2015-00805807), alleged to be void due to extrinsic fraud, lack of subject matter  
20 jurisdiction, an unconstitutional \$930,000 penalty and unlawful licensing suspension (e.g.  
21 *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); *Eisenberg Village v. Suffolk Constr. Co.*,  
22 53 Cal.App.5th 1201, 1212 (2020)). The 2017 judgment caused an unlawful licensing  
23 suspension that led to the impairment of Defendants private contracts and obligations,  
24 bankruptcy, wrongful foreclosure sale of his home on November 18, 2024, Defendant's  
25 eviction in March 2025, and Plaintiff's wrongful occupation and demolition, causing ~\$50,000  
26 in damage and ~\$10,000 in lost personal property (on information and belief). The  
27 imminently filed adversary proceeding in Bankruptcy Case No. 8:22-BK-12076-SC will  
28 allege the foreclosure was an unauthorized post-petition transfer (11 U.S.C. § 549) and  
violated the discharge order (11 U.S.C. § 524(a)(2)), necessitating immediate relief to  
prevent further harm.

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**II. MEMORANDUM OF POINTS AND AUTHORITIES**

**A. INTRODUCTION**

The default judgment entered on March 18, 2025, is void due to due process violations, including lack of notice of the default request, premature entry, and rejection of pro se filings. The UD action relies on a 2017 judgment, alleged to be void, which caused a wrongful foreclosure imminently challenged in Bankruptcy Case No. 8:22-BK-12076-SC and Case No. 30-2015-00805807 upon judgment in Defendant's favor. Plaintiff's ongoing demolition causes irreparable harm, necessitating a TRO, stay, and restoration of possession pending resolution of the Motion to Vacate, the imminently filed adversary proceeding, and the imminently filed Motion to Vacate Void Judgment in 30-2105-00805807.

**B. LEGAL STANDARD**

1. **TRO (CCP § 526, CRC Rule 3.1150):** A TRO may be granted to prevent irreparable harm when there is a likelihood of success on the merits (CCP § 526(a); *White v. Davis*, 30 Cal.4th 528, 554 (2003)).
2. **Stay of Unlawful Detainer:** A stay is warranted when a title dispute affects standing and jurisdiction (*Asuncion v. Superior Court*, 108 Cal.App.3d 141, 146 (1980)).
3. **Ex Parte Procedure (CRC Rule 3.1200 et seq.):** Ex parte relief requires notice by 10:00 a.m. the court day before (CRC Rule 3.1203). In UD cases, shorter notice is permitted (CCP § 1167.1).

**C. ARGUMENT**

**A TRO Is Necessary to Prevent Irreparable Harm**

Plaintiff's demolition, causing ~\$50,000 in damage and ~\$10,000 in lost personal property, constitutes irreparable harm (*Tobias v. Alameda County*, 69 Cal.App.5th 1030 (2021)). Defendant faces loss of his home and \$1.2 million in equity, while Plaintiff suffers minimal prejudice from a delay (Bereki Decl., ¶ 13-14).



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### III. DECLARATION OF ADAM BEREKI

I, Adam Bereki, declare under penalty of perjury under the laws of the State of California that:

1. I am the Defendant in Case No. 30-2025-01459684 and Case No. 30-2015-00805807, with personal knowledge of the facts herein.
2. My open bankruptcy case (Case No. 8:22-BK-12076-SC) does not affect this application (Dkt. 112, Dec. 31, 2024).
3. The UD action stems from a 2017 judgment, alleged to be void, causing a wrongful foreclosure on November 18, 2024, for ~\$1.2 million below market value (Ex. E Motion to Vacate [Trustee's Deed]).
4. The foreclosure will be imminently challenged in an adversary proceeding related to Bankruptcy Case No. 8:22-BK-12076-SC for fraudulent transfer and violation of the discharge order. (Ex. F, Motion to Vacate [Rough Draft Adversary Complaint]).
5. On March 1, 2025, I was personally served with the UD complaint.
6. On March 14, 2025, the clerk of court refused to file my answer for procedural defects.
7. On March 17, 2025, Plaintiff's counsel filed a default request with service by USPS mail without personally notifying me (Ex. G Motion to Vacate [Default Request]).
8. On March 18, 2025, the default was entered prematurely (Ex. B [UD Case Docket, ROA 12, 17-18]).
9. On March 19, 2025, I attempted to file a corrected answer. It was again rejected by the clerk of court. (Ex. A Motion to Vacate [UD Complaint Answer]).
10. On March 22, 2025, a writ of possession issued, leading to my eviction (Ex. I Motion to Vacate [Case Docket, ROA 23]).
11. On May 8-9, 2025, the clerk refused to vacate the default (Ex. C Motion to Vacate [Jira Correspondence]).
12. Based on information and belief and more than twenty years of experience in construction, I believe Plaintiff's demolition has caused an estimated \$50,000 in damage to the Spirit property and that he has disposed of an estimated \$10,000 in my personal property left in storage there. (Ex. D, Motion to Vacate [Photos, Emails]).
13. The 2017 judgment will be imminently challenged in Case No. 30-2015-00805807 along with a Motion for Consolidation with the instant case.

1 14. I will notify Plaintiff's counsel on May 20, 2025.

2 Dated: May 20, 2025 in Las Vegas, Nevada.

3 By:

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6 Adam Bereki  
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1 Adam A. Bereki  
3649 Metter St.  
2 Las Vegas, NV 89129  
949.241.6693  
3 abereki@gmail.com  
www.thespiritoflaw.com  
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5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
6 **FOR THE COUNTY OF ORANGE- CENTRAL JUSTICE CENTER**

7 Canjian Hou

8 Plaintiff,

9 vs.

10 Adam Bereki,

11 Defendant.  
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Case No.: 30-2025-01459684  
Appeal Case. No: 30-2025-01482941

Additional Cases in this Court:

Related Case No.: 30-2015-00805807  
(Unlimited Civil)

Related Open Case No.: 22-12076: U.S.  
Bankruptcy Court, Central Dist. of CA

14 **NOTICE OF MOTION AND MOTION TO**  
15 **VACATE VOID JUDGMENT**

16 **DECLARATION OF ADAM BEREKI**

17 **FILED CONCURRENTLY WITH NOTICE**  
18 **OF EMERGENCY EX PARTE**  
19 **APPLICATION AND EMERGENCY EX**  
20 **PARTE APPLICATION FOR:**

- 21 1) **TEMPORARY RESTRAINING**  
22 **ORDER,**
- 23 2) **STAY OF UNLAWFUL DETAINER**  
24 **ACTION AND RESTORATION OF**  
25 **POSSESSION PENDING**  
26 **RESOLUTION OF MOTION TO**  
27 **VACATE VOID JUDGMENT AND**  
28 **RELATED BANKRUPTCY**  
**ADVERSARY PROCEEDING;**

**MOTION HEARING:** (To be assigned at ex  
parte hearing)

Motion Hearing Date:

Motion Hearing Time:

Dept: C61

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2 **TO ALL PARTIES, THEIR ATTORNEY(S), AND THE COURT:**

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4 **NOTICE OF MOTION AND MOTION TO VACATE VOID JUDGMENT**

5 Please take notice that on \_\_\_\_\_ (a date to be assigned by the Court at the ex  
6 parte hearing), in Department C61 of the above-entitled court, located at 700 W. Civic Center  
7 Dr, Santa Ana, California, Defendant Adam Bereki, appearing in propria persona, will move  
8 for an order to:

- 9 1. Vacate the void default judgment entered on March 18, 2025, pursuant to CCP §  
10 1916 and the Court's inherent equitable jurisdiction, due to due process violations  
11 and lack of subject matter jurisdiction.
- 12 2. Quash the writ of possession issued on March 22, 2025, as it derives from a void  
13 judgment.
- 14 3. Restore Defendant to possession of the property at 818 Spirit, Costa Mesa, CA  
15 92626.
- 16 4. Stay the unlawful detainer action pending consolidation with Case No. 30-2015-  
17 00805807, resolution of the imminently filed motion to vacate the 2017 judgment, and  
18 the imminently filed adversary proceeding related to Bankruptcy Case No. 8:22-BK-  
19 12076-SC for fraudulent transfer and violation of the discharge order, as the validity  
20 of the 2017 judgment and foreclosure leading to Plaintiff's purported title and the UD  
21 case affect Plaintiff's standing and the Court's jurisdiction.
- 22 5. Order restitution of all rights and property lost as a result of the default judgment, with  
23 an accounting to be submitted after possession is restored, as damages are ongoing  
24 and cannot be accurately determined until the property is inspected.
- 25 6. Clarify whether Plaintiff Canjian Hou or his agents occupy the property at 818 Spirit,  
26 Costa Mesa, CA 92626, given, the property's uninhabitable condition, and the vacatur  
27 of the writ of possession issued on March 22, 2025.
- 28 7. Issue an immediate eviction order directing the Orange County Sheriff to remove  
Plaintiff Canjian Hou, his agents, or assigns from the property, as Plaintiff has no  
lawful claim to possession following vacatur of the void judgment.

1 8. Issue a writ of possession in favor of Defendant Adam Bereki, restoring him to  
2 exclusive possession of the property at 818 Spirit, Costa Mesa, CA 92626, effective  
3 immediately.

4 This motion is made on the grounds that the default judgment is void due to Plaintiff's  
5 counsel's failure to notify Defendant of the default request (*Lasalle v. Vogel*, 36 Cal.App.5th  
6 127, 135-136 (2019)), the clerk's premature entry of default one day after the request, the  
7 clerk's refusal to vacate despite notice, and the Court's rejection of Defendant's pro se  
8 filings, violating due process (*Haines v. Kerner*, 404 U.S. 519, 520 (1972)). The unlawful  
9 detainer action's validity depends on a 2017 judgment (Case No. 30-2015-00805807),  
10 alleged to be void due to extrinsic fraud and lack of subject matter jurisdiction (imminently  
11 challenged by Motion to Vacate), an unlawful license suspension as a result of the  
12 judgement, Defendant being forced into bankruptcy after being repeatedly being denied  
13 judicial remedy to vacate the void judgment (see Notice of Related Cases), and wrongful  
14 foreclosure sale on November 18, 2024, imminently challenged in an adversary proceeding  
15 (Ex. F. [Rough Draft Adversary Complaint]) as an unauthorized post-petition transfer and  
16 violation of the discharge order, related to Bankruptcy Case No. 8:22-BK-12076-SC. (See,  
17 Ex parte application/ Motion to Vacate, Dkt. ROA's 306-322 filed 3/14/25 in case 30-2015-  
18 00805807 for the substantive arguments of the Motion to Vacate Void Judgement,  
19 incorporated by reference as if fully set forth herein).

20 This motion is based on this Notice, the attached Memorandum of Points and  
21 Authorities, the Declaration of Adam Bereki, an imminently filed Motion to Consolidate  
22 Cases, all pleadings and papers on file in all related cases incorporated as if full set forth  
23 herein, including the ex parte application filed March 14, 2025, in Case No. 30-2015-  
24 00805807, Bankruptcy Case No. 8:22-BK-12076-SC, the Jira correspondence with the clerk  
25 (May 8-9, 2025), and any further evidence or argument presented at the hearing.

26 Dated: May 19, 2025

27 By:

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Adam Bereki

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**I. MEMORANDUM OF POINTS AND AUTHORITIES**

**A. INTRODUCTION**

The default judgment entered on March 18, 2025, in this unlawful detainer action is void due to due process violations, including Plaintiff's counsel's failure to notify Defendant of the default request, the clerk's premature entry of default, and the Court's rejection of Defendant's pro se filings. The action stems from a 2017 judgment (Case No. 30-2015-00805807), alleged to be void, and a foreclosure sale imminently challenged in an adversary proceeding related to Bankruptcy Case No. 8:22-BK-12076-SC, affecting Plaintiff's standing and the Court's jurisdiction. Defendant seeks vacatur, quashing of the writ, restoration of possession, a stay, restitution with an accounting, clarification of Plaintiff's occupancy status, and an immediate eviction order with a writ of possession in Defendant's favor.

**B. STATEMENT OF FACTS**

1. 2017 Judgment and Foreclosure: The unlawful detainer action stems from a 2017 judgment (Case No. 30-2015-00805807), alleged to be void due to extrinsic fraud and lack of jurisdiction, an unlawful license suspension as a result of the judgement, Defendant being forced into bankruptcy after being repeatedly denied judicial remedy (see Notice of Related Cases), and wrongful foreclosure sale on November 18, 2024, which led to a foreclosure sale on November 18, 2024, for \$371,688, ~\$1.2 million below market value. The foreclosure will be imminently challenged in an adversary proceeding related to Bankruptcy Case No. 8:22-BK-12076-SC as an unauthorized post-petition transfer and violation of the discharge order. (Bereki Decl., ¶ 3-4).
2. UD Complaint and Service: On February 11, 2025, Plaintiff filed a UD complaint based on a trustee's deed resulting from a wrongful foreclosure sale. Defendant was served on March 1, 2025 at his home (the subject of this dispute: 818 Spirit, Costa Mesa, CA 92626). (Bereki Decl., ¶ 5)
3. Defendant's Response Attempt: On March 14, 2025, Defendant's answer was rejected for procedural defects without a rejection notice. (Bereki Decl., ¶ 6; Ex Parte Application to Stay UD Case/ Motion to Vacate/ Answer, filed March 14, 2025, Dkt ROA's.302-344, Case No. 30-2015-00805807).
4. Default and Judgment: On March 17, 2025, Plaintiff's counsel filed a default request without personally notifying Defendant. On March 18, 2025, the clerk entered default

1 and judgment prematurely, violating CCP § 1013(a). A corrected answer was rejected  
2 on March 19, 2025. (Bereki Decl., ¶ 7-9; Ex. A [ UD Complaint Answer (Exhibit 1- Ex  
3 Parte Application/ Motion to Vacate/Answer, omitted for brevity (several thousand  
4 pages). See 30-2015-00805807 Dkt. ROA'S 306-322]; Ex. B [Case Docket, ROA 12,  
5 17-18].)

- 6 5. Writ and Eviction: On March 22, 2025, a writ of possession issued, leading to  
7 Defendant's eviction. (Bereki Decl., ¶ 10; Ex. I [Writ of Possession], Case Docket,  
8 ROA 23).
- 9 6. Clerk's Refusal: On May 8-9, 2025, the clerk breached its ministerial duty to vacate  
10 the default despite notice of violations by refusing to vacate the judgment. (Bereki  
11 Decl., ¶ 11; Ex. C [Jira Correspondence].)
- 12 7. Current Harm: Plaintiff's demolition caused an estimated \$50,000 in property damage  
13 and \$10,000 in lost personal property (based on information and belief). The property  
14 is uninhabitable, and Plaintiff is believed not to reside there. (Bereki Decl., ¶ 12-13;  
15 Ex. D [Photos, Emails].)
- 16 8. Related Cases: The 2017 judgment will be imminently challenged in Case No. 30-  
17 2015-00805807, and the foreclosure will be imminently contested in an adversary  
18 proceeding in Bankruptcy Case No. 8:22-BK-12076-SC. An appeal of the UD  
19 judgment is pending (Case No. 30-2025-01482941). (Bereki Decl., ¶ 14-15.)

### 18 C. LEGAL STANDARD

- 19 1. Vacating Void Judgment: A court must vacate a void judgment at any time if it lacks  
20 jurisdiction or violates due process (*Pittman v. Beck Park Apartments Ltd.*, 20  
21 Cal.App.5th 1009, 1020-1022 (2018)).
- 22 2. Non-Discretionary Duty: Courts have a mandatory duty to vacate judgments procured  
23 through extrinsic fraud or lacking jurisdiction (*Hazel-Atlas Glass Co. v. Hartford-*  
24 *Empire Co.*, 322 U.S. 238, 246 (1944)).
- 25 3. Stay of Unlawful Detainer: A stay is warranted when a title dispute affects standing  
26 and jurisdiction (*Asuncion v. Superior Court*, 108 Cal.App.3d 141, 146 (1980)).
- 27 4. Equitable Relief: Courts may issue eviction orders and writs of possession to restore  
28 possession when a judgment is vacated (*Caldwell v. Taylor*, 218 Cal. 471, 476  
(1935)).

1 D. ARGUMENT

2 A TRO Is Necessary to Prevent Irreparable Harm

3 Plaintiff's wrongful occupation and demolition, causing an estimated \$50,000 in  
4 damage (demolished kitchen, removed bamboo flooring, repainted interior) and an  
5 estimated \$10,000 in personal property disposed of by Plaintiff (on information and belief),  
6 constitute irreparable harm (*Tobias v. Alameda County*, 69 Cal.App.5th 1030, 1045-46  
7 (2021)). Defendant faces loss of his home and \$1.2 million in equity, while Plaintiff suffers  
8 minimal prejudice from a delay (Bereki Decl., ¶ 12-13). A TRO is warranted (CCP § 526(a)).

9 The Default Judgment Is Void Due to Due Process Violations

10 1. Plaintiff's Counsel Failed to Notify Defendant of the Default Request

11  
12 Plaintiff's counsel, Henry D. Paloci III, filed the default request on March 17, 2025,  
13 without notifying Defendant, despite Defendant's clear intent to defend as evidenced by his  
14 March 14, 2025, attempt to file an answer (Bereki Decl., ¶ 6-7; Dkt. ROA's 306-322 Case.  
15 Case No. 30-2105-00805807 [Ex Parte Application for Stay of UD Case/ Motion to Vacate/  
16 Answer in UD Case]). This violates the ethical and statutory duty to warn under CCP §  
17 583.130, which requires cooperation in litigation (*Lasalle v. Vogel*, 36 Cal.App.5th 127, 135-  
18 136 (2019); Cal. Prac. Guide Civ. Pro. Before Trial (Rutter Group 2024) ¶ 5:68.1). Courts  
19 condemn such "quiet speed" and are inclined to set aside defaults absent prior warning,  
20 especially against pro se litigants (*Shapell Socal Rental Properties, LLC v. Chico's FAS,*  
21 *Inc.*, 85 Cal.App.5th 198, 216 (2022); Cal. Prac. Guide, supra, ¶ 5:70; *Fasuyi v. Permatex,*  
22 *Inc.*, 167 Cal.App.4th 681, 701 (2008)). Notice must be reasonably calculated to reach the  
23 party, and email warnings are inadequate (Cal. Prac. Guide, supra, ¶ 5:69.1). Here, no  
24 notice—telephonic or otherwise—was provided at the time the Request for Default was filed.  
25 Defendant did not receive Notice until several days after the default had been entered when  
26 he received the Request by United States mail.

27 2. The Clerk's Premature Entry of Default Violated Due Process

28 The clerk entered the default on March 18, 2025, one day after the mailed default  
request, violating CCP § 1013(a)'s 5-day mail service extension (*Mullane v. Central Hanover*

1 *Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). The clerk cannot enter a default until 5  
2 calendar days after the request for default is mailed, to ensure the defendant has reasonable  
3 time to receive it and respond. The premature entry, without verifying the service method or  
4 allowing statutory time, voids the default (*Lasalle v. Vogel*, 36 Cal.App.5th at 136). The  
5 clerk's refusal to vacate despite notice exacerbates the violation (Bereki Decl., ¶ 11; Ex. D  
6 [Jira Correspondence]).

### 7 3. The Court's Refusal to Recognize Defendant's Pro Se Filing Was Error

8 Defendant's answer, attempted on March 14, 2025, was rejected for procedural  
9 defects without a rejection notice, and a corrected answer on March 19, 2025, was refused  
10 due to the default (Bereki Decl., ¶ 6, 9). Any filed response, even late or insufficient,  
11 precludes default (Cal. Prac. Guide Civ. Pro. Before Trial (Rutter Group 2024) ¶ 5:33, 5:37;  
12 *Stevens v. Torregano*, 192 Cal.App. 2d 105, 112-113 (1961)). The clerk lacked authority to  
13 assess the answer's sufficiency, which challenged standing and subject matter jurisdiction  
14 that can be challenged at any time. Any default entered despite a filed response is void  
15 (*Jarvis v. Jarvis*, 33 CA5th 113, 128 (2019)). Courts must ensure pro se litigants are not  
16 misled, and the lack of clear guidance or opportunity to correct violated Defendant's rights  
17 (Cal. Prac. Guide, supra, ¶ 5:71.5; *Gamet v. Blanchard*, 91 CA4th 1276, 1284 (2001); *Haines*  
18 *v. Kerner*, 404 U.S. 519, 520 (1972)). Defendant's pro se status, compounded by financial  
19 constraints from the 2017 judgment and continued denial of judicial remedy (see Related  
20 Cases, each case incorporated as if fully set forth herein, 30-2015-00805807 Dkt. ROA's  
21 306-322), warranted accommodation, not dismissal (Bereki Decl., ¶ 6, 9).

### 22 4. The UD Action Must Be Stayed Due to the Alleged Void 2017 Judgment and Foreclosure

23 The UD action stems from a 2017 judgment (Case No. 30-2015-00805807), alleged  
24 to be void due to extrinsic fraud, lack of subject matter jurisdiction, and an unconstitutional  
25 \$930,000 penalty (e.g. *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); *Eisenberg Village*  
26 *v. Suffolk Constr. Co.*, 53 Cal.App.5th 1201, 1212 (2020)). The judgment caused a  
27 foreclosure sale on November 18, 2024, imminently challenged in an adversary proceeding  
28 in related Bankruptcy Case No. 8:22-BK-12076-SC as an unauthorized post-petition transfer  
and violation of the discharge order (11 U.S.C. § 549, § 524(a)(2)) (Bereki Decl., ¶ 3-4, 14;  
Ex. F [Rough Draft of Adversary Complaint]). The trustee's deed does not confer valid title

1 pending resolution of these challenges, depriving Plaintiff of standing and the Court of  
2 jurisdiction (*People ex rel. Becerra v. Superior Court*, 29 Cal.App.5th 486, 496 (2018)).  
3 Defendant's imminent motion to vacate the 2017 judgment and the imminent adversary  
4 bankruptcy proceeding (involving violation of the discharge order and fraudulent transfer)  
5 must be resolved first, necessitating a stay and consolidation (*Vella v. Hudgins*, 20 Cal.3d  
6 251, 256 (1977); *Asuncion v. Superior Court*, 108 Cal.App.3d 141, 146 (1980)).

#### 6 5. The Court Has a Non-Discretionary Duty to Vacate the UD Judgment

7  
8 The UD judgment is void due to due process violations and reliance on a foreclosure  
9 stemming from the 2017 judgment, imminently challenged as void in Case No. 30-2015-  
10 00805807 and an adversary proceeding related to Bankruptcy Case No. 8:22-BK-12076-SC  
11 (*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944); *Caldwell v. Taylor*,  
12 218 Cal. 471, 476 (1935)). Defendant's appeal (Case No. 30-2025-01482941) does not  
13 preclude relief (*MacMillan Petroleum Corp. v. Griffin*, 99 Cal.App.2d 523, 533 (1950)).

#### 14 Defendant Has a Meritorious Defense

15 Plaintiff lacks standing due to a void foreclosure, as will be evidenced/ alleged in the  
16 Motion to Vacate in 15-00805807 (see also Dkt. ROA'2 306-322) and the adversary  
17 bankruptcy proceeding. *Lasalle v. Vogel* supports vacatur when a meritorious defense exists  
18 (36 Cal.App.5th at 139- 140). Defendant's defenses of extrinsic fraud and jurisdictional  
19 defects necessitate a trial on the merits and cannot be summarily denied without a judicial  
20 determination of his rights (*Pittman v. Beck Park Apartments Ltd.*, 20 Cal.App.5th 1009  
(2018)) (Bereki Decl., ¶ 14).

#### 21 Restitution and Accounting Are Warranted

22 Defendant seeks restitution of all rights and property lost due to the void judgment,  
23 with an accounting post-restoration, as damages (~\$50,000 in property damage, ~\$10,000  
24 in lost personal property) are ongoing and require inspection (Bereki Decl., ¶ 12-13).

#### 25 Clarification of Occupancy and Immediate Relief Are Necessary

26  
27 Given the forthcoming meritorious challenge to the foreclosure and trustee's deed,  
28 the property's uninhabitable condition, and Plaintiff's believed non-residence, the Court

1 should clarify Plaintiff's occupancy status and issue an immediate eviction order and writ of  
2 possession in Defendant's favor to prevent further harm and restore possession without  
3 delay (*Tobias v. Alameda County*, 69 Cal.App.5th 1030 (2021)) (Bereki Decl., ¶ 12-13).

#### 4 The Default Judgment Is Void Due to Due Process Violations

5 Plaintiff's counsel failed to notify Defendant of the default request, violating CCP §  
6 585.5(a) and ethical duties (*Lasalle v. Vogel*, 36 Cal.App.5th 127, 135-136 (2019)). The  
7 clerk's premature entry of default one day after the mailed request violated CCP § 1013(a)  
8 (*Mullane v. Central Hanover Bank Trust Co.*, 339 U.S. 306, 314 (1950)). The Court's  
9 rejection of Defendant's pro se filings denied due process (*Haines v. Kerner*, 404 U.S. 519,  
10 520 (1972)). (Bereki Decl., ¶ 6-9.)

#### 11 The UD Action Depends on a Void 2017 Judgment and Foreclosure

12 The UD action relies on a 2017 judgment, alleged to be void due to extrinsic fraud  
13 and lack of jurisdiction, and a foreclosure imminently challenged in an adversary proceeding  
14 (Ex. F. [Rough Draft Adversary Complaint]) in related Bankruptcy Case No. 8:22-BK-12076-  
15 SC as an unauthorized post-petition transfer and violation of the discharge order. The  
16 unvoided trustee's deed does not confer valid title pending resolution of these challenges,  
17 depriving Plaintiff of standing and the Court of jurisdiction (*Vella v. Hudgins*, 20 Cal.3d 251  
18 (1977); *People ex rel. Becerra v. Superior Court*, 29 Cal.App.5th 486, 496 (2018)). (Bereki  
19 Decl., ¶ 3-4, 14.)

#### 20 Restitution and Accounting Are Warranted

21 Defendant seeks restitution of all rights and property lost due to the void judgment,  
22 with an accounting post-restoration, as damages (\$50,000 in property damage, \$10,000 in  
23 lost personal property) are ongoing and require inspection. (Bereki Decl., ¶ 12-13.)

#### 24 Clarification of Occupancy and Immediate Relief Are Necessary

25 Given the imminent wrongful foreclosure challenge to Plaintiff's title, the property's  
26 uninhabitable condition, and Plaintiff's believed non-residence, the Court should clarify  
27 Plaintiff's occupancy status and issue an immediate eviction order and writ of possession in  
28

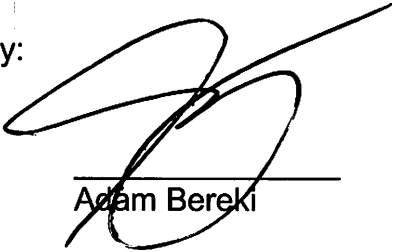
1 Defendant's favor to prevent further harm and restore possession without delay (*Tobias v.*  
2 *Alameda County*, 69 Cal.App.5th 1030 (2021)). (Bereki Decl., ¶ 12-13.)

3 E. CONCLUSION

4 The Court must vacate the void judgment, quash the writ, restore possession, stay  
5 the action pending related proceedings, order restitution with an accounting, clarify Plaintiff's  
6 occupancy status, and issue an immediate eviction order and writ of possession in  
7 Defendant's favor.

8  
9 Dated: May 20, 2025

10 By:

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13 Adam Bereki  
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## II. DECLARATION OF ADAM BEREKI

1  
2 I, Adam Bereki, declare under penalty of perjury under the laws of the State of  
3 California that:

- 4 1. I am the Defendant in Case No. 30-2025-01459684 and Case No. 30-2015-  
5 00805807, with personal knowledge of the facts herein.
- 6 2. My open bankruptcy case (Case No. 8:22-BK-12076-SC) does not affect this motion.
- 7 3. The UD action stems from a 2017 judgment, alleged to be void, causing a wrongful  
8 foreclosure on November 18, 2024, for an estimated \$1.2 million below market value  
9 (Ex. E [Trustee's Deed]).
- 10 4. The foreclosure will be imminently challenged in Bankruptcy Case No. 8:22-BK-  
11 12076-SC for fraudulent transfer and violation of the discharge order (Ex. F [Rough  
12 Draft Adversary Complaint]).
- 13 5. On March 1, 2025, I was served with the UD complaint.
- 14 6. On March 14, 2025, my answer was rejected for procedural defects without a  
15 rejection notice.
- 16 7. On March 17, 2025, Plaintiff's counsel filed a default request without notifying me by  
17 phone or email with service by USPS mail. (Ex. G [Default Request, postmarked  
18 3/17/25]).
- 19 8. On March 18, 2025, at the ex parte hearing for stay of the Unlawful Detainer  
20 Proceeding, Judge Hesseltine refused to recognize the document I filed in Case No.  
21 30-2015-00805807 (Emergency Ex Parte Application for Stay/ Motion to Vacate/  
22 Answer ROA's 306-322) as an answer in this case, despite my clear and  
23 unambiguous intent that it be treated as so. (Ex. H [Minute Order]). I had intended to  
24 file the same document in both cases but the clerk refused to do so.
- 25 9. On March 18, 2025, shortly after the ex parte hearing the default and judgment were  
26 entered prematurely (Ex. B [Case Docket, ROA 12, 17-18]).
- 27 10. On March 19, 2025, my corrected answer, which included a challenge to Plaintiff's  
28 standing and subject matter jurisdiction, was rejected due to the default. The  
Supervising Deputy Clerk, Richard A, refused to provide the lawful authority for  
denying my right to file the answer and to challenge jurisdiction, which can be made  
at any time.

1 11. On March 22, 2025, a writ of possession issued, leading to my eviction (Ex. I [Case  
2 Docket, ROA 23]). I obtained this document from OC Sheriff Deputy Murillo who  
3 handed it to me along with the Notice to Vacate after threatening me with physical  
4 force to remove me if I did not vacate.

5 12. On May 8-9, 2025, the clerk refused to vacate the default (Ex. C [Jira  
6 Correspondence]).

7 13. Based on photographs I have received from a reliable witnesses, including one who  
8 lives in the same tract: 1) the entire interior of the kitchen of my home has been  
9 demolished rendering my home uninhabitable; 2) thousands of dollars in bamboo  
10 wood flooring on the stairs—and suspected throughout the upstairs bedrooms and  
11 hallway—has been torn out as partially evidenced in the following image depicting  
12 these materials in a heaping pile in the garage; and 3) the interior has been repainted.  
13 Based on the information I have received and more than 20 years of experience in  
14 construction, I estimate the unauthorized damage to my home caused by this  
15 demolition or other work to be \$50,000 for repair or replacement. (Ex. D. [Photos]).



1 14. I believe an estimated \$10,000 of my personal property in storage at the Spirit  
2 property has also been disposed of by Plaintiff based on emails received from his  
3 attorney: "I will instruct [my client] to dispose of these items on May 1 if you do not  
4 make arrangements" (Ex. D [Email]).

5 15. On May 19, 2025 (yesterday) at about 1300 hours, the same witness texted me with  
6 a picture of a notice that he had just witnessed someone post on the front property.  
7 The notice reads "This property has been determined vacant/abandoned and been  
8 reported to the mortgage servicer." I believe this notice was posted on the door at the  
9 direction of the purported first mortgage holder, Citibank N.A. as trustee of the New  
10 Residential Mortgage Loan Trust 2018-2 (holder status to be challenged in the  
11 bankruptcy adversary because it has not produced an endorsed note as required by  
12 the Cal. Comm. Code to Defendant). The witness, who is able to observe the property  
13 directly from their property, has repeatedly told me that they do not believe anyone is  
14 living at the property.

15 16. Based on all the foregoing, I believe the property is uninhabitable, and I believe  
16 Plaintiff does not reside there.

17 17. The 2017 judgment will be imminently challenged in Case No. 30-2015-00805807,  
18 with hearings set for July 3 and 10, 2025, but I seek an expedited hearing on June  
19 19, 2025. (ROA 329).

20 18. I appealed the UD judgment (Case No. 30-2025-01482941).

21 19. I will notify Plaintiff's counsel on May 19, 2025, via email and phone.

22 20. All exhibits annexed hereto are true and correct copies of the documents they purport  
23 to be. In the instances where I have received photos or other documents from third  
24 parties, I believe the documents to be true and correct and have confirmed their  
25 validity from multiple sources.

26 21. I declare the foregoing is true and correct.

27 Dated: May 20, 2025

28  
By:   
Adam Bereki

# Exhibit A

1 Adam A. Bereki  
818 Spirit  
2 Costa Mesa, CA 92626  
949.241.6693  
3 abereki@gmail.com  
4 www.thespiritoflaw.com

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
6 **FOR THE COUNTY OF ORANGE- CENTRAL JUSTICE CENTER**

7 Canjian Hou,  
8  
9 Plaintiff;  
10 vs.  
11 Adam Bereki,  
12 Defendant.  
13  
14  
15

Case No.: 30-2025-01459684  
(Unlawful Detainer)

**ADAM BEREKI'S VERIFIED ANSWER TO COMPLAINT**

Jury Trial Demanded Pursuant to CCP §1171

16  
17  
18 **TO THE COURT, ALL PARTIES, AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

19 Defendant Adam Bereki, appearing *in propria persona*, files this Answer to the  
20 Unlawful Detainer Complaint filed by Canjian Hou under duress and coercion as follows:  
21

22 **1. Response to Allegations in the Complaint**

23 Defendant responds to each paragraph of the Plaintiff's Complaint as follows:  
24

25 Defendant attempted to file a timely answer to this Complaint on March 14, 2025. The  
26 Clerk refused to file the document on grounds that it didn't not comply with rules of Court  
27 because each action of the document (i.e. *ex parte* application for stay, answer, and motion  
28 to vacate) needed to be filed separately. Defendant was (and remains) under duress and coercion and did not have time to prepare the documents in that manner. At the time he also

ADAM A. BEREKI  
YOU WERE BORN TO BE FREE.

1 did not have multiple copies of the same document to file separately. Defendant contends  
2 that rules of court or statutes cannot overrule or supersede rights secured by the Constitution  
3 (*Miranda v. Arizona*, 384 U.S. 436, 491 (1938)) including his right to a judicial determination  
4 of his rights and to file an answer to this complaint against him. The Clerk required Defendant  
5 to cross out the title pertaining to the Answer in this case against his will by stating that his  
6 emergency application document would not be filed unless he did so. It was never  
7 Defendants intent to waive his right to answer and he did not intend to do so by crossing  
8 any words out on the face page(s). He did so only under duress and was thereby prejudiced  
9 and denied due process to making a timely answer. Defendant contends the intention of  
10 the party is the soul of the instrument (*Animus moninis est anima scripti*) and the substance  
11 therein rules differences in form on the face page. Cf. Federal Rules of Civil Procedure Rule  
12 5 "(4) *Acceptance by the Clerk*. The clerk must not refuse to file a paper solely because it is  
13 not in the form prescribed by these rules or by a local rule or practice." A true and correct  
14 copy of the document containing the answer and other substantive information he filed is  
15 attached hereto as Exhibit 1. See Dkt. 306, Case No. 30-2015-00805807. All statements  
16 made in Exhibit 1 and all documents in case 30-2015-00805807 and G055075 (Fourth  
17 District Court of Appeal) are incorporated as if fully set forth herein and verified by the  
18 declaration below. Defendant Requests this Court take judicial notice of these documents  
19 as required by law for the existence of the documents themselves and the statements made  
20 thereon, subject to determination for lawfulness and validity by this Court.

21 Defendant asserts the conflict of interest in this case (Exhibit 1) and requests it  
22 immediately be transferred to another County for the reasons stated therein.

23 In all instances where Defendant uses the word "denies", it is also intended to include  
24 "disputes".

25 **Paragraphs 1, 2, 4, 8, 11, 12, 13, 14, 16, 17, 18, 19, 20:** Defendant denies the  
26 allegations in these Paragraphs because Plaintiff is not the lawful owner of the property due  
27 to a defective title as evidenced in Exhibit 1 and the Exhibits referenced therein and therefore  
28 has no standing to bring this action. Consequently, any allegations related to Plaintiff's  
standing are without baseless and without merit and a continued fraud upon this Court  
(Exhibit 1).

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**Paragraph 3:** Defendant denies he is an “individual” as that term is undefined. He appears *in propria persona*.

**Paragraphs 5,7:** Defendant denies the property is within this judicial district as the Superior Court of California is not a judicial Court based on his experience (Exhibit 1). As a result, venue is also improper.

**Paragraph 6:** Defendant denies this Court has subject matter jurisdiction based on Plaintiff’s lack of standing and the fact that he has not been afforded a judicial determination of his rights in case 30-2015-00805807 that preceded this case and was a direct and proximate cause of Defendants ongoing injuries that led to the unlawful foreclosure sale.

**Paragraph 9:** Defendant denies the legal description of the property as he has not personally verified this information.

**Paragraph 10:** Defendant admits he is possession of the property.

**Paragraph 15:** Defendant admits he received these documents and immediately notified Plaintiff of fraud and other crimes pertaining to the property (Exhibit 1).

In the event Defendant missed any paragraphs, he intends they be denied.

**2. Affirmative Defenses**

Defendant asserts the following affirmative defenses to bar Plaintiff’s claim for possession:

*First Affirmative Defense: Wrongful Foreclosure*

The Plaintiff’s claim is barred because the foreclosure sale, upon which their title to the property is based, was wrongful and invalid. The foreclosure stemmed from a judgment in Case No. 30-2015-00805807 (Superior Court of California, County of Orange), which is void due to extrinsic fraud and lack of jurisdiction, as detailed in Exhibit 1. Without a valid foreclosure, Plaintiff’s title is defective, and they have no legal right to possession.



ADAM A. BEREKI  
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1 general contractor. This resulted in impairing his private contracts and obligations, including  
2 the second mortgage that was foreclosed which Plaintiff bid on at the unlawful foreclosure  
3 sale. Because Defendant was forcibly restrained from earning a living as a general  
4 contractor and could not make pay his private contracts and obligations, any enforcement  
5 of those obligations (including foreclosure and this action) constitutes unlawful enforcement  
6 of the Judgment(s) in violation of 11 U.S.C. § 524. Under § 524 (a)(2) a discharge “operates  
7 as an injunction against the commencement or continuation of an action, the employment of  
8 process, or an act, to collect, recover or offset any such debt as a personal liability of the  
9 debtor, whether or not discharge of such debt is waived[.]”

10 *Sixth Affirmative Defense: Additional Defenses*

11 Defendant incorporates all other defenses stated in Exhibit 1.

12 **Legal Basis:** These defenses are permissible in unlawful detainer actions where title  
13 defects involve fraud or jurisdictional issues, as recognized in *Vella v. Hudgins* (20 Cal.3d  
14 251, 1977). Additionally, a void judgment may be challenged at any time (*People v.*  
15 *American Contractors Indemnity Co.*, 33 Cal.4th 653, 660 (2004)).

16 **3. Prayer for Relief**

17 WHEREFORE, Defendant Adam Bereki respectfully requests that the Court:

- 18 1. Deny Plaintiff’s request for possession of the property and dismiss this suit  
19 for lack of standing;  
20 2. Award Defendant costs and all time in defending this frivolous action;  
21 3. Grant such other and further relief as the Court deems just and proper.


22 **DECLARATION OF ADAM BEREKI  
VERIFICATION OF FACTS AND AUTHENTICATION OF EXHIBITS**

23 I, Adam Bereki, declare under penalty of perjury that: 1) I have personal knowledge  
24 of the foregoing facts; 2) they are true and correct; 3) all Exhibits/Appendices annexed  
25 hereto are true copies of the documents they purport to be, except for organizational  
26 markings (e.g., bates numbering); and, 4) that all statements made in Exhibit 1 are true and  
27 correct. Legal conclusions or statements on information and belief are not facts made under  
28 penalty of perjury.

Dated: 3/19/25

ADAM A. BEREKI  
YOU WERE BORN TO BE FREE

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By:   
Adam Bereki

# Exhibit 1

# Exhibit B

## Case Summary:

Case Id:	30-2025-01459684-CL-UD-CJC
Case Title:	CANJIAN HOU VS. ADAM BEREKI
Case Type:	UNLAWFUL DETAINER - RESIDENTIAL
Filing Date:	02/11/2025
Category:	CIVIL - LIMITED

## Register Of Actions:

ROA	Docket	Filing Date	Filing Party	Document	Select
1	E-FILING TRANSACTION 11433353 RECEIVED ON 02/11/2025 05:06:34 PM.	02/13/2025		NV	
2	COMPLAINT FILED BY HOU, CANJIAN ON 02/11/2025	02/11/2025		14 pages	<input type="checkbox"/>
3	PAYMENT RECEIVED BY ONELEGAL FOR 171 - COMPLAINT OR OTHER 1ST PAPER <=\$10K (UNLAWFUL DETAINER) IN THE AMOUNT OF 240.00, TRANSACTION NUMBER 13563278 AND RECEIPT NUMBER 13391458.	02/13/2025		1 pages	<input type="checkbox"/>
4	NOTICE THAT YOU HAVE BEEN SUED OC GENERATED	02/13/2025		2 pages	<input type="checkbox"/>
5	E-FILING TRANSACTION NUMBER 11435923 REJECTED.	02/18/2025		1 pages	<input type="checkbox"/>
6	PAYMENT RECEIVED BY BEREKI, ADAM FOR 44 - COPY OF ANY RECORD (PER SIDE) IN THE AMOUNT OF 8.00, TRANSACTION NUMBER 13568839 AND RECEIPT NUMBER 13397019.	02/24/2025		1 pages	<input type="checkbox"/>
7	E-FILING TRANSACTION 41787066 RECEIVED ON 02/24/2025 02:48:55 PM.	02/25/2025		NV	
8	PLAINTIFF'S MANDATORY COVER SHEET AND SUPPLEMENTAL ALLEGATIONS - UNLAWFUL DETAINER FILED BY HOU, CANJIAN ON 02/24/2025	02/24/2025		3 pages	<input type="checkbox"/>
9	CIVIL CASE COVER SHEET FILED BY HOU, CANJIAN ON 02/24/2025	02/24/2025		2 pages	<input type="checkbox"/>
10	SUMMONS ISSUED AND FILED FILED BY HOU, CANJIAN ON 02/24/2025	02/24/2025		2 pages	<input type="checkbox"/>
11	E-FILING TRANSACTION 41794149 RECEIVED ON 03/10/2025 10:28:18 AM.	03/10/2025		NV	
12	PROOF OF PERSONAL SERVICE FILED BY HOU, CANJIAN ON 03/10/2025	03/10/2025		2 pages	<input type="checkbox"/>
13	E-FILING TRANSACTION 11446369 RECEIVED ON 03/10/2025 10:28:20 AM.	03/10/2025		NV	
14	PROOF OF SERVICE FILED BY HOU, CANJIAN ON 03/10/2025	03/10/2025		2 pages	<input type="checkbox"/>
15	E-FILING TRANSACTION NUMBER 41794150 REJECTED.	03/11/2025		1 pages	<input type="checkbox"/>
16	E-FILING TRANSACTION 31620102 RECEIVED ON 03/17/2025 12:20:47 PM.	03/18/2025		NV	
17	REQUEST FOR ENTRY OF DEFAULT FILED BY HOU, CANJIAN ON 03/17/2025	03/17/2025		3 pages	<input type="checkbox"/>

18	JUDGMENT - UNLAWFUL DETAINER FILED BY HOU, CANJIAN ON 03/18/2025	03/18/2025		2 pages	<input type="checkbox"/>
19	COMPLAINT DISPOSED WITH DISPOSITION OF DEFAULT JUDGMENT BY CLERK.	03/18/2025		NV	
20	CASE DISPOSED WITH DISPOSITION OF DEFAULT JUDGMENT BY CLERK	03/18/2025		NV	
21	E-FILING TRANSACTION 41800817 RECEIVED ON 03/20/2025 06:30:49 PM.	03/22/2025		NV	
22	APPLICATION FOR WRIT OF POSSESSION FILED BY HOU, CANJIAN ON 03/20/2025	03/20/2025		1 pages	<input type="checkbox"/>
23	WRIT OF POSSESSION ISSUED ON 03/22/2025	03/22/2025		3 pages	<input type="checkbox"/>
24	PAYMENT RECEIVED BY ONELEGAL FOR 214 - WRIT IN THE AMOUNT OF 40.00, TRANSACTION NUMBER 13586009 AND RECEIPT NUMBER 13414189.	03/22/2025		1 pages	<input type="checkbox"/>
25	NOTICE OF APPEAL - LIMITED CIVIL FILED	05/15/2025		3 pages	<input type="checkbox"/>
26	DESIGNATION OF RECORD ON APPEAL FILED BY BEREKI, ADAM ON 05/15/2025	05/15/2025		20 pages	<input type="checkbox"/>
27	NOTIFICATION OF FILING NOTICE OF APPEAL	05/15/2025		1 pages	<input type="checkbox"/>
28	CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	05/15/2025		5 pages	<input type="checkbox"/>
29	NOTICE OF DEFAULT	05/15/2025		2 pages	<input type="checkbox"/>
30	CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	05/15/2025		3 pages	<input type="checkbox"/>

## Participants:

Name	Type	Assoc	Start Date	End Date
CANJIAN HOU	PLAINTIFF		02/13/2025	
HENRY D. PALOCI III PA	ATTORNEY		02/13/2025	
ADAM BEREKI	DEFENDANT		02/13/2025	

## Hearings:

Description	Date	Time	Department	Judge
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Print this page

# Exhibit C

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Only necessary

✓ Accept all



[OCSC Help Center](#) / [Court Questions](#) / [PUB-128076](#)

## NOTICE OF ENTRY OF JUDGMENT



**abereki@gmail.com** raised this on Yesterday  
8:32 AM

[Hide details](#)



Court Questions

SUBMITTED



Please check your spam/junk folders for replies after submitting a ticket

**Department \***

- Appellate
- Civil
- Criminal / Traffic
- Family Law
- Juvenile
- Small Claims

**For Self-Help Services please visit:** [Contact Self-Help](#)

**Title \***

NOTICE OF ENTRY OF JUDGMENT

**Question \***

Good morning. My name is Adam Bereki. I am writing in regard to case#25-01459684. On 3/17/25 the plaintiff filed a request for entry of default. It was served by mail. I believe I had 5 days to receive the request and then several more days to respond. Despite this, the Clerk entered the default judgment the next day on March 18. On March 19, I came to the court to file an answer in the case and was denied on the ground that a default had already been entered. I believe this was a violation of due process as I was denied the opportunity to present my claims. I would like to discuss this issue with a supervisor. Please call me as soon as possible. My number is 949-241-6693.

**Contact Phone # \***

9492416693

**Name \***

Adam Bereki

**Case Number**

25-01459684

## Activity



**Bj** Briana Jurado Yesterday 9:46 AM

Hello, because Unlawful Detainer cases are statutorily sealed, could you please provide the full name of the plaintiff as well as the property address? This will help me locate the case.



Automatic response Yesterday 9:46 AM



**Automatic response** Yesterday 9:40 AM

Your request status has changed to Waiting for customer.



**abereki@gmail.com** Yesterday 1:19 PM

Good afternoon. I'd be happy to. The full name of the plaintiff is Canjian Hou. The property address is 818 Spirit, Costa Mesa, CA 92626. I have included a summary of the law I believe on this issue and why I believe I have been prejudiced and denied an opportunity to be heard unlawfully. I believe as a result that you, the clerk, have a non-discretionary, ministerial duty to immediately correct the record and notify all parties. Thank you for your time and careful attention in this matter.

**CCP § 587:** Requires that an application for entry of default (e.g., Form CIV-100) be mailed to the defendant's attorney of record or, if none, to the defendant's last known address, and that proof of such mailing be filed with the court. This ensures the defendant is notified before default is entered.

**CCP § 585.5(a):** Mandates that the plaintiff serve the default request "concurrently with or prior to" filing it with the court, ensuring timely notice. For UD cases, this applies to protect due process (*Green v. Superior Court*, 10 Cal.3d 616, 633, 1974; *Bostanian v. Liberty Savings Bank*, 52 Cal.App.4th 1075, 1080, 1997).

**CRC 2.200–2.306:** These rules specify service methods (e.g., mail, personal delivery) and timing. For mail service (CCP § 1013), used in this case (CIV-100), service is complete upon mailing, but a 5-day delivery delay applies, impacting notice reasonableness (*Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 1950).

#### **Clerk's Authority to Enter Default:**

**CCP § 585(a):** Authorizes the clerk to enter a default ministerially when the defendant fails to answer within the summons period (10 days in this case, ~March 11-13, 2025) and the plaintiff files a

request (CIV-100) with proof of service (CCP § 587).

**CCP § 1169 (UD Specific):** In UD cases, if the defendant doesn't answer (within the summons period), the clerk may enter a default or, for possession-only judgments, a clerk's judgment, provided the request complies with CCP § 585(a) and includes a nonmilitary status declaration (CIV-100, Item 8). This is ministerial but requires proper notice and timing (*Green*, 10 Cal.3d at 633).

In this case, the plaintiff's March 17, 2025, default request (CIV-100) was mailed on March 17, 2025, ensuring no notice before the March 18 entry. This violates CCP § 585.5(a) and due process (*Mullane*), as I (the defendant) had no chance to respond.



Automatic response Yesterday 1:19 PM

Your request status has changed to Waiting for support.



Briana Jurado Today 8:27 AM

According to the proof of service, you were personally served a copy of the Complaint, Summons, UD-101, and form CP 10.5 on 3/1/25.

CCP 1167 allows you 10 days to respond to the complaint; you had until 3/14 to respond and because no response was submitted in the allotted time frame, the plaintiff was well within their rights to submit a Request for Clerk Default Judgment on 3/17/25.

If you'd like to discuss your legal options, please consider seeking legal aid or contacting Self-Help Services at 657-622-8511 or via email at [SelfHelpCivil@occourts.org](mailto:SelfHelpCivil@occourts.org). You may also reach out to the Public Law Center at 714-541-1010 or visit their website for more information.

Thank you



Automatic response Today 8:27 AM



Your request status has changed to Waiting for customer.



abereki@gmail.com Today 9:11 AM

Dear Clerk of the Court,

The issue is not the plaintiff's right to file a Request for Clerk Default Judgment on March 17, 2025, but the failure to provide notice as required by law. **CCP § 585.5(a)** mandates that **"where a default or default judgment is sought, the plaintiff shall file a request for entry of default or default judgment and serve it upon the defendant ... concurrently with or prior to filing the request with the court."** The plaintiff's mail service on March 17, 2025 (CIV-100, Item 6), with a 5-day delivery delay (**CCP § 1013**), ensured I received no notice of the proposed default entry before the clerk's default entry on March 18, 2025, violating due process, which requires "notice reasonably calculated, **under all the circumstances**, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections" (*Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). **CCP § 587** requires **"an affidavit stating that a copy of the application has been mailed to the defendant ... and the date on which the copy was mailed,"** and while nonreceipt alone is not grounds to set aside a judgment, the premature entry before effective notice violates *Green v. Superior Court*, 10 Cal.3d 616, 633 (1974), **which requires a reasonable opportunity to contest a default order in UD proceedings.**

Additionally, I did attempt to file an answer twice, once on March 14, 2025 (see ex parte application case 30-2015-00805807) but it was rejected by the clerk. I attempted to file another answer on March 19, 2025, and the clerk rejected it on the grounds that a default had been entered. Allowing the required notice time for the request for entry of default clearly would have required the court to accept my answer on March 19. As a result of these due process violations, the Court has used procedural rules to violate due process and silence me from answering. I am bringing this to your attention now in the hope you will ministerially correct this injustice and avoid the need for appellate proceedings and/or other court

resources in correcting this.

This notice violation renders the default entry invalid, as I was not apprised of the default request in time to respond and have been silenced from answering the complaint. I respectfully request you set aside the default judgment to ensure compliance with statutory and due process requirements.

Sincerely,

Adam A. Bereki



Automatic response Today 9:11 AM

Your request status has changed to Waiting for support.



Briana Jurado Today 9:25 AM

See attached photo, it complies with CCP 587; this is from the Request for Default form on ROA:17

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

a.  not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):

b.  mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date): 3/17/2025

(2) To (specify names and addresses shown on the envelopes):  
Adam Bereki  
818 Spirit  
Costa Mesa, CA 92626

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.  
date: 3/17/2025

Henry Paloci  
(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

You had 10 days to respond to the complaint, NOT to the Request for Default.



Automatic response Today 9:25 AM

Your request status has changed to Waiting for customer.



abereki@gmail.com Today 9:29 AM

I agree with you. I had 10 days to respond the the complaint. But I also had at least 5 days to respond to the request for entry of default. Here are two court of appeal cases directly on the subject: In *Bank of America, N.A. v. La Salle*, 243 Cal.App.4th 199 (2015), the plaintiff, Bank of America, filed an unlawful detainer action against defendant La Salle to recover possession of a property after a foreclosure sale. La Salle appeared through counsel but failed to timely answer the complaint, and the Bank filed a request

for entry of default without notifying La Salle's attorney, leading to a default judgment on April 10, 2014. The trial court denied La Salle's motion to set aside the default, but the Court of Appeal reversed, holding that "The Bank's failure to provide notice of its intent to seek entry of default, in violation of its statutory and ethical duties, prejudiced La Salle's ability to oppose entry of default" (243 Cal.App.4th at 208). The court found the Bank violated Code of Civil Procedure section 587 by not mailing the default request to La Salle's counsel, breaching due process, and remanded with directions to set aside the default judgment.

In *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal.App.5th 198 (2022), plaintiff Shapell filed an unlawful detainer action against defendant Chico's for unpaid rent on a commercial lease. Chico's counsel appeared but did not timely answer, and Shapell filed a default request on September 8, 2020, without notifying Chico's counsel, resulting in a default judgment. The Court of Appeal reversed, holding that "The failure to provide notice to opposing counsel of an intent to seek default constitutes a breach of both ethical and statutory duties under Code of Civil Procedure section 583.130 and section 587, requiring reversal of the default judgment" (85 Cal.App.5th at 212). The court emphasized that the lack of notice violated statutory requirements and prejudiced Chico's ability to defend, mandating reversal to allow a defense on the merits.

I had no notice of the request for entry of default before the Court entered default. That violated my due process right to respond to the request for entry of default.



Automatic response Today 9:29 AM

Your request status has changed to Waiting for support.



Briana Jurado Today 9:41 AM

We're not going to vacate the default judgment; the attorney did their due diligence and the clerk processed everything correctly. If you want to argue against the judgment you may do so with the judge.



Thank you  
Automatic response Today 9:41 AM

Your request status has changed to Waiting for customer.



Automatic response Today 9:42 AM

Your request status has changed to Resolved with resolution Done.



Normal text **B I** ... **A** +

Save

### Status

**RESOLVED**



Notifications on

### Request type



Public

### Shared with



abereki@gmail.com

Creator

# Exhibit D



**FOR EMERGENCIES OR TO REPORT A PROPERTY  
CONDITION AT THIS HOME REQUIRING  
IMMEDIATE ATTENTION PLEASE CALL:  
888-872-9094**

This property has been determined to be vacant/abandoned and been reported to the mortgage servicer. The mortgage servicer intends to protect this property from waste and/or deterioration. This property may have its locks replaced and/or plumbing systems winterized in the next few days.

**If this property is NOT VACANT and ABANDONED, please call  
Guardian Asset Management: (888) 764-9698**

---

**NOTIFICATION:**

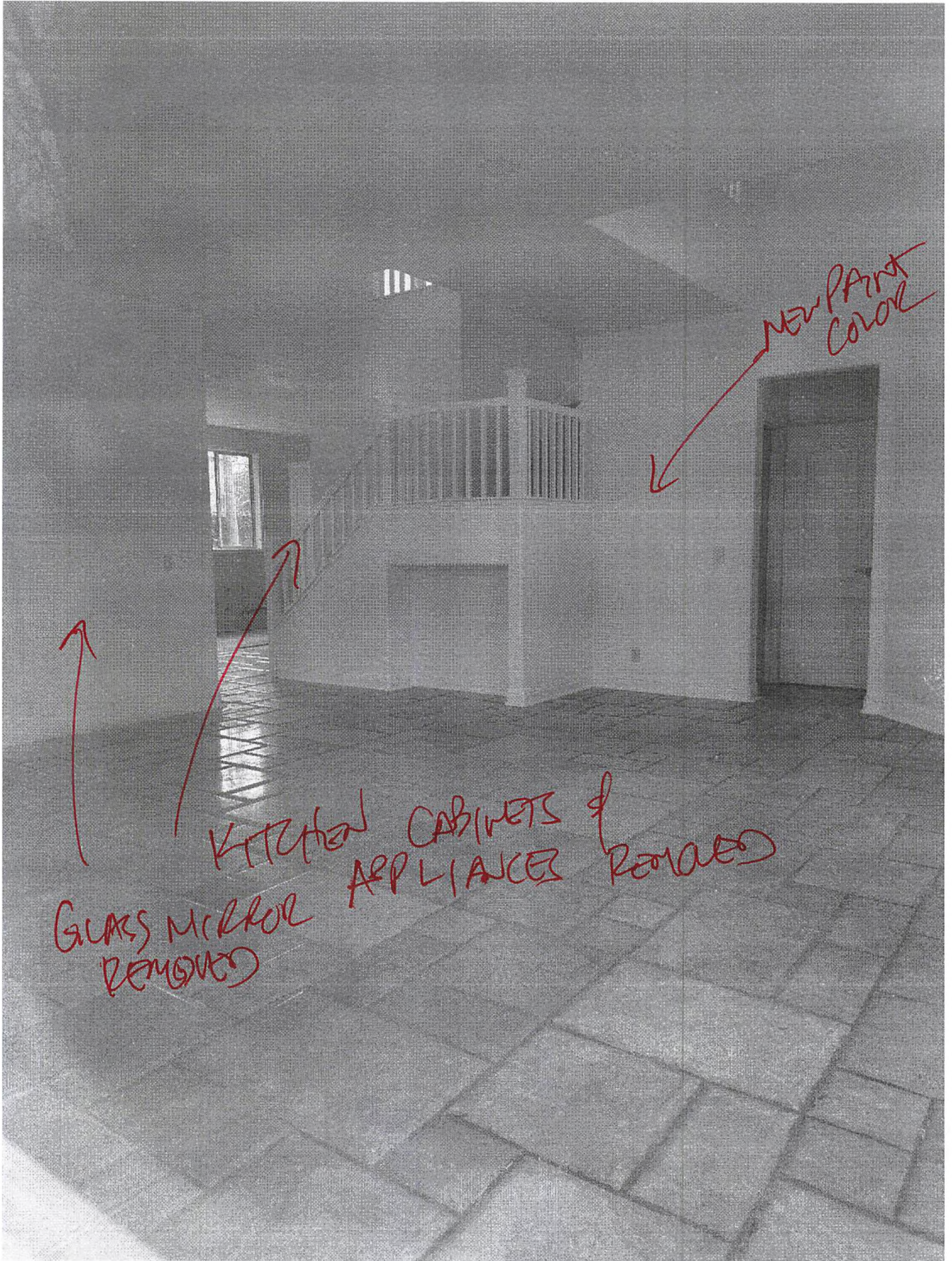
Se ha determinado que esta propiedad está vacante / abandonada. Esto ha sido reportado al administrador de hipotecas. El administrador de la hipoteca tiene la intención de proteger esta propiedad de residuos y / o deterioro. Esta propiedad puede tener sus cerraduras reemplazadas y / o sistemas de plomería inverna en los próximos días.

**Si esta propiedad NO esta VACANTE y ABANDONADA, por favor llame  
a Guardian Asset Management:(888) 764-9698**

WORK ORDER # 104520186

Guardian Asset Management  
2021 Hartel Street Levittown Pa 19057  
For Information Text Gam1 to 88000

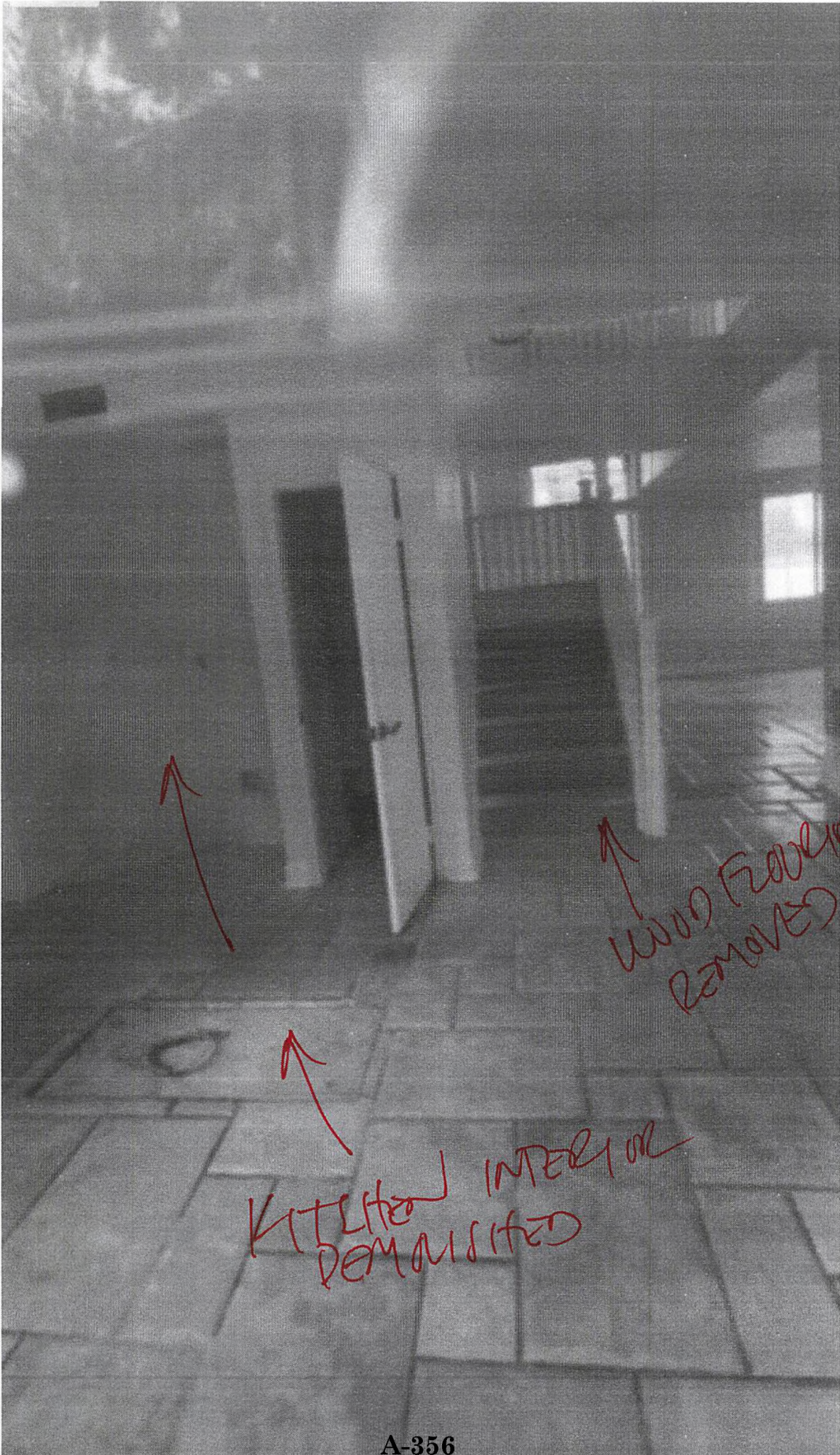




GLASS MIRROR  
REMOVED

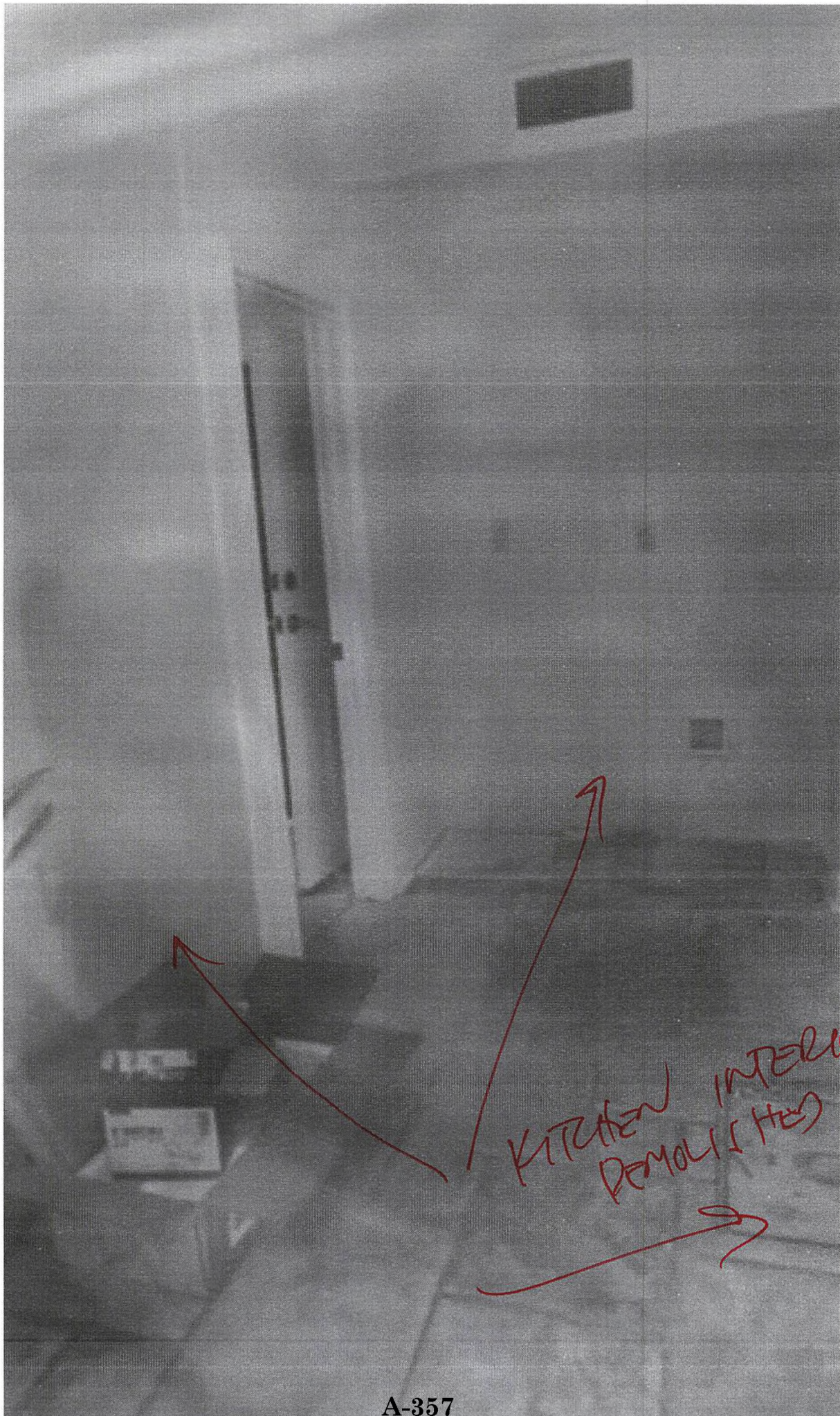
KITCHEN CABINETS &  
APPLIANCES REMOVED

NEW PAINT  
COLOR



WOOD FLOORING  
REMOVED

KITCHEN INTERIOR  
DEMOLISHED





Adam Bereki &lt;abereki@gmail.com&gt;

---

**notice of unclaimed property: see attachement**

---

**Henry Paloci** <henry.paloci@gmail.com>

Fri, Apr 18, 2025 at 10:03 AM

To: Adam &lt;abereki@gmail.com&gt;, angus hou &lt;AngusHou0823@gmail.com&gt;

You have been provided with a sufficient inventory in words and pictures. Please make an appointment to come pick up these items if you wish. The ball is in your court and I will instruct Mr. Hou to dispose of these items on May 1 if you do not make arrangements.

Thank you,  
Henry Paloci, Esq.  
Henry D. Paloci III PA  
1940 N. Tustin Street  
Suite 117  
Orange, CA 92865  
844.398.5500  
henry.paloci@gmail.com

---

**From:** Adam <abereki@gmail.com>**Sent:** Friday, April 18, 2025 8:45 AM**To:** Henry Paloci <henry.paloci@gmail.com>; angus hou <AngusHou0823@gmail.com>

[Quoted text hidden]

[Quoted text hidden]



Adam Bereki &lt;abereki@gmail.com&gt;

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## NOTICE OF APPEAL, DESIGNATION OF RECORD, NOTICE TO CEASE AND DESIST

---

**Henry Paloci** <hpaloci@hotmail.com>

Sat, May 10, 2025 at 6:51 AM

To: Adam &lt;abereki@gmail.com&gt;, angus hou &lt;AngusHou0823@gmail.com&gt;, "wbissell wgb-law.com" &lt;wbissell@wgb-law.com&gt;, Karen Humphreys &lt;kmoehumphreys@yahoo.com&gt;, Gary Humphreys &lt;GHconsult@aol.com&gt;

You neglected to file an answer, and there were things you could have done after the fact that you didn't. As with your big lawsuit, you're looking for other people to blame.

There's really no benefit to engaging you because you don't listen anyway. I don't experience you as looking for solutions. It seems to me that you know that you can't win any of these cases and are looking to inflict the most misery possible on the most people.

For example, I note that you did not make an appointment to pick up the items you left behind at moveout. You could have picked up your stuff or mitigated your loss but instead you picked at the edges and attempted to preserve a record that you could sue on later. Given where we are now, my client is free to discard them if they haven't already.

Thank you,  
Henry Paloci, Esq.  
Henry D. Paloci III PA  
1940 N. Tustin Street  
Suite 117  
Orange, CA 92865  
844.398.5500  
henry.paloci@gmail.com

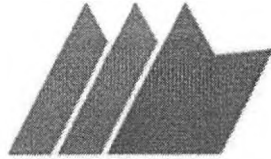
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**From:** Adam <abereki@gmail.com>**Sent:** Friday, May 9, 2025 3:32 PM

[Quoted text hidden]

[Quoted text hidden]

# Exhibit E



# TRUSTEE CORPS

*Experience. Trust. Integrity.*

17100 Gillette Ave. Irvine, CA 92614  
Office: 949.252.8300 Fax: 949.252.8330

CANJIAN HOU  
19709 CALLE LASUEN  
WALNUT, CA 91789

ATTENTION

DO NOT ALTER, CHANGE, OR MODIFY THE ATTACHED TRUSTEE'S DEED UPON SALE. FALSIFYING DOCUMENT(S) PRESENTED FOR RECORDING IS A SERIOUS OFFENSE, WHICH MAY BE SUBJECT TO LEGAL PENALTIES. TRUSTEE CORPS RESERVES THE RIGHT TO REPORT THE RECORDATION OF FRAUDULENT TRUSTEE'S DEED UPON SALE WITH THE APPROPRIATE GOVERNMENT AND ENFORCEMENT AUTHORITIES.

January 22, 2025

Trustee Sale No: CA13000044-22-2  
Title Order No: 240282878  
Property: 818 SPIRIT, COSTA MESA, CA 92626  
County: Orange

To whom it may concern:

The above referenced property was sold to **CANJIAN HOU** for the amount of **\$371,688.00**.

Enclosed is the Trustee's Deed Upon Sale which is being forward to you as of this date, January 22, 2025 for recording.

Sincerely,

Bernardo Sotelo  
949-252-8300

RECORDING REQUESTED BY:

Recorded in Official Records, Orange County  
Hugh Nguyen, Clerk-Recorder

WHEN RECORDED MAIL DEED  
AND TAX STATEMENT TO:

 24.00  
\* \$ R 0 0 1 5 3 8 7 3 5 9 \$ \*

CANJIAN HOU  
19709 CALLE LASUEN  
WALNUT, CA 91789

2025000040781 8:27 am 01/30/25  
48 414A T09 5 15  
204.60 204.60 0.00 0.00 12.00 0.00 0.000.000.00 0.00

APN: 141-513-55

TS No: CA13000044-22-2

TO No: 240282878

**TRUSTEE'S DEED UPON SALE**

A copy of the affidavit or declaration pursuant to Code of Civil Procedure section 2015.5 delivered to the trustee by the high bidder and grantee herein is attached hereto as Exhibit "B" and incorporated herein as if set forth in full. Said 1 page affidavit or declaration is required to be attached as an exhibit to the trustee's deed and recorded pursuant to Civil Code section 2924m(d).

NSD  
T

The undersigned Grantor, under penalty of perjury, declares:

- 1) The Grantee herein was not the foreclosing beneficiary.
- 2) The amount of the unpaid debt together with costs was:
- 3) The amount paid by the Grantee at the trustee sale was:
- 4) The documentary transfer tax is:
- 5) Said property is in the city of: COSTA MESA ✓
- 6) A.P.N. 141-513-55

\$62,523.24

\$371,688.00

\$409.20 ✓

and MTC Financial Inc. dba Trustee Corps, herein called "Trustee", as Trustee (or as Successor Trustee) of the Deed of Trust hereinafter described, hereby grants and conveys, but without covenant or warranty, express or implied, to CANJIAN HOU, herein called "Grantee", the real property in the County of Orange, State of California, described as follows: **SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

This deed is made pursuant to the authority and powers given to Trustee (or to Successor Trustee) by law and by that certain Deed of Trust dated October 30, 2006, made to ADAM BEREKI, SINGLE MAN and recorded on December 14, 2006, as Instrument No. 2006000838019 of Official Records in the office of the Recorder of Orange County, CA, Trustee (or Successor Trustee) having complied with all applicable statutory provisions and having performed all of his duties under the said Deed of Trust.

APN: 141-513-55

TS No: CA13000044-22-2

TO No: 240282878

All requirements of law and of said Deed of Trust relating to this sale and to notice thereof having been complied with. Pursuant to the Notice of Trustee's Sale, the above described property was sold by Trustee (or Successor Trustee) at public auction on **November 18, 2024** at the place specified in said Notice, to Grantee who was the highest bidder therefore, for **\$371,688.00**, in lawful money of the United States, which has been paid.

Dated: 1-22-25

MTC Financial Inc. dba Trustee Corps

By: Bernardo Sotelo, Authorized Signatory

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

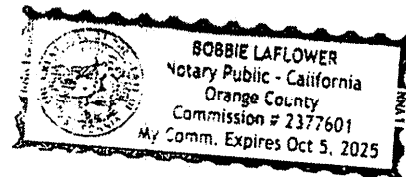
State of CALIFORNIA  
County of ORANGE

On 1-22-25 before me, Bobbie LaFlower, a Notary Public, personally appeared **BERNARDO SOTELO**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public Signature



APN: 141-513-55

TS No: CA13000044-22-2

TO No: 240282878

**EXHIBIT "A"**

LOT 55 OF TRACT NO 15211, AS SHOWN ON A MAP RECORDED IN BOOK 733, PAGES 33 TO 37 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ONE-HALF OF ALL OIL AND MINERALS, BUT WITHOUT THE RIGHT OF ENTRY, AS RESERVED BY ETTA C. DAVIES, A WIDOW, IN DEED RECORDED JUNE 1, 1959 IN BOOK 4737, PAGE 511 OF OFFICIAL RECORDS.

**EXHIBIT "B"**

**This 1 page affidavit/declaration, hereto attached as Exhibit "B", pursuant to Code of Civil Procedure section 2015.5 is required to be attached as an exhibit to the Trustee's Deed Upon Sale for recording pursuant to Civil Code section 2924m(d) and shall not be removed.**

# AFFIDAVIT OF ELIGIBLE BIDDER

(Cal. Civ. Code § 2924m)

State of California  
County of Orange

TS #: CA13000044-22-2  
Property: 818 SPIRIT, COSTA MESA, CA 92626

I, CANJIAN HOU, do hereby state and declare as follows:

1. I am a natural person and a prospective owner-occupant as defined in Section 2924m of California Civil Code.
2. I will occupy the property as my primary residence within 60 days of the trustee's deed being recorded, and I will maintain my occupancy for at least one year.
3. I am not any of the following:
  - a. The Mortgagor or trustor
  - b. The child, spouse, or parent of the mortgagor or trustor;
  - c. The grantor of a living trust that was named in the title to the property when the notice of default was recorded;
  - d. An employee, officer, or member of the mortgagor or trustor; or
  - e. A person with an ownership interest in the mortgagor, unless the mortgagor is a publicly traded company.
4. I am not acting as the agent of any other person or entity in purchasing the real property.
5. My current residence address is 19709 Calle Lasuen, Walnut CA 91789
6. My current phone # is (626)389-7124
7. My current email address is angushou0823@gmail.com

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and that this declaration was executed in Riverside, California on December 30th, 2024.

  
\_\_\_\_\_  
CANJIAN HOU

# Exhibit F

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re:

Adam A. Bereki,  
Debtor.

Adam A. Bereki,  
Plaintiff,

v.

Citizens Bank N.A.; MTC Financial Inc. d/b/a Trustee Corps; Canjian Hou; Henry D. Paloci; Henry D. Paloci III, P.A.; Citibank N.A.; NewRez LLC; Deputy Murillo; Sergeant X; Karen S. Naylor; Surety Doe; CHP Officer Doe 1; CHP Officer Doe 2; Does 3-12,  
Defendants.

Case No. 8:22-BK-12076-SC

Adv. No. [TBD]

Chapter 7

**\*\*INTRODUCTION\*\***

1. Plaintiff Adam A. Bereki, a former police officer with over twenty years of forensic investigation experience specializing in fraud and government corruption, brings this adversary proceeding to address egregious violations of his constitutional and bankruptcy rights stemming from a wrongful non-judicial foreclosure sale of his home at 818 Spirit, Costa Mesa, CA (the “Property”) on November 18, 2024.

2. The foreclosure, executed by Defendants Citizens Bank N.A. (“Citizens”) and MTC Financial Inc. d/b/a Trustee Corps (“Trustee Corps”), was triggered by a void 2017 state court judgment (Case No. 30-2015-00805807, Orange County Superior Court) obtained

through extrinsic fraud by private parties lacking CRIMINAL prosecutorial authority. This judgment, imposing a \$930,000 penalty for alleged unlicensed contracting, caused Plaintiff's financial ruin, enabling Citizens to declare a default and sell the Property for \$371,688—far below its \$1,142,000 fair market value—resulting in ~\$815,241.50 in equity loss.

3. Defendants Canjian Hou, Henry D. Paloci, Henry D. Paloci III, P.A. ("Paloci"), Deputy Murillo, and Sergeant X (name to be provided) furthered this harm by pursuing or enforcing an unlawful detainer action (Case No. 30-2025-01459684, filed February 11, 2025) to evict Plaintiff UNDER THREAT OF FORCEFUL REMOVAL MADE BY THE COUNTY SHERIFF, despite notice of the foreclosure's invalidity.

4. This complaint seeks to void the foreclosure sale, cancel the Trustee's Deed, recover Plaintiff's exempt Property under bankruptcy law, determine the validity of Citibank's lien, address stay violations, and obtain equitable relief for trustee misconduct, asserting violations of the discharge injunction (11 U.S.C. § 524), unauthorized transfers (11 U.S.C. § 549), lien determination (11 U.S.C. § 506), stay violations (11 U.S.C. § 362), and constitutional protections.

**\*\*JURISDICTION AND VENUE\*\***

5. Plaintiff intends to commence a separate adversary proceeding to challenge the validity of the 2017 state court judgment (Orange County Superior Court, Case No. 30-2015-00805807) on constitutional grounds, including the lack of executive authority for private CRIMINAL prosecution under Cal. Bus. & Prof. Code § 7031(b), the judgment's imposition of an excessive fine, its operation as a bill of pains and penalties, and its impairment of private contracts, as detailed in Plaintiff's ex parte application filed in the Superior Court on March 17, 2025 (Case No. 30-2015-00805807, Ex. 11). Plaintiff has intentionally separated these issues from the present adversary proceeding to focus exclusively on claims arising under bankruptcy law, including violations of the discharge injunction (11 U.S.C. § 524), unauthorized transfers (11 U.S.C. § 549), lien determination (11 U.S.C. § 506), stay violations (11 U.S.C. § 362), and equitable relief (11 U.S.C. § 105). The claims in this proceeding, particularly Defendant Citizens Bank N.A.'s bad faith foreclosure exploiting the effects of the 2017 judgment and Citibank N.A.'s fraudulent lien, are independent of and do not require a determination of the judgment's validity in the anticipated separate proceeding.

6. This Court has jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2)(A), (B), (H), (K), (O) as this is a core proceeding concerning the administration of the bankruptcy estate, the validity of liens, stay violations, unauthorized transfers, and equitable relief.

7. Venue is proper in the Central District of California, where the bankruptcy case is pending and the Property is located (28 U.S.C. § 1409).

8. Plaintiff consents to the entry of final orders by this Court (28 U.S.C. § 157(c)).

9. Claims against Henry D. Paloci are exempt from Cal. Civ. Code § 1714.10, as Paloci owed Plaintiff an independent legal duty under Cal. Civ. Code § 1708 and acted for financial gain by pursuing the unlawful detainer action despite notice of the foreclosure's invalidity (Ex. 4, pp. 9–10, 19).

**\*\*PARTIES\*\***

10. Plaintiff Adam A. Bereki is the debtor in Case No. 8:22-BK-12076-SC, residing at 3649 Metter St, Las Vegas, NV, due to threats of forcible removal by the county sheriff, and the sole owner of the Property via the Adam Bereki Living Trust.

11. Defendant Citizens Bank N.A. is a national banking association with headquarters in Rhode Island, which initiated the foreclosure sale.

12. Defendant MTC Financial Inc. d/b/a Trustee Corps is a California corporation and the trustee that executed the foreclosure sale.

13. Defendant Canjian Hou is an individual who purportedly purchased the Property at the foreclosure sale. The Superior Court awarded Hou a default judgment in an unlawful detainer action (Case No. 30-2025-01459684). Plaintiff attempted to file an ex parte application as a response, which the Superior Court clerk refused to file, and the Superior Court judge in Case No. 30-2015-00805807 refused to recognize as an answer in the UD

case. Plaintiff later attempted to file an answer challenging the UD case's subject matter jurisdiction, but the clerk again refused, claiming an answer could not be filed post-judgment.

14. Defendant Henry D. Paloci is an attorney, and Defendant Henry D. Paloci III, P.A. is his professional association, representing Hou and facilitating the unlawful detainer action.

15. Defendant Citibank N.A. is a national banking association claiming a first mortgage lien of \$457,693.71 on the Property.

16. Defendant NewRez LLC is a Delaware limited liability company involved in the stay relief motion affecting the Property.

17. Defendant Karen S. Naylor is the Chapter 7 trustee appointed in Case No. 8:22-BK-12076-SC, responsible for administering the bankruptcy estate.

18. Defendant Surety Doe is the unknown surety providing Naylor's bond under 11 U.S.C. § 322(b), to be identified through discovery.

19. Defendants Deputy Murillo and Sergeant X (name to be provided) are Orange County Sheriff's Department officers who enforced the unlawful detainer action by serving an eviction notice on March 27, 2025, at the Property.

20. Defendants CHP Officer Doe 1 and CHP Officer Doe 2 (names to be provided) are California Highway Patrol officers who refused to fully, fairly, impartially, and independently investigate Plaintiff's complaints of the 2017 judgment's fraud and refused to intervene to stop the ongoing crimes/deprivations of rights (Case 22A426, pp. 50–51), aiding and abetting the wrongful foreclosure and unlawful detainer action (Ex. 11, pp. 14–15, 28–30).

21. Defendants Does 3-12 are unknown parties responsible for Plaintiff's damages.

**\*\*FACTUAL BACKGROUND\*\***

22. On August 21, 2015, Plaintiff, through his solely owned company, The Spartan Associates, Inc. (“Spartan”), a previously licensed general contractor (LIC#927244), filed a state court action (Case No. 30-2015-00805807) against Karen and Gary Humphreys for unpaid construction work (~\$82,000). The Humphreys, private citizens, cross-complained under Cal. Bus. & Prof. Code § 7031(b), alleging Plaintiff was unlicensed and seeking disgorgement of \$848,000 paid to him.

23. On March 28, 2017, Judge David Chaffee ruled Plaintiff was the contractor, not Spartan, and lacked a personal license, awarding the Humphreys \$848,000 plus denial of Spartan’s \$82,000 claim—a \$930,000 penalty—despite no evidence of harm or profits (Dkt. 193, Ex. 1).

24. This judgment was void ab initio due to extrinsic fraud and jurisdictional defects: the Humphreys, private citizens, lacked authority to prosecute the penal statute (§ 7031(b)), and the court mischaracterized the action as civil, denying Plaintiff criminal procedural safeguards, such as a jury trial and appointed counsel, required for penal disgorgement (\*Liu v. SEC\*, 591 U.S. 71, 2020; \*Linda R.S. v. Richard D.\*, 410 U.S. 614, 619, 1973).

25. On appeal (Case No. G055075), the Fourth District Court of Appeal affirmed, erroneously labeling the penalty “equitable disgorgement” (Ex. 2), rejecting Plaintiff’s due process defenses, including the lack of criminal safeguards, as detailed in the unpublished opinion.

26. The judgment and automatic licensing suspension under Cal. Bus. & Prof. Code § 7071.17, effective June 26, 2017, 90 days after the March 28, 2017, judgment for failure to pay (§ 7031(b)), without a hearing, forced Plaintiff into financial ruin, impairing his ability to pay a \$62,523.24 home equity line of credit with Citizens (Ex. 3, pp. 1–12) and necessitating bankruptcy.

27. On December 8, 2022, Plaintiff filed for Chapter 7 bankruptcy (Case No. 8:22-BK-12076-SC) under duress, scheduling the Property and all related claims (Dkt. 11, Ex. 5).

On October 18, 2024, Plaintiff filed a motion to compel the trustee to abandon the 2017 judgment claims and Property-related claims (Dkt. 105), granted on December 31, 2024 (Dkt. 112), before case closure on January 29, 2025 (Dkt. 114, 11 U.S.C. § 554(c)).

28. On April 12, 2023, Citizens obtained relief from the automatic stay (Dkt. 45), despite Plaintiff's notices of the judgment's fraud (Ex. 3, pp. 37–42; Ex. 7).

29. On July 10, 2024, Citizens declared a default and ordered Trustee Corps to commence a non-judicial foreclosure sale under Cal. Civ. Code § 2924 (Ex. 3, pp. 13–15).

30. On November 18, 2024, Trustee Corps sold the Property for \$371,688, far below its \$1,142,000 fair market value (¶ 29), to Hou (Ex. 3, pp. 16–23).

31. The sale generated a surplus of \$304,758.50 after Citizens' \$62,523.24 lien and \$4,206.26 in trustee fees, insufficient to cover Plaintiff's \$600,000 homestead exemption (Cal. Code Civ. Proc. § 704.730, ¶ 30).

32. Plaintiff suffered ~\$815,241.50 in equity loss (\$1,142,000 value minus \$371,688 sale price, assuming Citibank's \$457,693.71 lien is invalid, ¶ 32).

33. Citizens knew of the judgment's fraud via bankruptcy notices (Ex. 3, pp. 37–42; Ex. 7) but proceeded, breaching duties under Cal. Civ. Code § 1708 and good faith.

34. On February 11, 2025, Hou, through Paloci, filed an unlawful detainer action (Case No. 30-2025-01459684, Ex. 4, pp. 27–47; Ex. 8), despite Plaintiff's notices of the sale's invalidity and offer to return surplus funds (Ex. 4, pp. 9–10, 19; Ex. 8).

35. On March 27, 2025, Deputy Murillo, under Sergeant X's supervision, served an eviction notice and threatened physical removal, despite Plaintiff's notice of the unlawful foreclosure and UD case's invalidity, as evidenced by the eviction notice (Ex. 9) and audio/video recordings (Ex. 10). Their failure to investigate violated duties under Cal. Civ.

Code § 1708, due process, and the First Amendment right to petition for redress (Ex. 11, pp. 38–40).

36. The continued denial of judicial proceedings to adjudicate the void 2017 judgment included the following court actions, which prevented Plaintiff from challenging its fraudulent basis and directly contributed to Plaintiff's insolvency (Ex. 11, pp. 14–15):

37. **\*\*March 27–28, 2017\*\***: Superior Court of California, County of Orange (Case No. 30-2015-00805807) entered judgment against Plaintiff for \$848,000 in “disgorgement” and denied \$82,000 quantum meruit claim, finding Plaintiff an unlicensed contractor under Cal. Bus. & Prof. Code § 7031(b), imposing a penal forfeiture disguised as equitable disgorgement (Ex. 1).

38. **\*\*October 31, 2018\*\***: Court of Appeal of California, Fourth Appellate District (Case No. G055075) affirmed the judgment, deeming Plaintiff's claims meritless and upholding the \$930,000 fine as equitable, not penal (Ex. 2).

39. **\*\*March 15, 2019\*\***: Superior Court of California, County of Orange (Case No. 30-2015-00805807) denied Plaintiff's motion to vacate, citing the appellate court's final decision.

40. **\*\*March 27, 2019\*\***: Supreme Court of California (Case No. S252954) denied Plaintiff's petition for review, providing no specific reason despite mandatory review claims.

41. **\*\*October 7, 2019\*\***: United States Supreme Court (Case No. 18-1416) denied Plaintiff's petition for writ of certiorari, arbitrarily declining jurisdiction without reason.

42. **\*\*February 6, 2020\*\***: United States District Court, Central District of California (Case No. 8:19-CV-02050) dismissed Plaintiff's case with prejudice, citing collateral estoppel and Rooker-Feldman doctrines, claiming lack of jurisdiction to review state court judgments.

43. \*\*November 12, 2020\*\*: U.S. Court of Appeals for the Ninth Circuit (Case No. 20-55181) dismissed Plaintiff's appeal as frivolous, without addressing substantive claims.
44. \*\*September 22, 2021\*\*: United States Supreme Court (Case No. Unknown, Emergency Petition 2021) returned Plaintiff's emergency petition for writs of error/habeas corpus unfiled, citing improper form despite constitutional rights claims.
45. \*\*September 15, 2022\*\*: Superior Court of California, County of Orange (Case No. 30-2022-01271693) denied Plaintiff's ex parte application for emergency stay, with Judge Leal finding no exigent circumstances and deeming habeas corpus inapplicable.
46. \*\*October 13, 2022\*\*: Superior Court of California, County of Orange (Case No. 30-2022-01271693) denied Plaintiff's petition for writ of habeas corpus and emergency stay, with Judge Cramin providing no lawful authority or reasoning.
47. \*\*November 10, 2022\*\*: United States Supreme Court (Case No. 22A426) denied Plaintiff's application for emergency stay, providing no reason pending further petition filing.
48. Plaintiff was insolvent at the time of the sale (¶ 24), supporting avoidance under 11 U.S.C. § 549(a).
49. The sale was involuntary, as Plaintiff's financial ruin stemmed from the void judgment (¶ 21).
50. If Citibank's lien is invalid, Plaintiff's total equity was ~\$647,909.54 (\$1,142,000 minus \$62,523.24 Citizens' lien and \$36,000 other claims, ¶ 29).
51. The Property was disclosed in bankruptcy schedules (Dkt. 11, Ex. 5), enabling avoidance under § 522(h).

52. The sale's gross inadequacy (~32.5% of market value) and irregularities (e.g., discharge violation, surplus shortfall) rebut the \*BFP v. Resolution Trust Corp.\* presumption (511 U.S. 531, 1994).

53. Plaintiff notified Citizens of the fraud during bankruptcy (Ex. 3, pp. 37–42; Ex. 7), including a February 2, 2024, email (Ex. 7, pp. 49–50).

54. Trustee Corps refused to disclose bidder information or notify them of litigation (Ex. 4, p. 24; Ex. 8).

55. Plaintiff offered to return surplus funds to Hou, who refused (Ex. 4, p. 19; Ex. 8).

56. The sale price (\$371,688) was grossly inadequate, causing ~\$815,241.50 in damages (¶ 29).

57. Plaintiff spent ~\$216,000 in time defending against the foreclosure and unlawful detainer (8 hours/day at \$300/hour for 63 weekdays against Citizens/Trustee Corps; 6 hours/day for 36 days against Hou/Paloci, ¶ 29).

58. Additional damages include \$19,668.92 in un-itemized Citizens' fees (Ex. 3, p. 72), \$5,000 in estimated moving expenses, and \$200,000 in tax base loss over 30 years (¶ 29).

59. Plaintiff's emotional distress, to be proven at trial, stems from the loss of his home and livelihood.

60. The unlawful detainer action lacks standing, as Hou's title derives from a void sale (¶ 31).

61. The statute of limitations for Plaintiff's claims is equitably tolled due to Defendants' ongoing fraud, the court's failure to address the 2017 judgment's invalidity (¶ 69), Trustee

Naylor's inaction (§ 95–97), the unlawful detainer action (§ 33), the denial of Plaintiff's ex parte application for stay in California court (Case No. 30-2015-00805807, Ex. 11), and Plaintiff's forced relocation from his home of nearly 20 years out of state, which prevented timely filing despite Plaintiff's diligent efforts (Dkt. 15, Case 22A426, \*Lantzy v. Centex Homes\*, 31 Cal. 4th 363, 370, 2003).

62. Plaintiff seeks equitable relief to restore his Property and prevent further harm.

63. This Court's intervention is critical to remedy these violations and protect Plaintiff's rights.

64. Plaintiff's bankruptcy schedules (Dkt. 11, Ex. 5) accurately reflect the Property's value and disputed liens.

65. The 2017 lien's enforcement violated Plaintiff's Fourth and Fifth Amendment rights.

66. Citibank's failure to file a proof of claim (§ 109) negates their lien's validity.

67. The 2017 judgment's fraud is detailed in state court filings (Case 22A426, Ex. 11).

68. Plaintiff's QWRs (Exs. 21, 24) demanded proof of Citibank's debt, unanswered.

69. The foreclosure sale's proceeds were not distributed to the estate, harming creditors.

70. Naylor's inaction violated Local Bankruptcy Rule 4001-1 (Dkt. 15).

71. Plaintiff's adversary proceeding (Adv. No. 8:23-ap-01075-SC) was dismissed without a hearing, violating FRBP 7001.

72. The district court's denial (Ex. 21) ignored Plaintiff's due process evidence.

**\*\*STANDING\*\***

85. **\*\*First Cause (Discharge Injunction Violation, 11 U.S.C. § 524(a)(2))\*\***: Plaintiff has standing to challenge Citizens' violation of the discharge injunction, as he suffered an injury-in-fact (~\$815,241.50 equity loss, \$216,000 in time, ¶ 76) caused by Citizens' bad faith foreclosure exploiting the discharged 2017 judgment (¶ 75), redressable by voiding the sale and awarding damages (Prayer D, *In re Kuehn*, 563 F.3d 289, 292, 7th Cir. 2009).

86. **\*\*Second Cause (Unauthorized Transfer, 11 U.S.C. § 549)\*\***: Plaintiff has standing to seek avoidance of the unauthorized foreclosure transfer, as the injury (~\$815,241.50 equity loss, ¶ 80) was caused by Citizens, Trustee Corps, and Hou's actions without court approval (¶ 80), redressable by recovering the Property or its value under § 550 (Prayer B, *In re Gould*, 401 B.R. 415, 426, 9th Cir. BAP 2009).

87. **\*\*Third Cause (Wrongful Foreclosure, 11 U.S.C. § 522(h))\*\***: Plaintiff has standing under § 522(h) to avoid the wrongful foreclosure, as the involuntary transfer caused ~\$815,241.50 in equity loss and harmed his \$600,000 homestead exemption (¶ 85–88), traceable to Defendants' conspiracy (¶ 85), and redressable by voiding the sale and damages (Prayer A, *In re Gebhart*, 621 F.3d 1206, 1210, 9th Cir. 2010).

88. **\*\*Fourth Cause (Misuse of Stay Relief, 11 U.S.C. § 105(a))\*\***: Plaintiff has standing to seek equitable relief for Citizens' misuse of the stay relief order, as the injury (~\$815,241.50 equity loss, ¶ 91) was caused by Citizens' bad faith foreclosure (¶ 90), redressable by voiding the sale and sanctions (Prayer E, *Marbury v. Madison*, 5 U.S. 137, 177, 1803).

89. **\*\*Fifth Cause (Unconstitutionality of Cal. Civ. Code § 2924)\*\***: Plaintiff has standing to challenge § 2924's unconstitutional application, as Defendants' actions caused ~\$815,241.50 in equity loss and constitutional violations (¶ 95–96), redressable by declaring § 2924 unconstitutional and voiding the sale (Prayer O, *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61, 1992).

90. **Sixth Cause (Trustee Negligence, 11 U.S.C. § 105(a))**: Plaintiff has standing to pursue Naylor's gross negligence, as her inaction caused ~\$815,241.50 in estate loss and harmed his \$600,000 exemption (§§ 101–102), redressable by damages and surcharge (Prayer P, *In re Harris*, 590 F.3d 730, 742, 9th Cir. 2009).

91. **Seventh Cause (Citibank Lien Validity, 11 U.S.C. § 506(a), § 522(f))**: Plaintiff has standing under § 522(h) to challenge Citibank's lien, as its fraudulent claim threatens his \$600,000 exemption and estate surplus (~\$943,782.76, §§ 110–111), redressable by invalidating the lien (Prayer S, *In re Reed*, 940 F.2d 1317, 1321, 9th Cir. 1991).

92. **Eighth Cause (Citibank Stay Violation, 11 U.S.C. § 362(k))**: Plaintiff has standing to seek damages for Citibank's stay violation, as its post-petition actions caused ~\$216,000 in expenses and distress (§ 116), redressable by § 362(k) damages and sanctions (Prayer T, *In re Dawson*, 390 F.3d 1139, 1149, 9th Cir. 2004).

93. **Ninth Cause (Hou/Paloci Stay Violation, 11 U.S.C. § 362(k))**: Plaintiff has standing to challenge Hou, Paloci, and Paloci III, P.A.'s stay violation, as their UD action caused ~\$216,000 in expenses, \$5,000 in moving costs, \$200,000 in tax base loss, and distress (§ 129), traceable to their conspiracy with Citizens (§ 128), and redressable by § 362(k) damages (Prayer U, *In re Kuehn*).

**FIRST CAUSE OF ACTION: Violation of Discharge Injunction (11 U.S.C. § 524(a)(2), Against Citizens)**

73. Plaintiff incorporates paragraphs 1–72 as if fully set forth herein.

74. The 2017 judgment, discharged on March 27, 2023 (Dkt. 32, Ex. 6) and its lien avoided on June 22, 2023 (Dkt. 90), remained unadjudicated due to a continued chain of denial of judicial proceedings, directly and proximately causing Plaintiff's insolvency (Ex. 11, pp. 14–15). This denial included multiple court rejections of Plaintiff's attempts to challenge the void judgment, as detailed in § 36, as void judgments require no time limit for challenge (*People v. American Contractors Indemnity Co.*, 33 Cal. 4th 653, 660, 2004). Citizens knew through notices (Dkt. 102, 103; Ex. 7, pp. 43, 49–50; Motion for

Withdrawal of Reference, Case No. 8:23-cv-00711-PA, Ex. 21; Ex Parte Application, Case No. 8:24-cv-02509-AB-JC, Ex. 22) that adjudication was required, yet proceeded with default, exacerbating the harm. Citizens' bad faith, breach of Cal. Civ. Code § 1708, and unconstitutional § 2924 conspiracy (§ 77) were not authorized by the stay relief order, enabled by the court's reckless disregard (Dkt. 15; Case 22A426, pp. 4–47).

75. Citizens' July 10, 2024, default declaration (Ex. 3, pp. 13–15) used the void 2017 judgment, which caused Plaintiff's insolvency, as the basis for declaring default, violating § 524(a)(2) by indirectly enforcing a discharged debt (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009). The ~\$815,241.50 equity loss assumes Citibank's \$457,693.71 lien is invalid, as Plaintiff alleges it was fraudulent and discharged in bankruptcy (Dkt. 32, Ex. 6). Citizens' actions constituted willful contempt of the discharge order (Dkt. 32), as they knowingly violated § 524(a)(2) with no fair ground to believe their default declaration was lawful, given Plaintiff's notices of the 2017 judgment lien's avoidance (Dkt. 90) and fraud (Dkt. 102, 103; Exs. 7, 21–22, \*Taggart v. Lorenzen\*, 139 S. Ct. 1795, 1801, 2019), warranting punitive damages (\*In re Paul\*, 534 F.3d 1303, 1306, 9th Cir. 2008).

76. Plaintiff suffered damages, including ~\$815,241.50 in equity loss and \$216,000 in time defending (§ 29).

77. Plaintiff seeks an order voiding the sale, damages, and sanctions under § 524(a)(2).

78. Alternatively, Plaintiff seeks contempt sanctions under 11 U.S.C. § 105(a).

86. The 2017 judgment, discharged on March 27, 2023 (Dkt. 32, Ex. 6), with its lien avoided on June 22, 2023 (Dkt. 90), remained adjudicated due to the systemic denial of judicial proceedings outlined in the Judicial Procedural History (§ 36–47). These denials directly caused Plaintiff's insolvency, as void judgments require no time limit for challenge (\*People v. American Contractors Indemnity Co.\*, 33 Cal. 4th 653, 660, 2004). Citizens was notified of the judgment's fraud through multiple filings, including bankruptcy declarations (Dkt. 102, 103), a February 2, 2024, email (Ex. 7, pp. 43, 49–50), the Motion for Withdrawal of Reference (Case No. 8:23-cv-00711-PA, Ex. 21), and the Ex Parte Application for Temporary Restraining Order (Case No. 8:24-cv-02509-AB-JC, Ex. 22), rendering their foreclosure a willful violation with no fair ground of doubt (\*Taggart v. Lorenzen\*, 139 S. Ct. 1795, 1801, 2019).

87.1 The 2017 judgment's fraud, void for lack of prosecutorial authority and jurisdictional defects (¶ 24, \*People v. American Contractors Indemnity Co.\*, 33 Cal. 4th 653, 660, 2004), caused Plaintiff's license suspension (¶ 26), denial of judicial remedy across state and federal courts (¶ 36–47), and insolvency (¶ 48), which were the proximate cause of the default exploited by Citizens' foreclosure (¶ 75), violating § 524(a)(2) by indirectly enforcing a discharged debt (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009). Citizens' foreclosure, relying on the void judgment's illegal effects (¶ 24, 48), is unenforceable, as courts will not aid claims founded on illegal acts (\*Asher v. Johnson\*, 26 Cal.App.2d 403, 79 P.2d 457, 1938; \*Lee On v. Long\*, 37 Cal.2d 499, 234 P.2d 9, 1951; \*Nathan v. Tenna Corp.\*, 560 F.2d 761, 1977), violating public policy and bankruptcy's fresh start (\*Al-Ibrahim v. Edde\*, 897 F.Supp. 620, 1995; \*Local Loan Co. v. Hunt\*, 292 U.S. 234, 244, 1934).

88. Plaintiff suffered damages, including ~\$815,241.50 in equity loss and \$216,000 in time defending against the foreclosure (¶ 57–58), proximately caused by Citizens' willful violation of the discharge injunction through reliance on the illegal 2017 judgment's effects (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009; \*In re Dawson\*, 390 F.3d 1139, 1149, 9th Cir. 2004). These harms, exacerbated by Citizens' knowledge of the fraud and discharge (¶ 86), warrant compensatory and punitive damages for egregious conduct (\*In re Paul\*, 534 F.3d 1303, 1306, 9th Cir. 2008).

**\*\*SECOND CAUSE OF ACTION: Avoidance of Unauthorized Post-Petition Transfer (11 U.S.C. § 549, Against Citizens, Trustee Corps, Hou)\*\***

79. Plaintiff incorporates paragraphs 1–78 as if fully set forth herein.

80. The sale on November 18, 2024, was an unauthorized post-petition transfer of estate property under § 549(a), executed without court approval, as the Property remained in the estate until abandonment on December 31, 2024 (Dkt. 112, Dkt. 11, Ex. 5). The stay relief order (Dkt. 45), granted solely under § 362(d)(2), was invalidly granted, as the court violated its mandatory constitutional duty to ensure Plaintiff's due process by ignoring evidence of substantial equity (\$592,946.29, Dkt. 15, ¶ 18) and the void 2017 judgment's fraudulent effects, which caused Plaintiff's alleged default and bankruptcy (¶ 48–49; Dkt. 15; Ex. 11, pp. 38–40). Despite notice of Plaintiff's exhaustion of state court remedies and their fraudulent denials (Case 22A426, pp. 4–12; ¶ 36–47; Motion for Withdrawal of

Reference, Case No. 8:23-cv-00711-PA, Ex. 21; Ex Parte Application, Case No. 8:24-cv-02509-AB-JC, Ex. 22), the court, acting as a ‘gatekeeper,’ directed Plaintiff to seek an injunction in state court during the March 1, 2023, hearing to stop Citizens’ attempts to obtain relief from the stay to commence foreclosure proceedings, breaching its duty to examine evidence (\*In re Gould\*, 401 B.R. 415, 426, 9th Cir. BAP 2009) and provide a remedy (\*Marbury v. Madison\*, 5 U.S. 137, 177, 1803). This failure, part of a systemic denial of judicial remedy that forced Plaintiff into bankruptcy to seek a fresh start and emergency stay, constituted reckless disregard and fraud on the court, invalidating the order (Ex. 11, pp. 28–30). Even if valid, the order did not authorize Citizens’ unconstitutional and illegal acts—bad faith foreclosure, breach of Cal. Civ. Code § 1708 duties, and conspiracy to use Cal. Civ. Code § 2924 to violate constitutional protections (§ 77)—as these are not ‘in accordance with applicable nonbankruptcy law,’ rendering the sale unauthorized (Ex. 3, pp. 37–42; Ex. 22). Trustee Corps exacerbated the unauthorized transfer by refusing to provide bidder information or disclose litigation affecting the Property’s title (Ex. 4, p. 24), further undermining the sale’s legitimacy.

81. The Property was part of the bankruptcy estate (Dkt. 11, Ex. 5), and the sale diminished Plaintiff’s exemption (§ 28).

82. Plaintiff seeks to avoid the transfer and recover the Property or its value (\$1,142,000) under § 550.

83. Defendants’ actions were willful, warranting damages and costs.

**\*\*THIRD CAUSE OF ACTION: Wrongful Foreclosure (11 U.S.C. § 522(h), Against Citizens, Trustee Corps, Hou, Paloci, Paloci III, P.A., Murillo, Sergeant X, CHP Officer Doe 1, CHP Officer Doe 2)\*\***

84. Plaintiff incorporates paragraphs 1–83 as if fully set forth herein.

85. The sale was wrongful, relying on a void judgment (§ 21), executed at a grossly inadequate price (\$371,688 vs. \$1,142,000, § 41), and tainted by fraud (Ex. 3, pp. 37–42; Ex. 7). Defendants Citizens and Trustee Corps conspired pre-sale to commit wrongful foreclosure by agreeing to execute the November 18, 2024, sale, despite notice of the

2017 judgment's fraud and discharge (Ex. 3, pp. 37–42; Ex. 7, pp. 43, 49–50; Ex. 22). Defendants Hou, Paloci, Paloci III, P.A., Murillo, Sergeant X, CHP Officer Doe 1, and CHP Officer Doe 2 aided and abetted the conspiracy post-sale by: Hou and Paloci pursuing the unlawful detainer action after notice on February 4–17, 2025 (Ex. 4, pp. 9–10, 27–47); Murillo and Sergeant X refusing to fully, fairly, impartially, and independently investigate Plaintiff's complaints of the judgment's fraud and refusing to intervene to stop the ongoing crimes/deprivations of rights, instead serving the eviction notice on March 27, 2025, despite notice of the sale's invalidity (Ex. 9–10); and CHP Officer Doe 1 and Doe 2 refusing to fully, fairly, impartially, and independently investigate Plaintiff's fraud complaints and refusing to intervene to stop the ongoing crimes/deprivations of rights (Case 22A426, pp. 50–51, Ex. D, pp. 4905–5010), furthering the wrongful foreclosure's harm to the estate and Plaintiff's exemption (Ex. 11, pp. 28–30, \*In re Gebhart\*, 621 F.3d 1206, 1210, 9th Cir. 2010). Citizens' bad faith, breach of Cal. Civ. Code § 1708, and § 2924 conspiracy violated applicable nonbankruptcy law, unauthorized by the stay relief order and enabled by the court's due process failure (Dkt. 15). Plaintiff's emotional distress includes panic attacks, severe depression, and physical symptoms, as detailed in his bankruptcy declarations (Ex. 5).

86. Plaintiff has standing under § 522(h) to avoid the transfer, as it was involuntary and the Property was exempt (§ 35).

87. Plaintiff seeks to void the sale, cancel the Trustee's Deed, and recover the Property.

88. Damages include ~\$815,241.50 in equity loss, \$216,000 in time, and emotional distress (§ 29). Hou and Paloci's unlawful detainer action (Ex. 4, pp. 27–47) and refusal of surplus funds (Ex. 4, p. 19), Murillo and Sergeant X's eviction notice service (Ex. 9–10), and CHP Officer Doe 1 and Doe 2's refusal to investigate and intervene (Case 22A426, pp. 50–51), furthered the conspiracy, contributing to these damages.

\*\*FOURTH CAUSE OF ACTION: Equitable Relief for Misuse of Stay Relief Order (11 U.S.C. § 105(a), Against Citizens)\*\*

89. Plaintiff incorporates paragraphs 1–88 as if fully set forth herein.

90. Citizens misused the stay relief order (Dkt. 45) by foreclosing despite notice of the judgment's fraud (Ex. 3, pp. 37–42; Ex. 7). Citizens deliberately chose non-judicial foreclosure, avoiding judicial scrutiny that could have addressed the judgment's fraud (Ex. 3, pp. 37–42). By proceeding with a non-judicial foreclosure without judicial oversight, Citizens' actions, enabled by Cal. Civ. Code § 2924, functioned as a state-sanctioned punishment akin to a bill of pains and penalties, targeting Plaintiff for insolvency caused by the void 2017 judgment and denying Plaintiff due process to contest the sale's validity (Ex. 11, pp. 28–30, 38–40). Citizens' misuse involved bad faith, Cal. Civ. Code § 1708 breaches, and § 2924 conspiracy, unauthorized by the stay relief order's 'applicable nonbankruptcy law' requirement, enabled by the court's due process failure (Dkt. 15). Citizens received multiple notices of the fraud, including bankruptcy declarations (Dkt. 102, 103) and emails (Ex. 7, pp. 43, 49–50), yet proceeded with the sale.

91. This misuse caused irreparable harm, including equity loss and ongoing UD litigation (¶ 31).

92. Plaintiff seeks equitable relief to void the sale, impose sanctions, and prevent further harm.

93. The Court's inherent powers under § 105(a) support this relief.

**\*\*FIFTH CAUSE OF ACTION: Declaratory Relief for Unconstitutionality of Cal. Civ. Code § 2924 (As Applied, Against Citizens, Trustee Corps, Hou, Paloci, Paloci III, P.A., Citibank, NewRez, Murillo, Sergeant X, CHP Officer Doe 1, CHP Officer Doe 2)\*\***

94. Plaintiff incorporates paragraphs 1–93 as if fully set forth herein.

95. California Civil Code § 2924, as applied by Defendants Citizens Bank N.A., MTC Financial Inc. d/b/a Trustee Corps, Canjian Hou, Henry D. Paloci, Henry D. Paloci III, P.A., Citibank N.A., NewRez LLC, Deputy Murillo, Sergeant X, CHP Officer Doe 1, and CHP Officer Doe 2 to the November 18, 2024, foreclosure sale of Plaintiff's Property (818 Spirit, Costa Mesa, CA), is unconstitutional under Cal. Const. Art. I, §§ 1, 7, 19, and U.S. Const. Amends. V, XIV, as it facilitated an unauthorized transfer of Plaintiff's home equity—a protected property interest—without due process or just compensation. Trustee Corps

withheld litigation details from bidders (Ex. 4, p. 24), and Hou refused to return surplus funds despite notice (Ex. 4, p. 19), exploiting § 2924's lack of safeguards. Section 2924's omission of appraisal or fair market value requirements enabled the sale at ~32.5% of value, exacerbating the unconstitutional taking. Section 2924's failure to require promissory note recording facilitated fraud, as Defendants concealed title defects (Ex. 3, pp. 13–23).

96. The Property, valued at approximately \$1,142,000, was sold for \$371,688, resulting in a loss of ~\$815,241.50 in equity (¶ 29), transferred to Defendant Hou without compensation, constituting a taking in violation of Cal. Const. Art. I, § 19 and U.S. Const. Amend. V (\*Tyler v. Hennepin County\*, 143 S. Ct. 1369, 1377, 2023). Section 2924's failure to mandate fair market value sales or require appraisals enabled this equity theft, violating Plaintiff's inalienable right to acquire, possess, and protect property (Cal. Const. Art. I, § 1).

97. Defendants' reliance on § 2924's non-judicial process, exploiting a void 2017 judgment (¶ 21), denied Plaintiff a pre-deprivation hearing to contest the sale's validity, violating due process under Cal. Const. Art. I, § 7 and U.S. Const. Amend. XIV (\*Mathews v. Eldridge\*, 424 U.S. 319, 335, 1976). Citizens and Trustee Corps proceeded despite notice of the judgment's fraud (Ex. 3, pp. 37–42; Ex. 7; Ex. 22). Hou, Paloci, Paloci III, P.A., Murillo, Sergeant X, CHP Officer Doe 1, and CHP Officer Doe 2 aided and abetted the conspiracy to violate Plaintiff's due process and takings rights by: Hou and Paloci pursuing the UD action after notice on February 4–17, 2025 (Ex. 4, pp. 9–10, 27–47); Murillo and Sergeant X refusing to fully, fairly, impartially, and independently investigate Plaintiff's complaints of the judgment's fraud and refusing to intervene to stop the ongoing crimes/deprivations of rights, instead serving the eviction notice on March 27, 2025, despite notice (Ex. 9–10); and CHP Officer Doe 1 and Doe 2 refusing to fully, fairly, impartially, and independently investigate Plaintiff's fraud complaints and refusing to intervene to stop the ongoing crimes/deprivations of rights (Case 22A426, pp. 50–51, Ex. D, pp. 4905–5010), contributing to the unconstitutional taking and punishment akin to a bill of pains and penalties (Ex. 11, pp. 38–40). By enabling the foreclosure without judicial oversight and without consideration for Plaintiff's equity interest, § 2924 operated as a state-sanctioned punishment, akin to a bill of pains and penalties, targeting Plaintiff for insolvency caused by the void 2017 judgment's fraud, denying due process and effecting an unconstitutional taking (Ex. 11, pp. 28–30, 38–40). Citizens' bad faith and Cal. Civ. Code § 1708 breaches via § 2924 were unauthorized by the stay relief order, exacerbated by the court's due process denial (Dkt. 15; Case 22A426, pp. 37–52).

98. Section 2924 constitutes state action, as it delegates coercive power to private parties to foreclose without judicial oversight, implicating constitutional protections (\*Lugar v. Edmondson Oil Co.\*, 457 U.S. 922, 937, 1982; \*Shelley v. Kraemer\*, 334 U.S. 1, 20, 1948). The sale's gross inadequacy (~32.5% of market value, ¶ 41) and lack of procedural safeguards caused an erroneous deprivation of Plaintiff's property interest.

99. Plaintiff seeks declaratory relief that § 2924, as applied to the foreclosure sale, is unconstitutional, and an order voiding the sale and Trustee's Deed Upon Sale (Instrument No. 2025000040781, Ex. 3, pp. 16–23) as products of an unconstitutional process, restoring the Property to the bankruptcy estate.

**\*\*SIXTH CAUSE OF ACTION: Gross Negligence and Breach of Fiduciary Duty (11 U.S.C. § 105(a), Against Trustee Karen S. Naylor and Surety Doe)\*\***

100. Plaintiff incorporates paragraphs 1–99 as if fully set forth herein.

101. Trustee Karen S. Naylor's gross negligence and breach of fiduciary duty, evidenced by a pattern of inaction on the void 2017 judgment, Citizens' foreclosure, and Citibank's disputed lien, harmed the bankruptcy estate and Plaintiff's \$600,000 homestead exemption (\*In re Harris\*, 590 F.3d 730, 742, 9th Cir. 2009). Her failure to investigate or challenge these issues, despite notice (Dkt. 15, Case 22A426, LBR 4001-1; Motion for Withdrawal of Reference, Case No. 8:23-cv-00711-PA, Ex. 21; Ex Parte Application, Case No. 8:24-cv-02509-AB-JC, Ex. 22), and declaration of no assets (Dkt. 72, May 19, 2023), enabled the non-judicial foreclosure sale (November 18, 2024, ¶ 30) after the court inconsistently granted Citizens' motion for relief while denying Citibank's (Dkt. 44, ¶ 111), despite similar fraud concerns (Dkt. 15, ¶ 28; Dkt. 58, ¶ 77). This resulted in the theft of ~\$815,241.50 in equity and denial of Plaintiff's exemption, undermining his fresh start (\*Slaieh v. Simon\*, 584 B.R. 28, 40, C.D. Cal. 2018). The court's erroneous dismissal and reconsideration denial (Adv. No. 8:23-ap-01075-SC, Docs. 19, 27), which relied on Naylor's control over estate claims without addressing her inaction, exacerbated this harm. Naylor's failure to oppose Citizens' motion—despite notice of equity (\$556,549.54, Dkt. 15, ¶ 18), unproven default (Dkt. 15, ¶ 28), and the fraudulent 2017 lien (Case 22A426, pp. 4–47)—or investigate allowed a sale that destroyed ~\$647,909.54 in estate value (\$1,142,000 – \$494,090.46 in valid liens, Dkt. 15, ¶ 18), contrary to her duty to maximize assets (\*In re Gunnison Center Apartments, LP\*, 320 B.R. 391, 397, Bankr. D. Colo. 2005).

102. Surety Doe, as Naylor's bondholder under 11 U.S.C. § 322(b), is liable for losses caused by Naylor's gross negligence (*In re AFI Holding, Inc.*, 525 F.3d 700, 703, 8th Cir. 2008). Damages include ~\$815,241.50 in estate value loss and ~\$600,000 in exemption loss.

103. Plaintiff seeks damages, surcharge against Naylor, recovery from the bond, and equitable relief under § 105(a).

**\*\*SEVENTH CAUSE OF ACTION: Determination of Validity and Secured Status of Alleged Citibank Lien (11 U.S.C. § 506(a), § 522(f), Against Citibank N.A.)\*\***

104. Plaintiff incorporates paragraphs 1–103 as if fully set forth herein.

105. On December 8, 2022, Plaintiff filed for Chapter 7 bankruptcy (Case No. 8:22-BK-12076-SC, Dkt. 1), scheduling Citibank N.A.'s alleged first mortgage lien of \$457,693.71 on the Property (818 Spirit, Costa Mesa, CA) as secured (Dkt. 11, Ex. 5). On February 15, 2023, Plaintiff amended his schedules, listing the lien as disputed and unsecured due to evidence of fraud (Dkt. 18; Dkt. 15, ¶ 2; Case 22A426, pp. 14–15).

106. On April 19, 2023, Citibank, through its alleged agent NewRez LLC, filed a Motion for Relief from Stay (Dkt. 44), claiming a \$502,238.46 lien based on a July 5, 2005, promissory note (\$595,000, First Horizon) and an undated, unattached allonge lacking proof of agency authority (Adv. No. 8:23-ap-01075-SC, Ex. 15, pp. 14–17; Dkt. 58, Ex. 1, p. 4). Plaintiff opposed, alleging fraud and lack of standing (Dkt. 58, ¶ 8–54), and the court denied Citibank's motion, recognizing deficiencies in its claim, unlike its granting of Citizens' motion, which enabled the foreclosure sale (¶ 111). Citibank was notified of these issues through Plaintiff's Motion for Withdrawal of Reference (Case No. 8:23-cv-00711-PA, Ex. 21) and Ex Parte Application for Temporary Restraining Order (Case No. 8:24-cv-02509-AB-JC, Ex. 22).

107. On July 14, 2023, Plaintiff filed an adversary proceeding (Adv. No. 8:23-ap-01075-SC, Doc 1) to determine the validity and enforceability of Citibank's lien, prompted by Citibank's foreclosure attempts (Notice of Default, July 7, 2022; Dkt. 58, ¶ 9) and systemic

denial of state court remedies, which provided no forum to adjudicate Citibank's claim due to fraudulent denials and jurisdictional defects, forcing Plaintiff into bankruptcy (§§ 36–47, Case 22A426, pp. 4–12; Dkt. 58, ¶ 1).

108. Plaintiff denies the note's validity, signatures, and transfers, alleging Citibank is not a holder/beneficiary (CCC §§ 3309, 9312(b), 9313, 9314) and engaged in fraudulent acts (CCC § 3202(b)). Citibank failed to produce the original note or account statements despite Qualified Written Requests (Adv. No. 8:23-ap-01075-SC, Exs. 20, 24; Dkt. 58, Ex. 6, pp. 1–8), and no proof of claim was filed (Adv. No. 8:23-ap-01075-SC, ¶ 22). Under CCC § 3308(a), Plaintiff is not obligated to pay absent proof of debt, negating default (Dkt. 58, ¶ 49–54). The note, if valid, was discharged on March 27, 2023 (Dkt. 32, Ex. 6). Citibank and NewRez filed fraudulent documents (Notice of Default, Substitution of Trustee, Corporate Assignment of Deed of Trust, Adv. No. 8:23-ap-01075-SC, Exs. 11–13; Dkt. 58, Ex. 1, pp. 22–26), violating Cal. Penal Code §§ 470, 487, 182 (Adv. No. 8:23-ap-01075-SC, ¶ 36–37; Dkt. 58, ¶ 77). The allonge's appearance in Dkt. 44, absent in prior QWRs (Ex. 20; Dkt. 58, Ex. 6), and contradicted by Mr. Cooper's note claim (Dkt. 58, Ex. 3, p. 11, March 20, 2023), evidences fraud. The assignments are nullities without note transfer (Cal. Civ. Code § 1084; \*Carpenter v. Longan\*, 83 U.S. 271, 274, 1872), lack agent authority (Dkt. 58, ¶ 73–76, Cal. Code Civ. Proc. § 1971), and contain redactions (Dkt. 58, ¶ 19). Citibank lacks standing (CCC §§ 3501(b)(2), 9203, 3301; Dkt. 58, ¶ 8–15).

109. The court's dismissal of the adversary for lack of standing (Doc 19, August 31, 2023), followed by denial of reconsideration (Doc 27, October 13, 2023), was erroneous and part of a systemic denial of due process (§§ 36–47, Case 22A426, pp. 4–12; Dkt. 58, ¶ 54, 80). The court noted it would abstain to state court if standing existed (Doc 19, p. 4, n.4) but dismissed without addressing Plaintiff's fraud evidence (Doc 16, Dkt. 58, Exs. 1–6) or holding hearings (Docs. 19, 27), violating FRBP 7001. The district court's denial of Plaintiff's Motion for Withdrawal of Reference (Case No. 8:23-cv-00711-PA, Ex. 21) and inaction on his Ex Parte Application for Temporary Restraining Order (Case No. 8:24-cv-02509-AB-JC, Ex. 22) furthered these denials. Plaintiff has standing under § 522(h), as his \$600,000 homestead exemption (Dkt. 11, Cal. Code Civ. Proc. § 704.730), unopposed by March 15, 2023, revested in him under § 522(i) (\*In re Reed\*, 940 F.2d 1317, 1321, 9th Cir. 1991), covering the \$457,693.71 lien (\*Miller v. Huntington Nat. Bank\*, 2013 WL 593780, N.D. W. Va. 2013). Plaintiff scheduled a \$50,000,000 claim including Citibank (Dkt. 11, Case 22A426, Adv. No. 8:23-ap-01075-SC, ¶ 2), countering the court's "unscheduled" finding (Doc 27, p. 5, n.4). Referral to state court, known to deny remedy

due to conflicts and jurisdictional defects (¶ 36–47, Dkt. 58, ¶ 1), would violate judicial redress (\*Marbury v. Madison\*, 5 U.S. 137, 163, 1803).

110. Trustee Naylor’s failure to pursue the Citibank claim or challenge the fraudulent 2017 judgment, despite notice (Dkt. 15, Case 22A426, LBR 4001-1; Motion for Withdrawal of Reference, Case No. 8:23-cv-00711-PA, Ex. 21; Ex Parte Application, Case No. 8:24-cv-02509-AB-JC, Ex. 22), and declaration of no assets (Dkt. 72, May 19, 2023), breached her fiduciary duty (\*Slaieh v. Simon\*, 584 B.R. 28, 40, C.D. Cal. 2018). This inaction, unaddressed by the court’s dismissal (Docs. 19, 27), enabled the non-judicial foreclosure sale (November 18, 2024, ¶ 30) by Citizens, whose motion for relief was granted despite similar fraud concerns, unlike Citibank’s denied motion (Dkt. 44), resulting in the theft of ~\$815,241.50 in equity, denial of Plaintiff’s \$600,000 homestead exemption, and loss of his fresh start by preventing a surplus (~\$943,782.76, ¶ 101).

111. If invalid, the lien would yield ~\$457,693.71 in equity, creating a ~\$943,782.76 surplus for Plaintiff’s exemption or the estate (\*In re Andrews\*, 80 F.3d 558, 561, 1st Cir. 1996).

112. Plaintiff seeks a determination under § 506(a) that Citibank’s alleged lien is unsecured or invalid, avoidance under § 522(f) to the extent it impairs his exemption, a declaratory judgment that Citibank has no valid lien, and an order striking fraudulent documents (Exs. 11–13) from the Orange County Clerk-Recorder’s records.

**\*\*EIGHTH CAUSE OF ACTION: Violation of Automatic Stay and False Claim (11 U.S.C. § 362(k), § 105(a), Against Citibank N.A.)\*\***

113. Plaintiff incorporates paragraphs 1–112 as if fully set forth herein.

114. Citibank N.A., through its alleged agent NewRez LLC, violated the automatic stay under 11 U.S.C. § 362(a)(3) by attempting to perfect its alleged \$502,238.46 lien post-petition, as detailed in ¶ 106–107. The introduction of an undated allonge in NewRez’s Motion for Relief from Stay (Dkt. 44, April 19, 2023; Adv. No. 8:23-ap-01075-SC, Ex. 15, p. 17; Dkt. 58, Ex. 1, p. 4), absent in prior Qualified Written Requests (Adv. No. 8:23-ap-01075-SC, Ex. 20, March 29, 2023; Dkt. 58, Ex. 6, pp. 1–8) and contradicted by Mr.

Cooper's claim to hold the original note (Dkt. 58, Ex. 3, p. 11, March 20, 2023), was a post-petition act to falsely establish Citibank's lien status.

115. This act constituted a willful violation of the stay, seeking to control estate property without court approval (\*In re Del Mission Ltd.\*, 98 F.3d 1147, 1151, 9th Cir. 1996), and a false claim misrepresenting Citibank's lien status with intent to deceive the court and estate, violating 18 U.S.C. § 152(4) (false claim), Cal. Penal Code § 115 (false filing), § 132 (offering false evidence), § 134 (preparing false evidence), § 182 (conspiracy), and FRBP 9011 (\*In re Eskew\*, 573 B.R. 317, 323, Bankr. N.D. Cal. 2017). The court's failure to address this fraud in its dismissal for lack of standing, despite noting hypothetical abstention (Docs. 19, p. 4, n.4; 27), furthered the conspiracy to defraud Plaintiff and the estate (¶ 107, Dkt. 58, ¶ 77).

116. The stay violation, compounded by Trustee Naylor's failure to challenge Citibank's false claim (Dkt. 72, May 19, 2023) and the court's inconsistent granting of Citizens' motion for relief despite denying Citibank's (¶ 111), caused Plaintiff injury, including legal expenses (~\$216,000, ¶ 58) and emotional distress (¶ 59). This enabled the non-judicial foreclosure sale (November 18, 2024, ¶ 30), stealing ~\$815,241.50 in equity and denying Plaintiff's \$600,000 homestead exemption, undermining his fresh start (\*In re Dawson\*, 390 F.3d 1139, 1149, 9th Cir. 2004).

117. Plaintiff seeks damages under § 362(k), sanctions under § 105(a), and a finding that Citibank's false claim via the allonge invalidates its lien, as part of the conspiracy to deprive Plaintiff of his Property (¶ 107, Dkt. 58, ¶ 77).

**\*\*NINTH CAUSE OF ACTION: Violation of Automatic Stay (11 U.S.C. § 362(k), Against Hou, Paloci, Paloci III, P.A.)\*\***

126. Plaintiff incorporates paragraphs 1–117 as if fully set forth herein.

127. Defendants Hou, Paloci, and Paloci III, P.A., willfully violated the automatic stay under 11 U.S.C. § 362(a)(6) by filing and pursuing an unlawful detainer action (Case No. 30-2025-01459684, February 11, 2025, ¶ 34) to collect a discharged debt tied to the 2017 judgment (discharged March 27, 2023, ¶ 86, Dkt. 32) and enforce a void foreclosure sale

(¶ 30, 75), despite notice of Plaintiff's bankruptcy filing (Case No. 8:22-BK-12076-SC) and the judgment's fraud [Placeholder: Describe Notice Content, e.g., Ex. 4, pp. 9–10, 19; Ex. 8; Case 22A426, pp. 50–51]. Their knowledge of the discharge and fraud left no fair ground of doubt that their actions violated § 524(a)(2) and § 362(a)(6) (\*Taggart v. Lorenzen\*, 139 S. Ct. 1795, 1801, 2019).

128. Hou, Paloci, and Paloci III, P.A., acted with knowledge of the bankruptcy, as Plaintiff provided the bankruptcy case number and fraud details [Placeholder: Notice Details], yet conspired with and aided/abetted Citizens' bad faith foreclosure, which violated the discharge injunction by exploiting the discharged judgment's effects (¶ 75, \*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009). Their pursuit of the UD action and default judgment [Placeholder: UD Judgment Details] furthered this conspiracy, seeking to control estate interests and enforce a discharged debt (\*In re Dawson\*, 390 F.3d 1139, 1149, 9th Cir. 2004).

128.1 The 2017 judgment's fraud, void for lack of prosecutorial authority (¶ 24, \*People v. American Contractors Indemnity Co.\*, 33 Cal. 4th 653, 660, 2004), caused Plaintiff's license suspension (¶ 26), denial of judicial remedy (¶ 36–47), and insolvency (¶ 48), which were the proximate cause of the default underlying the foreclosure enforced by Hou, Paloci, and Paloci III, P.A.'s UD action (¶ 34, 128), violating § 362(a)(6) and § 524(a)(2) by collecting a discharged debt (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009). Their UD action, relying on the void judgment's illegal effects (¶ 24, 48), is unenforceable, as courts will not aid claims founded on illegal acts (\*Asher v. Johnson\*, 26 Cal.App.2d 403, 79 P.2d 457, 1938; \*Lee On v. Long\*, 37 Cal.2d 499, 234 P.2d 9, 1951; \*Nathan v. Tenna Corp.\*, 560 F.2d 761, 1977; \*Bassidji v. Goe\*, 413 F.3d 928, 2005; \*Franklin v. Mortgage Guaranty & Security Co.\*, 57 F.2d 834, 1932; \*Al-Ibrahim v. Edde\*, 897 F.Supp. 620, 1995).

129. This willful violation caused Plaintiff damages, including ~\$216,000 in time defending, \$5,000 in moving expenses, \$200,000 in tax base loss over 30 years, and emotional distress (¶ 57–59), proximately caused by Hou, Paloci, and Paloci III, P.A.'s UD action enforcing the illegal 2017 judgment's effects (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009; \*In re Dawson\*, 390 F.3d 1139, 1149, 9th Cir. 2004). These harms, exacerbated by their knowledge of the fraud and discharge (¶ 127), warrant compensatory and punitive damages for egregious conduct (\*In re Paul\*, 534 F.3d 1303, 1306, 9th Cir. 2008).

130. Plaintiff seeks damages under 11 U.S.C. § 362(k), including ~\$216,000 in legal expenses, \$5,000 in moving expenses, \$200,000 in tax base loss, and emotional distress, punitive damages for willful misconduct, sanctions under § 105(a), and a finding that the UD action and judgment are void as violations of the automatic stay.

**\*\*PRAYER FOR RELIEF\*\***

Plaintiff respectfully requests the following relief:

A. An order voiding the November 18, 2024, foreclosure sale and canceling the Trustee's Deed Upon Sale (Instrument No. 2025000040781).

B. Recovery of the Property (818 Spirit, Costa Mesa, CA) to the bankruptcy estate under 11 U.S.C. § 550.

C. A determination that Citizens' lien is secured only to the extent of the sale proceeds, with surplus due to Plaintiff (11 U.S.C. § 506(a)).

D. Damages for violation of the discharge injunction, including ~\$815,241.50 in equity loss, \$216,000 in time defending, and all harms proximately caused by the illegal 2017 judgment's effects (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009; \*In re Dawson\*, 390 F.3d 1139, 1149, 9th Cir. 2004), and, if the sale is not voided, a determination that Citizens' lien is secured only to the extent of the debt owed (\$62,523.24), with any surplus due to Plaintiff (11 U.S.C. § 524(a)(2), § 506(a)).

E. Sanctions against Citizens for misuse of the stay relief order (11 U.S.C. § 105(a)).

F. Declare the UD judgment (Case No. 30-2025-01459684) void due to Citizens' bad faith violation of 11 U.S.C. § 524, Hou, Paloci, and Paloci III, P.A.'s willful violation of 11 U.S.C. § 362(a)(6) through conspiracy and aiding/abetting, and as independent of any determination in the separate adversary proceeding challenging the 2017 judgment, with damages under § 362(k).

G. Costs of suit and attorney fees, if applicable.

H. A professional appraisal of the Property to confirm damages, if the sale is not voided.

I. Dismissal of the unlawful detainer action (Case No. 30-2025-01459684) with prejudice.

J. An accounting of all fees and costs charged by Citizens (Ex. 3, p. 72).

K. Emotional distress damages, to be proven at trial.

L. Punitive damages for Defendants' willful misconduct (Cal. Civ. Code § 3294).

M. All other relief the Court deems just and proper.

N. An order requiring surplus funds be returned to Hou, less Plaintiff's awarded damages, within five business days.

O. Declare that Cal. Civ. Code § 2924, as applied by Defendants to the November 18, 2024, foreclosure sale, violated Plaintiff's rights under Cal. Const. Art. I, §§ 1, 7, 19, and U.S. Const. Amends. V, XIV, by enabling the transfer of ~\$815,241.50 in home equity without due process or just compensation, and void the sale and Trustee's Deed as unconstitutional.

P. Surcharge Trustee Naylor for ~\$815,241.50 in estate losses and ~\$600,000 in exemption losses, and recover against her bond under 11 U.S.C. § 322(b).

Q. Punitive damages for Citizens' willful contempt of the discharge injunction under 11 U.S.C. § 524(a)(2).

R. Injunctive relief to compel the court to adjudicate Plaintiff's claims regarding the 2017 judgment's effects and Citibank's lien validity, preventing further denial of judicial remedy under 11 U.S.C. § 105(a).

S. A determination that Citibank's alleged \$457,693.71 lien is invalid or unsecured under 11 U.S.C. § 506(a), avoidance under § 522(f) to the extent it impairs Plaintiff's \$600,000 homestead exemption, a declaratory judgment that Citibank has no valid lien, and an order striking fraudulent documents (Notice of Default, Substitution of Trustee, Corporate Assignment of Deed of Trust) from the Orange County Clerk-Recorder's records.

T. Damages under 11 U.S.C. § 362(k) for Citibank's willful violation of the automatic stay, including ~\$216,000 in legal expenses and emotional distress damages, sanctions under § 105(a) for Citibank's false claim violating 18 U.S.C. § 152(4), Cal. Penal Code §§ 115, 132, 134, 182 (conspiracy), and a finding that the false allonge invalidates its alleged lien.

U. Damages under 11 U.S.C. § 362(k) for Hou, Paloci, and Paloci III, P.A.'s willful violation of the automatic stay, including ~\$216,000 in legal expenses, \$5,000 in moving expenses, \$200,000 in tax base loss, emotional distress damages, and all harms proximately caused by the illegal 2017 judgment's effects (\*In re Kuehn\*, 563 F.3d 289, 292, 7th Cir. 2009; \*In re Dawson\*, 390 F.3d 1139, 1149, 9th Cir. 2004), punitive damages (\*In re Paul\*, 534 F.3d 1303, 1306, 9th Cir. 2008), and sanctions under § 105(a).

**\*\*EXHIBITS\*\***

Ex. 1: State Court Judgment (Case No. 30-2015-00805807, Minute Order, Dkt. 193).

Ex. 2: Appellate Opinion (Case No. G055075).

Ex. 3: Mortgage Agreement, Notice of Default, Trustee's Deed, Transaction History (pp. 1-72).

Ex. 4: Unlawful Detainer Complaint, Notices to Hou/Paloci (pp. 1-47).

Ex. 5: Bankruptcy Schedules (Case No. 8:22-BK-12076-SC, Dkt. 11).

Ex. 6: Discharge Order (Case No. 8:22-BK-12076-SC, Dkt. 32).

Ex. 7: Citizens Bank N.A. Communications (ex parte Ex. 3, pp. 37–50, including April 16, 2023, February 2, 2024, October 28, 2024 emails).

Ex. 8: Hou/Paloci Communications (ex parte Ex. 4, pp. 9–47, including February 4–17, 2025 emails and UD complaint).

Ex. 9: Eviction Notice (March 27, 2025).

Ex. 10: Audio/Video Recordings of OC Sheriff Deputy Murillo (March 27, 2025).

Ex. 11: Ex Parte Application (Case No. 30-2015-00805807, filed March 17, 2025).

Ex. 12: Citibank Adversary Complaint (Adv. No. 8:23-ap-01075-SC, Doc 1, July 14, 2023).

Ex. 13: Citibank Motion to Dismiss (Adv. No. 8:23-ap-01075-SC, Doc 6, August 11, 2023).

Ex. 14: Plaintiff's Opposition to Citibank Motion to Dismiss (Adv. No. 8:23-ap-01075-SC, Doc 16, August 28, 2023).

Ex. 15: Order Granting Citibank Motion to Dismiss (Adv. No. 8:23-ap-01075-SC, Doc 19, August 31, 2023).

Ex. 16: Plaintiff's Motion for Reconsideration (Adv. No. 8:23-ap-01075-SC, Doc 21, September 6, 2023)

# Exhibit G

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 268970 NAME: Henry D Paloci III FIRM NAME: Henry D Paloci III PA STREET ADDRESS: PO Box 592 CITY: Los Alamitos STATE: CA ZIP CODE: 90720 TELEPHONE NO.: 844.398.5500 FAX NO.: (866) 565-6345 E-MAIL ADDRESS: henry.paloci@gmail.com ATTORNEY FOR (name): Rellion Inc.	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange</b> STREET ADDRESS: 700 Civic Center Dr. West MAILING ADDRESS: Same CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Central	
Plaintiff/Petitioner: Canjian Hou Defendant/Respondent: Adam Bereki	
<b>REQUEST FOR</b> <input checked="" type="checkbox"/> <b>Entry of Default</b> <input checked="" type="checkbox"/> <b>Clerk's Judgment</b> (Application) <input type="checkbox"/> <b>Court Judgment</b>	CASE NUMBER: 30-2025-01459684-CL-UD-CJC
<b>Not for use in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.); (see form CIV-105)</b>	

1. TO THE CLERK: On the complaint or cross-complaint filed
- a. on (date): February 11, 2025
  - b. by (name): Canjian Hou
  - c.  Enter default of defendant (names): ADAM BEREKI
  - d.  I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):  
  
 (Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)
  - e.  Enter clerk's judgment
    - (1)  for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)  
 Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The Prejudgment Claim of Right to Possession was served in compliance with Code of Civil Procedure section 415.46.
    - (2)  under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)
    - (3)  for default previously entered on (date):

2. Judgment to be entered.

	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint .....	\$	\$	\$
b. Statement of damages*			<b>POSSESSION ONLY</b>
(1) Special .....	\$	\$	\$
(2) General .....	\$	\$	\$
c. Interest .....	\$	\$	\$
d. Costs (see reverse) .....	\$	\$	\$
e. Attorney fees .....	\$	\$	\$
f. TOTALS .....	\$	\$	\$

- g. Daily damages were demanded in complaint at the rate of: \$ \_\_\_\_\_ per day beginning (date): \_\_\_\_\_  
 (\* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)
- 3.  (Check if filed in an unlawful detainer case.) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).  
 Date: 3/17/2025

\_\_\_\_\_  
 Henry Paloci  
 (TYPE OR PRINT NAME)
 

  
 \_\_\_\_\_  
 (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

<b>FOR COURT USE ONLY</b>	(1) <input type="checkbox"/> Default entered as requested on (date): (2) <input type="checkbox"/> Default NOT entered as requested (state reason): Clerk, by _____, Deputy
---------------------------	--

Plaintiff/Petitioner: Canjian Hou Defendant/Respondent: Adam Bereki	CASE NUMBER: 30-2025-01459684-CL-UD-CJC
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4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant  did  did not for compensation give advice or assistance with this form. If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

5.  Declaration under Code Civ. Proc., § 585.5 (for entry of default under Code Civ. Proc., § 585(a)). This action

- a.  is  is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b.  is  is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c.  is  is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

- a.  not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):
- b.  mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date): 3/17/2025

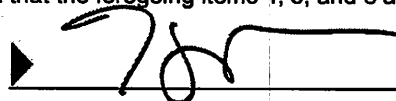
(2) To (specify names and addresses shown on the envelopes):  
Adam Bereki  
818 Spirit  
Costa Mesa, CA 92626

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date: 3/17/2025

Henry Paloci

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees ..... \$ money judgment not requested at this time
- b. Process server's fees ..... \$ (possession only)
- c. Other (specify): ..... \$
- d. .... \$
- e. TOTAL ..... \$ \_\_\_\_\_

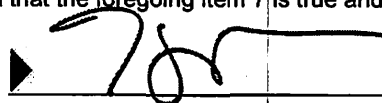
- f.  Costs and disbursements are waived.
- g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing item 7 is true and correct.

Date: 3/17/2025

Henry Paloci

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

Plaintiff/Petitioner: Canjian Hou Defendant/Respondent: Adam Bereki	CASE NUMBER: 30-2025-01459684-CL-UD-CJC
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8. Declaration of nonmilitary status (required for a judgment).

No defendant/respondent named in item 1c is in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that no defendant/respondent named in item 1c is in the U.S. military service because (check all that apply):

- a.  the search results that I received from <https://scra.dmdc.osd.mil/> say the defendant/respondent is not in the U.S. military service.
- b.  I am in regular communication with the defendant/respondent and know that they are not in the U.S. military service.
- c.  I recently contacted the defendant/respondent, and they told me that they are not in the U.S. military service.
- d.  I know that the defendant/respondent was discharged from U.S. military service on or about (date):
- e.  the defendant/respondent is not eligible to serve in the U.S. military because they are:
  - incarcerated  a business entity
- f.  other (specify):

Undersigned counsel has discussed the case with Mr. Bereki (the one defendant) and is given to understand that Mr. Bereki lives at the property that is the subject of this action. Plaintiff is not in privity with Defendant and as such does not have his SSN or DOB which makes a search on the military database impossible. Given the circumstances, undersigned counsel infers that Mr. Bereki is not active military.

**Note**

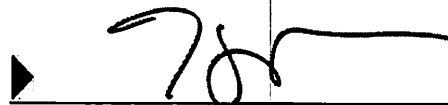
- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the defendant/respondent is in the military service, or their military status is unknown, the defendant/respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see <https://selfhelp.courts.ca.gov/military-defaults>.

I declare under penalty of perjury under the laws of the State of California that the foregoing item 8 is true and correct.

Date: 3/17/2025

Henry Paloci

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

Rubi  
1440 W. Tusti 117  
Orange CA 92665

SANTA SANTA ANITA CA 926

17 MAR 2025



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Adam Bender  
Elle Spirit  
Costa Mesa, CA 92626

92626-308918



# Exhibit H

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER**

**MINUTE ORDER**

DATE: 03/18/2025

TIME: 09:00:00 AM

DEPT: C23

JUDICIAL OFFICER PRESIDING: Supervising Judge David J. Hesselstine

CLERK: J. Phu

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: D. Muldoon

CASE NO: 30-2015-00805807-CU-CO-CJC CASE INIT.DATE: 08/21/2015

CASE TITLE: **THE SPARTAN ASSOCIATES, INC. vs. HUMPHREYS**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

---

EVENT ID/DOCUMENT ID: 74512542,124753793

**EVENT TYPE:** Ex Parte

**MOVING PARTY:** Adam Bereki

**CAUSAL DOCUMENT/DATE FILED:** Ex Parte Application - Other For Emergency Stay of Unlawful Detainer Action, 03/14/2025

---

**APPEARANCES**

Adam Bereki, self represented Cross - Defendant, present remotely.

---

Hearing held, all participants appearing remotely.

Ex-Parte application for Emergency Stay of Unlawful Detainer Action is requested by defendant Adam Bereki.

The Court having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

Ex Parte Application is denied by the Court.

The Court will not treat the Ex Parte Application as a new Complaint or an Answer to the Complaint for Case No. 30-2025-01459684. Defendant must file the Answer in the proper case (Case No. 30-2025-01459684) and not in this matter. Any new lawsuits must be filed as a new Complaint.

---

DATE: 03/18/2025

MINUTE ORDER

DEPT: C23

Page 1  
Calendar No.

A-402

# Exhibit I

~~MURKIN~~

#10761

Adam Murillo  
Came to Door  
see video

TO (Name and Address): <b>OCCUPANT</b> 818 Spirit Costa Mesa, CA 92626		LEVYING OFFICER (Name and Address): <b>Orange County Sheriff's Department</b> 4601 Jamboree Rd, Room 108 Newport Beach, CA 92660
NAME OF COURT, JUDICIAL DISTRICT or BRANCH COURT, IF ANY: <b>Orange County Superior Court</b> 700 W Civic Center Drive Santa Ana, CA 92701		(949) 476-4820 Fax: (949) 476-4980
PLAINTIFF: <b>Canjian Hou</b>	DEFENDANT: <b>Adam Bereki</b>	COURT CASE NO: <b>30-2025-01459684-CL-UD-CJC</b>
<b>Notice to Vacate</b>		LEVYING OFFICER FILE NO: <b>2025101506</b>

By virtue of the Writ of Execution for Possession/Real Property (eviction), issued out of the above court, you are hereby ordered to vacate the premises described on the writ.

<b>Eviction Address:</b>	<b>818 Spirit Costa Mesa, CA 92626</b>
--------------------------	--

<b>Final notice is hereby given that possession of the property must be turned over to the landlord on or before:</b>	<b>Wednesday, April 2, 2025 06:01 am</b>
---	--

Should you fail to vacate the premises within the allotted time, I will immediately enforce the writ by removing you from the premises. All personal property upon the premises at the time will be turned over to the landlord, who must return said personal property to you upon your payment of the reasonable cost incurred by the landlord in storing the property from the date of eviction to the date of payment. If the property is stored on the landlord's premises, the reasonable cost of storage is the fair rental value of the space necessary for the time of storage. If you do not pay the reasonable storage costs and take possession within fifteen (15) days, the landlord may either sell your property at a public sale and keep from the proceeds of the sale the costs of storage and of the sale (1988 CIV), or, if the property is valued at less than \$700.00, the landlord may dispose of your property or retain it for his own use. (715.010(b)(3), 1174 CCP)

If you claim a right of possession of the premises that accrued prior to the commencement of this action, or if you were in possession of the premises on the date of the filing of the action and you are not named on the writ, complete and file the attached Claim of Right of Possession form with this office. No claim of right to possession can be filed if the prejudgment claim of right to possession was served as indicated on the writ unless the eviction is the result of a foreclosure.



**Don Barnes**  
**Sheriff-Coroner**

By: Shannon #13088  
Sheriff's Authorized Agent

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 268970 NAME: Henry D Paloci III FIRM NAME: Henry D Paloci III PA STREET ADDRESS: PO Box 592 CITY: Los Alamitos STATE: CA ZIP CODE: 90720 TELEPHONE NO.: 844.398.5500 FAX NO.: 866.565.6345 EMAIL ADDRESS: henry.paloci@gmail.com ATTORNEY FOR (name): Canjian Hou <input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> ORIGINAL JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD		<b>FOR COURT USE ONLY</b>  <div style="border: 1px solid black; padding: 5px;">         Pursuant to California Government Code § 68150(f), the Clerk of the Court hereby certifies this document accurately reflects the official court record. The electronic signature and seal on this document have the same validity and legal force and effect as an original clerk's signature and court seal. California Government Code § 68150(g).       </div>
Orange County Superior Court Central Justice Center 700 Civic Center Drive West Santa Ana, CA 92701		
PLAINTIFF/PETITIONER: Canjian Hou DEFENDANT/RESPONDENT: Adam Bereki		CASE NUMBER: 30-2025-01459684-CL-UD-CJC
WRIT OF <input type="checkbox"/> EXECUTION (Money Judgment) <input checked="" type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input checked="" type="checkbox"/> Real Property		<input checked="" type="checkbox"/> Limited Civil Case (including Small Claims) <input type="checkbox"/> Unlimited Civil Case (including Family and Probate)

- To the Sheriff or Marshal of the County of: Orange County  
 You are directed to enforce the judgment described below with daily interest and your costs as provided by law.
- To any registered process server: You are authorized to serve this writ only in accordance with CCP 699.080 or CCP 715.040.
- (Name): Rellion Inc.  
 is the  original judgment creditor  assignee of record whose address is shown on this form above the court's name.
- Judgment debtor (name, type of legal entity if not a natural person, and last known address):  

<input type="checkbox"/> Adam Bereki 818 Spirit Costa Mesa, CA 92626	9. <input checked="" type="checkbox"/> Writ of Possession/Writ of Sale information on next page. 10. <input type="checkbox"/> This writ is issued on a sister-state judgment. <b>For items 11–17, see form MC-012 and form MC-013-INFO.</b> 11. Total judgment (as entered or renewed) \$ _____ 12. Costs after judgment (CCP 685.090) \$ _____ 13. Subtotal (add 11 and 12) \$ _____ 14. Credits to principal (after credit to interest) \$ _____ 15. Principal remaining due (subtract 14 from 13) \$ _____ 16. Accrued interest remaining due per CCP 685.050(b) (not on GC 6103.5 fees) \$ _____ 17. Fee for issuance of writ (per GC 70626(a)(l)) \$ 40.00 18. Total amount due (add 15, 16, and 17) \$ 40.00 19. Levying officer: a. Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) \$ _____ b. Pay directly to court costs included in 11 and 17 (GC 6103.5, 68637; CCP 699.520(j)) \$ _____ 20. <input type="checkbox"/> The amounts called for in items 11–19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.
--	--
- Judgment entered on (date): March 18, 2025  
 (See type of judgment in item 22.)
- Judgment renewed on (dates):
- Notice of sale under this writ:  
 a.  has not been requested.  
 b.  has been requested (see next page).
- Joint debtor information on next page.



David H. Yamasaki, Clerk of the Court

Date: 03/22/2025 Clerk, by Richard Clark Deputy

**NOTICE TO PERSON SERVED: SEE PAGE 3 FOR IMPORTANT INFORMATION.**

Plaintiff/Petitioner: Canjian Hou Defendant/Respondent: Adam Berekı	CASE NUMBER: 30-2025-01459684-CL-UD-CJC
--	---

21.  Additional judgment debtor(s) (name, type of legal entity if not a natural person, and last known address):


22. The judgment is for (check one):

- a.  wages owed.
- b.  child support or spousal support.
- c.  other.

23.  Notice of sale has been requested by (name and address):


24.  Joint debtor was declared bound by the judgment (CCP 989-994)

- |   |   |
|---|---|
| a. on (date):<br>b. name, type of legal entity if not a natural person, and last known address of joint debtor: | a. on (date):<br>b. name, type of legal entity if not a natural person, and last known address of joint debtor: |
|---|---|


c.  Additional costs against certain joint debtors are itemized:  below  on Attachment 24c.

25.  (Writ of Possession or Writ of Sale) Judgment was entered for the following:

- a.  Possession of real property: The complaint was filed on (date): February 11, 2025  
 Check (1) or (2). Check (3) if applicable. Complete (4) if (2) or (3) have been checked.
  - (1)  The *Prejudgment Claim of Right to Possession* was served in compliance with CCP 415.46. The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
  - (2)  The *Prejudgment Claim of Right to Possession* was NOT served in compliance with CCP 415.46.
  - (3)  The unlawful detainer resulted from a foreclosure sale of a rental housing unit. (An occupant not named in the judgment may file a *Claim of Right to Possession* at any time up to and including the time the levying officer returns to effect eviction, regardless of whether a *Prejudgment Claim of Right to Possession* was served.) (See CCP 415.46 and 1174.3(a)(2).)
  - (4) If the unlawful detainer resulted from a foreclosure (item 25a(3)), or if the *Prejudgment Claim of Right to Possession* was not served in compliance with CCP 415.46 (item 25a(2)), answer the following:
    - (a) The daily rental value on the date the complaint was filed was \$ 166.00
    - (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):  
 TO BE DETERMINED BY COURT

Item 25 continued on next page

Plaintiff/Petitioner: Canjian Hou  
 Defendant/Respondent: Adam Bercki

CASE NUMBER:  
 30-2025-01459684-CL-UD-CJC

25. b.  Possession of personal property.  
 If delivery cannot be had, then for the value (*itemize in 25e*) specified in the judgment or supplemental order.
- c.  Sale of personal property.
- d.  Sale of real property.
- e. The property is described  below  on Attachment 25e.

818 Spirit  
 Costa Mesa, CA 92626

#### NOTICE TO PERSON SERVED

**WRIT OF EXECUTION OR SALE.** Your rights and duties are indicated on the accompanying *Notice of Levy* (form EJ-150).

**WRIT OF POSSESSION OF PERSONAL PROPERTY.** If the levying officer is not able to take custody of the property, the levying officer will demand that you turn over the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

**WRIT OF POSSESSION OF REAL PROPERTY.** If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

**EXCEPTION IF RENTAL HOUSING UNIT WAS FORECLOSED.** If the residential property that you are renting was sold in a foreclosure, you have additional time before you must vacate the premises. If you have a lease for a fixed term, such as for a year, you may remain in the property until the term is up. If you have a periodic lease or tenancy, such as from month-to-month, you may remain in the property for 90 days after receiving a notice to quit. A blank form *Claim of Right to Possession and Notice of Hearing* (form CP10) accompanies this writ. You may claim your right to remain on the property by filling it out and giving it to the sheriff or levying officer.

**EXCEPTION IF YOU WERE NOT SERVED WITH A FORM CALLED PREJUDGMENT CLAIM OF RIGHT TO POSSESSION.** If you were not named in the judgment for possession and you occupied the premises on the date on which the unlawful detainer case was filed, you may object to the enforcement of the judgment against you. You must complete the form *Claim of Right to Possession and Notice of Hearing* (form CP10) and give it to the sheriff or levying officer. A blank form accompanies this writ. You have this right whether or not the property you are renting was sold in a foreclosure.

# Appendix T



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writ of possession was issued on March 22, 2025 (ROA 23).

Defendant does not contend that he was not properly served. Citing *Lasalle v. Vogel* (2019) 36 Cal.App.5th 127, and other cases, defendant argues that the default should be set aside because plaintiff's counsel did not warn him that of the impending default and in support of his contention. Those cases are inapplicable here, as those cases involved a landlord's counsel's ethical duty to advise defense counsel before requesting entry of default.

On these facts, the Court does not find that the judgment was entered against defendant due to surprise, excusable neglect, or inadvertence pursuant to Code of Civil Procedure section 473, subdivision (b), as defendant was personally served with the Summons and Complaint on March 1, 2025, and chose not to act. Therefore, the defendant has not established a basis for relief. Accordingly, the motion to vacate the default is denied.

In addition, even if the Court had set aside the default and default judgment, the defendant's ex parte request to restore possession and the email attached as Exhibit D to defendant's motion to vacate the judgment support a finding that this Court has no jurisdiction to grant the requested relief. In the May 10, 2025 email from plaintiff's counsel to defendant, plaintiff's counsel stated that defendant left personal property at the subject premises after he moved out. Defendant cites no legal authority, and the court is aware of none, authorizing the court to grant any relief post-lockout, absent a reversal on appeal. (See Code Civ. Proc., §§ 1210 [person who is evicted from rental premises by judgment or process of court and who reenters or takes possession is in contempt of court]; 1179 [after forfeiture, tenant may apply to court for relief before landlord retakes premises]; 908 [appellate court may order restitution after reversal].)

Accordingly, at this stage of the litigation, there is no remedy the court can grant.

Clerk to give notice.

# Appendix U

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Adam A. Bereki  
3649 Metter St.  
Las Vegas, NV 89129  
949.241.6693  
abereki@gmail.com  
www.thespiritoflaw.com

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE- CENTRAL JUSTICE CENTER**

Canjian Hou  
  
Plaintiff,  
  
vs.  
  
Adam Bereki,  
  
Defendant.

Case No.: 30-2025-01459684  
Appeal Case. No: 30-2025-01482941  
  
Additional Cases in this Court:  
  
Related Case No.: 30-2015-00805807  
(Unlimited Civil)  
  
Related Open Case No.: 22-12076: U.S.  
Bankruptcy Court, Central Dist. of CA

**NOTICE OF EMERGENCY EX PARTE  
MOTION FOR CONSIDERATION OF MAY  
21, 2025, MINUTE ORDER:**

- 1) **TEMPORARY RESTRAINING ORDER**
- 2) **VACATUR OF VOID JUDGMENT**
- 3) **STAY OF UNLAWFUL DETAINER ACTION**
- 4) **RESTORATION OF POSSESSION PENDING RESOLUTION OF MOTION TO VACATE VOID JUDGMENT AND RELATED BANKRUPTCY ADVERSARY PROCEEDING;**

**MEMORANDUM OF POINTS AND AUTHORITIES;**

**DECLARATION OF ADAM BEREKI**

**EX PARTE REVIEW:**  
Date: ~~May 22, 2025~~ MAY 23, 2025  
Time: 1:45PM (In Chambers Review)  
Judge: Commissioner Carmen D. Snuggs-Spraggins

Dept: C-61

**TO ALL PARTIES, THEIR ATTORNEY(S), AND THE COURT:**

**NOTICE OF EMERGENCY EX PARTE MOTION FOR RECONSIDERATION**

**PLEASE TAKE NOTICE** that on May 22, 2025, or as soon thereafter as the matter may be reviewed in chambers, in Department C61 of the above-entitled court, located at 700 W. Civic Center Dr., Santa Ana, California, Defendant Adam Bereki, appearing in propria persona, hereby moves ex parte for reconsideration and vacatur of the May 21, 2025, minute order (ROA 51) pursuant to Code of Civil Procedure (CCP) § 1008 and the Court's inherent equitable power. Defendant further requests:

1. A Temporary Restraining Order (TRO) enjoining Plaintiff Canjian Hou, his agents, and assigns from further demolishing or altering the property at 818 Spirit, Costa Mesa, CA 92626, pending resolution of Defendant's Motion to Vacate Void Judgment (ROA 36) or the appeal (Case No. 30-2025-01482941).
2. Vacatur of the void default judgment entered on March 18, 2025 (ROA 17, 18), due to due process violations and lack of jurisdiction.
3. A stay of the UD action, including the writ of possession (ROA 23), pending resolution of the Motion to Vacate, the related 2017 judgment challenge (Case No. 30-2015-00805807, hearing June 26, 2025), and imminently filed bankruptcy adversary proceeding (related to Case No. 8:22-BK-12076-SC).

1 4. Restoration of Defendant to possession of the property at 818 Spirit, Costa Mesa, CA  
2 92626.

3 This motion is made on the grounds that the May 21, 2025, minute order is void  
4 because it failed to address Defendant's substantive arguments, violating due process, and  
5 contains additional procedural errors:

6 **1. Substantive Errors:**

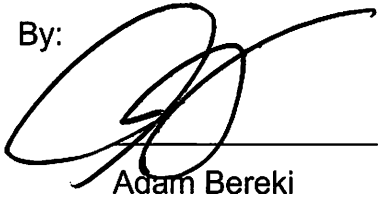
- 7 ○ Failure to address Defendant's argument that the default judgment is void due  
8 to due process violations, including premature entry (ROA 17), lack of notice  
9 (ROA 14), and rejected pro se filings (*Lasalle v. Vogel*, 36 Cal.App.5th 127,  
10 135-36 (2019)).  
11 ○ Failure to consider Defendant's meritorious defense that the UD action relies  
12 on a void 2017 judgment and wrongful foreclosure (*People ex rel. Becerra v.*  
13 *Superior Court*, 29 Cal.App.5th 486, 496 (2018)).  
14 ○ Incorrect application of CCP § 473(b), ignoring that void judgments are exempt  
15 from its time limits (*Pittman v. Beck Park Apartments Ltd.*, 20 Cal.App.5th  
16 1009, 1020-22 (2018)).  
17 ○ Incorrect finding of no jurisdiction post-lockout (ROA 23), misapplying CCP §§  
18 1210, 1179, 908 (*Caldwell v. Taylor*, 218 Cal. 471, 476 (1935)).  
19 ○ Failure to address Defendant's stay request pending related cases (*Asuncion*  
20 *v. Superior Court*, 108 Cal.App.3d 141, 146 (1980)).

21 **2. Procedural Errors:**

- 22 ○ Incorrect finding of inadequate notice, despite Defendant's compliant proof of  
23 service (ROA 45) (*CRC Rule 3.1204*; *White v. Davis*, 30 Cal.4th 528, 554  
24 (2003)).

25 This motion is based on this Notice, the attached Memorandum of Points and  
26 Authorities, the Declaration of Adam Bereki, all pleadings and papers on file (including ROA  
27 35, 36, 43, 45, 51), the concurrently filed Motion to Vacate (ROA 36), and any further  
28 evidence presented. Defendant notified Plaintiff's counsel, Henry D. Paloci III, on May 21,  
2025, at around 7:00 p.m. PDT, by phone (844.398.5500), in compliance with *CRC Rule*  
3.1203. (See Bereki Decl., ¶ 15.)

1 Dated: May 22, 2025

2 By:   
3  
4 Adam Bereki  
5

6 **I. EMERGENCY EX PARTE MOTION FOR RECONSIDERATION**  
7

8 Defendant Adam Bereki, in propria persona, moves for reconsideration and vacatur  
9 of the May 21, 2025, minute order (ROA 51), which denied his ex parte application and  
10 motion to vacate (ROA 35, 36, 43, 45) without addressing critical substantive arguments,  
11 violating due process. The order's failure to engage with Defendant's void judgment claims,  
12 meritorious defense, and stay request, coupled with procedural errors, perpetuates an  
13 invalid default judgment (ROA 17, 18) and enables Plaintiff's demolition of Defendant's  
14 home, causing ~\$50,000 in damage and ~\$10,000 in lost property.

15 **II. MEMORANDUM OF POINTS AND AUTHORITIES**

16 **A. INTRODUCTION**

17 The May 21, 2025, minute order failed to address Defendant's substantive arguments  
18 that the default judgment is void, that the UD action relies on an invalid 2017 judgment and  
19 foreclosure, and that a stay is warranted, denying Defendant due process. Additional  
20 procedural errors, including an incorrect notice finding and unaddressed clerk's rejection,  
21 compound the harm. Defendant faces ongoing property destruction, requiring vacatur of the  
22 order, a TRO, vacatur of the default judgment, a stay, and restoration of possession.

23 **B. LEGAL STANDARD**

- 24 1. **Reconsideration (CCP § 1008)**: Courts may reconsider orders to correct errors or  
25 address new facts (*Marriage of Barthold*, 158 Cal.App.4th 1301, 1308 (2008)).  
26 2. **Vacatur of Void Orders (CCP § 473(d))**: Void orders, including those violating due  
27 process, must be vacated (*Pittman v. Beck Park Apartments Ltd.*, 20 Cal.App.5th  
28 1009, 1020-22 (2018)).

- 1 3. **Due Process:** Parties are entitled to a meaningful opportunity to present substantive  
2 arguments (*Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)).
- 3 4. **TRO (CCP § 526):** TROs prevent irreparable harm when success is likely (*Tobias v.*  
4 *Alameda County*, 69 Cal.App.5th 1030, 1045 (2021)).
- 5 5. **Vacatur of Default Judgment:** Void judgments due to due process violations or  
6 jurisdictional defects require vacatur (*Lasalle v. Vogel*, 36 Cal.App.5th 127, 135-36  
7 (2019)).
- 8 6. **Stay in UD:** Title disputes necessitate stays (*Asuncion v. Superior Court*, 108  
9 Cal.App.3d 141, 146 (1980)).

### 9 C. SUBSTANTIVE ERRORS VIOLATE DUE PROCESS

#### 10 1. **Failure to Address Void Judgment Argument**

11  
12 Defendant argued the default judgment (ROA 17, 18) is void due to due process  
13 violations: premature entry on March 18, 2025, one day after the default request (ROA 14),  
14 violating CCP § 1013(a)'s five-day mailed service extension; Plaintiff's counsel's failure to  
15 notify Defendant of the default request, despite Defendant's March 14 filing attempt; and  
16 rejection of Defendant's answers (March 14/March 19, 2025), precluding default entry. The  
17 Court's minute order (ROA 51) ignored these arguments, applying CCP § 473(b) without  
18 addressing voidness and Defendants intended answer, denying due process. *Lasalle v.*  
19 *Vogel*, 36 Cal.App.5th 127, 135-36 (2019) (courts condemn "quiet speed" defaults); *Stevens*  
20 *v. Torregano*, 192 Cal.App.2d 105, 112-13 (1961); *Mullane v. Central Hanover Bank & Trust*  
21 *Co.*, 339 U.S. 306, 314 (1950).

#### 22 2. **Failure to Consider Meritorious Defense**

23 Defendant's defense—that the UD action relies on a void 2017 judgment (Case No.  
24 30-2015-00805807, hearing June 26, 2025) and wrongful foreclosure (adversary proceeding  
25 imminently filed in related Bankruptcy Case No. 8:22-BK-12076-SC)—challenges Plaintiff's  
26 standing and jurisdiction. The Court's failure to address this defense, despite Defendant's  
27 detailed submissions (ROA 35, 36, 43), violated due process. *Lasalle v. Vogel*, 36  
28 Cal.App.5th at 139-40; *People ex rel. Becerra v. Superior Court*, 29 Cal.App.5th 486, 496  
(2018).

1                   **3. Misapplication of CCP § 473(b)**

2                   The Court incorrectly limited its vacatur analysis to CCP § 473(b), finding no surprise  
3 or excusable neglect (ROA 51), ignoring Defendant’s argument that void judgments are  
4 exempt from its six-month limit. This error denied consideration of Defendant’s due process  
5 and jurisdictional claims, requiring vacatur. *Pittman v. Beck Park Apartments Ltd.*, 20  
6 Cal.App.5th 1009, 1020-22 (2018); *MacMillan Petroleum Corp. v. Griffin*, 99 Cal.App.2d 523,  
7 533 (1950).

8                   **4. Incorrect Jurisdictional Finding Post-Lockout**

9                   The Court’s finding of no jurisdiction post-lockout (ROA 23) relied on CCP §§ 1210,  
10 1179, 908, and misread Exhibit D (forced eviction, not voluntary vacatur) (ROA 51). A void  
11 judgment allows equitable restoration of possession, which the Court failed to  
12 address. *Caldwell v. Taylor*, 218 Cal. 471, 476 (1935); *Pittman v. Beck Park Apartments*  
13 *Ltd.*, 20 Cal.App.5th at 1020-22.

14                   **5. Failure to Address Stay Request**

15                   Defendant requested a stay pending the 2017 judgment challenge and bankruptcy  
16 proceeding, which affect Plaintiff’s title. The Court’s omission of this issue, despite its  
17 jurisdictional implications, violated due process and risks inconsistent rulings. *Asuncion v.*  
18 *Superior Court*, 108 Cal.App.3d 141, 146 (1980); *Vella v. Hudgins*, 20 Cal.3d 251, 256  
19 (1977).

20                   **D. PROCEDURAL ERRORS COMPOUND THE VIOLATION**

21                   **1. Incorrect Notice Finding**

22                   The Court’s finding of inadequate notice (ROA 51) is incorrect, as Defendant’s proof  
23 of service (ROA 45, filed May 21, 2025, 10:43:52 a.m.) complied with *CRC Rule*  
24 *3.1204* (notice by 10:00 a.m. the prior court day). UD cases permit shorter notice (CCP §  
25 1167.1), and Defendant’s evidence of harm supported good cause. *White v. Davis*, 30  
26 Cal.4th 528, 554 (2003).  
27  
28

1                   **2. In-Chambers Process Limited Review**

2                   The Court's in-chambers process, without oral argument, restricted Defendant's  
3 ability to clarify substantive issues addressing complex claims. This process, while  
4 permissible (*CRC Rule 3.1207*), exacerbated the failure to consider Defendant's  
5 arguments. *Gamet v. Blanchard*, 91 Cal.App.4th at 1284.

6                   **E. URGENT RELIEF IS REQUIRED**

- 7
- 8                   • **TRO:** Plaintiff's demolition (~\$50,000 in damage, ~\$10,000 in lost property) causes  
9 irreparable harm, and Defendant's void judgment arguments show a likelihood of  
10 success. *Tobias v. Alameda County*, 69 Cal.App.5th 1030, 1045 (2021).
  - 11                   • **Vacatur:** Due process violations require vacatur of the default judgment. *Lasalle v.*  
12 *Vogel*, 36 Cal.App.5th at 136.
  - 13                   • **Stay:** Related cases necessitate a stay to resolve title disputes. *Asuncion v. Superior*  
14 *Court*, 108 Cal.App.3d at 146.
  - 15                   • **Restoration:** The void judgment justifies possession. *Caldwell v. Taylor*, 218 Cal. at  
16 476.

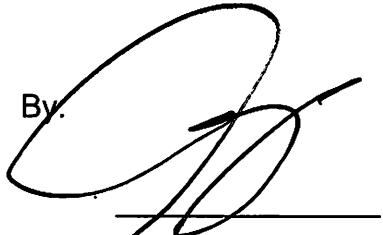
17                   **F. CONCLUSION AND REQUEST FOR RELIEF**

18                   The May 21, 2025, minute order failed to address Defendant's substantive  
19 arguments, violating due process, and contained procedural errors that restricted a fair  
20 review. Defendant faces ongoing harm from Plaintiff's demolition and occupation of his  
21 home, necessitating urgent action. The Court is respectfully requested to:

- 22                   1. Vacate the May 21, 2025, minute order (ROA 51) (CCP § 473(d)).
- 23                   2. Grant a TRO enjoining Plaintiff from demolishing or altering 818 Spirit, Costa Mesa,  
24 CA 92626.
- 25                   3. Vacate the default judgment (ROA 17, 18).
- 26                   4. Stay the UD action pending related cases (Case No. 30-2015-00805807, 8:22-BK-  
27 12076-SC).
- 28                   5. Restore Defendant to possession of the property.

1 6. Order an accounting of damages (\$50,000 in property damage, \$10,000 in lost  
2 property) post-restoration.

3  
4 Dated: May 22, 2025

5  
6 By:   
7  
8 Adam Bereki

9  
10 **III. DECLARATION OF ADAM BEREKI**

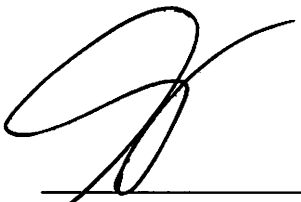
11  
12 I, Adam Bereki, declare under penalty of perjury under the laws of California that:

- 13 1. I am the Defendant in Case No. 30-2025-01459684, with personal knowledge  
14 of the facts herein.
- 15 2. On May 20, 2025, I filed an ex parte application and motion to vacate (E-Filing  
16 Transaction 21653865), which the clerk rejected on May 21, 2025, at  
17 approximately 10:00 a.m. (ROA 46), for a name spelling error ("Adam A Bereki"  
18 vs. "Adam Bereki").
- 19 3. I refiled the application on May 21, 2025 (ROA 35, 36, 43, 45), with proof of  
20 service to Plaintiff's counsel (ROA 45), scheduled for in-chambers review on  
21 May 22, 2025, at 1:45 p.m. (ROA 44).
- 22 4. The Court's May 21, 2025, minute order (ROA 51) failed to address my  
23 arguments that the default judgment (ROA 17, 18) is void due to premature  
24 entry, lack of notice, and rejected filings.
- 25 5. The Court did not consider my defense that the UD action relies on a void 2017  
26 judgment (Case No. 30-2015-00805807, hearing June 26, 2025) and wrongful  
27 foreclosure (imminently challenged in an adversary proceeding related to  
28 Bankruptcy Case No. 8:22-BK-12076-SC).
6. The Court ignored my stay request pending related cases and misapplied CCP  
§ 473(b), overlooking void judgment exemptions.

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7. The Court incorrectly found inadequate notice, despite my proof of service (ROA 45) complying with *CRC Rule 3.1204*.
8. The in-chambers process, without oral argument, limited my ability to clarify issues.
9. The default judgment is void due to:
  - o Entry on March 18, 2025 (ROA 17), one day after the default request (ROA 14), violating CCP § 1013(a).
  - o Plaintiff's counsel's failure to notify me of the default request, despite my March 14 filing attempt.
  - o Rejection of my answers (March 14/March 19, 2025), precluding default entry.
10. Plaintiff's demolition has caused approximately \$50,000 in damage (demolished kitchen, removed flooring, repainted interior) and \$10,000 in lost personal property, based on my 20+ years of construction experience and photos (Ex. D, ROA 36).
11. I believe the property is uninhabitable, and Plaintiff does not reside there, per a May 19, 2025, vacancy notice, photographs, and statements of reliable witnesses (Ex. D, ROA 36).
12. I face ongoing harm without relief.
13. I notified Plaintiff's counsel on May 21, 2025, at about 7:00 p.m. PDT, by phone of this motion.

Dated: May 22, 2025

By:   
\_\_\_\_\_  
Adam Bereki

# Appendix V

